

Summary file

BEFORE THE DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

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In the matter of Applications No. 3572 and No. 3609 by Ira
L. Schermerhorn and Samuel F. Aiken, respectively
to appropriate water from Cold Springs
Creek in El Dorado County, for
agricultural purposes.

DECISION No. 3572-3609 D 37
Decided February 2, 1925

APPEARANCES AT HEARING HELD DECEMBER 22, 1924

For Applicant:	Ira L. Schermerhorn, Thomas Maul, Attorney of Placerville, California
For Protestant:	Pacific Gas and Electric Company, George A. Hunt of San Francisco.
No Appearance:	Samuel F. Aiken, applicant. John W. Caswell, protestant against application No. 3572
Examiner:	Edward Hyatt, Jr. Chief of Division of Water Rights.

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OPINION

On August 9, 1923, Ira L. Schermerhorn filed his application
No. 3572 to appropriate unappropriated water of the State of California
from Cold Springs Creek the amount specified being 0.125 cubic foot
per second. This application was protested by J. W. Caswell, the
Pacific Gas and Electric Company and Samuel F. Akin.

On August 23, 1923, Samuel F. Akin filed his application No. 3609

to appropriate unappropriated water of the State of California from Cold Springs Creek; the amount specified being 1 cubic foot per second. This application was protested by Ira L. Schermerhorn, and the Pacific Gas and Electric Company.

These two applications were completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights and being protested were set for a public hearing at Room Number 707 Forum Building, Sacramento, at 1:30 o'clock P.M. on December 22, 1924. Of this hearing applicants and protestants were duly notified.

The protest of J. W. Caswell was withdrawn by the protestant and need receive no further consideration in this matter. The protest of Samuel F. Akin against the Schermerhorn application was based on a claimed right by prescription to use the water in question. It appeared at the hearing that this matter had been the subject of litigation in which litigation protestant submitted information insufficient to indicate the existence of such prescriptive right. No other claim is made by protestant for any right which might be injured through consummation of the Schermerhorn application.

The protest of Schermerhorn against Akin's application alleges that the application entails a right of way through a ditch across Schermerhorn's land which can be secured only with his consent. Since Schermerhorn indicated that such right of way would not be granted there appears no practicable means by which the appropriation proposed in application Number 3609 of Samuel F. Akin could be consummated.

The protest of the Pacific Gas and Electric Company against both applications alleges that at certain times the flow of water now used by protestant through its Folsom power house would be reduced through consummation of these applications. Evidence introduced at the hearing indicated that at such times as the flow of the river at the intake of Folsom Power House was less than the 1000 second feet which protestant claims, that the flow of Cold Springs Creek does not reach Weber Creek, through which latter creek Cold Springs Creek is tributary to the American River. In the course of the hearing the application was by stipulation amended to specify a diversion season of from January first to September fifteenth. It is accordingly found that there is slight probability of interference with the Pacific Gas and Electric Company's use of water through Folsom Power House from consummation of these applications.


ORDER

Applications Number 3572 and Number 3609 for permit to appropriate water having been filed with the Division of Water Rights as above stated; protests having been filed, a public hearing having been held, and the Division of Water Rights being fully informed in the premises:

IT IS HEREBY ORDERED that Application Number 3609 by Samuel F. Akin be denied:

IT IS FURTHER ORDERED that application Number 3572 by Ira L. Schermerhorn be approved and that a permit be granted to this applicant subject to such of the usual terms and conditions as may be appropriate.

Dated this 2nd day of February, 1925.



(EDWARD HYATT, JR.)
CHIEF OF DIVISION OF WATER RIGHTS
STATE DEPARTMENT OF PUBLIC WORKS