

DIVISION OF WATER RIGHTS
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IN RE: APPLICATION FOR WATER RIGHTS 3692 OF G. G. SARNETT FOR
A PERMIT TO APPROPRIATE 0.003 cubic foot per second of the waste waters
from certain lands which flow east at the northeast corner of Block 31 of
Yuma Valley, Division No. 2, in San Bernardino County, for irrigation purposes.

Decided July 7, 1924

APPLICANT:

G. G. Sarnett, in propria persona.

Interested parties: None known.

G. G. Sarnett, Jr., Acting Chief of Division of Water Rights.

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On October 25, 1923, G. G. Sarnett filed Application Number 3692
for a permit to appropriate 0.003 cubic foot per second of the waste waters
from certain lands which flow east at the northeast corner of Block 31 of
Yuma Valley, Division No. 2, in San Bernardino County, said water to be
used for the irrigation of five acres of land situated within the north half
of said block. After the application was duly advertised and a joint
petition against the same was filed by J. W. Miller and Mrs. Katie Wiesser
in 1924.

Protestant Katie Messer Barryman is the present owner of 5.88 acres of land, comprising the $\frac{1}{2}$ of Block 21 of Yacalpa Valley subdivision No. 2, which tract adjoins the land proposed to be irrigated under the application on the east, and Protestant W. W. Miller is the former owner of the tract of land now owned by Protestant Katie Messer Barryman.

The protestants object to the granting to the applicant of a permit which would give him the exclusive right to the use of the water applied for on the $\frac{1}{2}$ of Block 21. They claim that since the summer of 1918 a portion of the water applied for have been used "consistently" by the protestants for irrigating acres in the $\frac{1}{2}$ of Block 21, and that for a number of years the water applied for have been used equally on the $\frac{1}{2}$ and on the $\frac{1}{2}$ of Block 21. They claim that the waters applied for consist of an intermittent flow which varies greatly in quantity, but is ample for the irrigation of the entire Block 21 if properly divided.

In his answer to the protest the applicant states that he has been advised by Mr. William Peterson, a former owner of his land, that he installed the pipe for diverting the water applied for to the $\frac{1}{2}$ of Block 21 in either August or June 1919, and that for two years thereafter there was more waste water than could use; consequently he allowed it to flow down for use on the $\frac{1}{2}$ of Block 21. He claims, however, that during the past summer there was insufficient waste water to properly irrigate the $\frac{1}{2}$ of Block 21, and that he had to buy additional water from Yacalpa Water Company No. 1 at six different times during the summer. The applicant has also submitted a letter from Mr. W. W. Peterson, another former owner of his place, stating that during the summers of 1921 and 1922 he used all of the waste water on the $\frac{1}{2}$ of Block 21, and during each of said years bought additional water for that tract from the Yacalpa Water Co. No. 1.

After due notice to the applicant and the protestants, a public hearing on the application was held before Acting Chief Adair Matt, Sr., at Riverside on March 17, 1931. The applicant appeared at the hearing and submitted the exhibits in support of his case, but neither of the protestants came nor was any use at the hearing.

The applicant stated that he had talked with the protestants on the morning of the day set for the hearing, and that they had indicated to him that they would not appear at the hearing. He explained that the protestants were probably no longer interested in the $\frac{1}{2}$ of Block 31, and consequently did not desire to press the protest.

The following exhibits were submitted by the applicant at the hearing:

Exhibit No. 1

A letter from Escalona Water Company No. 1, under date of March 1, 1931, stating the respective amounts of water sold to the $\frac{1}{2}$ of Block 31 during the years from 1919 to 1923, inclusive.

Exhibit No. 2

A letter from J. J. Schmitt, under date of March 15, 1931, stating that he was in charge of the Lilley Orchard in Block 31 and the J. J. Schmitt Orchard in Block 101 during the years 1920, 1921, and 1922, and that the waste water from these orchards was used on the $\frac{1}{2}$ of Block 31 during those years.

Exhibit No. 3

A letter from William Petersen, under date of March 17, 1931, stating that he is a former owner of the $\frac{1}{2}$ of Block 31; that he installed a pipe for diverting waste water to the land in 1919 or in the 1919; that after using all the waste water he needed on his place he allowed it to run thru his place for use on the $\frac{1}{2}$ of Block 31; and that it was at least two months after he installed his pipe for diverting waste water to the $\frac{1}{2}$ of Block 31 that protestant W. J. Miller installed a pipe for diverting water to the $\frac{1}{2}$ of Block 31.

The evidence shows that the applicant and his predecessors in interest have been using the waste waters applied for for irrigation purposes on the N₁ of Block 21, since July or June 1919, and that at certain times since this use was begun there has been an insufficient supply from this source to meet the requirements for the irrigation of this tract, as is shown by the record of deliveries by Yubaqua Water Company No. 1. The protestants have also used a portion of such waste waters for the irrigation of the N₂ of Block 21, apparently whenever there was an excess over and above the needs for the N₁ of Block 21. Use by the protestants apparently commenced at least two months after the commencement of use by the predecessors of the applicant.

The protestants have not brought out in their protest any facts tending to show that they have any right to the waters sought to be appropriated, that in compliance with the public hearing to submit evidence to substantiate their protest or to assume the burden of proving that there is no claim related water in the source named in the application, nor have they since communicated with this office explaining the cause for their non-appearance at the hearing. It appears that the waters applied for are return waters from irrigated lands; that they are waters to which the protestants ^{have} no claiman right; that the protestants' point of diversion is below that of the applicant; that no right by adverse use has been established by the protestants against the applicant; and that no application has been filed by the protestants with this office in spite of the fact that their use was discontinued since the enactment of the Water Commission Act, and consequently they have nothing upon which to base a right by appropriation.

It is therefore determined that there is no claim related flow from the source named applied for use under the application.

ORDER

A certain petition having been filed with the Division of Water Rights of the Department of Public Works of the State of California in Application Number 2624 for a right to use and waste water from irrigated lands which flows east from the westmost corner of 160' x 11' of Section 14, T4S, R11E, S1E, in the Sacramento Valley, a public hearing in the matter having been held and the findings of the Division of Water Rights being of the opinion that there is water available from the source named available for use as requested;

It is ordered, therefore, that said application be approved and that the applicant be made the applicant subject to such of the usual terms and conditions as may be required.

Witness my hand and the seal of the State of California, this seventh day of May, 1931.

TO THE REGISTER OF DEEDS
SACRAMENTO