

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

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IN THE MATTER OF APPLICATION NUMBER 3333 OF EUGENE  
F. SOULE TO APPROPRIATE FROM AN UNNAMED SPRING IN  
LOS ANGELES COUNTY, TRIBUTARY TO BIG ROCK CREEK,  
FOR DOMESTIC AND AGRICULTURAL PURPOSES

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DECISION NO. 3333 D 42

Decided March 9, 1925

APPEARANCES AT HEARING HELD December 18, 1924

For Applicant Eugene F. Soule No appearance

For Protestant Little Baldy Water Co. E. T. Lucey

EXAMINER Edward Hyatt, Jr., Chief of Division of Water Rights

O P I N I O N

Application Number 3333 was filed on March 29, 1923.

It proposes an appropriation of 0.03 cubic foot per second of the waters of an unnamed spring in Los Angeles County tributary to Big Rock Creek for domestic purposes and the irrigation of 10 acres of land in the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 25, T 4 N, R 9 W, S.B.B. & M. It was protested by the Little Baldy Water Company.

The application was 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 was set for public hearing on December 18, 1924 at 10:00 A.M. o'clock in Room Number 818 Pacific Finance Building, Los Angeles. Of this hearing applicant and protestant were duly notified.

*Opinion Filed*

The protest of the Little Baldy Water Company was filed on September 22, 1924.

The protestant alleges that there is no unappropriated water available at the proposed source of diversion, that the water which the applicant proposes to divert has been used by the company for the last 12 years for irrigation and domestic purposes and that if allowed to take the water, the protestant would be deprived of that quantity which the applicant proposes to divert and that the protestant is in need of even more water than is available at the present time.

The applicant answers the protest by letter dated November 3, 1924.

The applicant stated that the spring from which he proposed to divert was the most easterly of the springs which had been named in an application filed with the Division of Water Rights by Charles Caldwell, that it was the applicant's idea that no water from any of the springs ever reached Deadmans Canyon; that there is a fault line which runs through Pinyon Canyon, in which his place is located, through which the water flows toward the west, that the proposed source of diversion was about 2500 feet South of the fault line, and that there was no chance of any water from the spring ever affecting the diversion of the Little Baldy Water Company.

At the hearing held in Los Angeles on December 18, 1924, the protestant presented evidence to show that they had acquired the right to the water, which the applicant proposed to divert by virtue of appropriation and prior vested rights, that the Company was able to put to beneficial use all of the water that flows down Deadmans Canyon to which

the spring is tributary and could so use even more water if it were available, that the applicant is not dependent upon the flow from the spring for domestic purposes as there are two wells on his property, one of his own and the other for use of the County prison camp.

It was shown that the spring from which the applicant proposes to divert was originally included in application Number 3288 filed on March 15, 1923, by Charles A. Caldwell, but this source was later withdrawn from the application, that this spring is about  $\frac{1}{2}$  mile from the spring which was the proposed source of diversion under application Number 3288 as amended and which was rejected after a hearing held on March 21, 1924, the protestant being, as in this case, the Little Baldy Water Company.

It was stipulated by the protestants that the evidence presented by them at the hearing on the Caldwell application be considered as evidence presented at this hearing.

At the hearing on the Caldwell application testimony was presented to show that all the underflow in Deadmans Canyon would be intercepted by the building of a cut-off wall down to bedrock across the canyon for which the Little Baldy Water Company had already let a contract.

It was also stated at this hearing that no fault existed below the springs and that for the past seven years except possibly during a short time in the spring the Company had been using all of the water reaching its intake.

The applicant made no appearance at the hearing on his application and failed to submit evidence to substantiate his claims.

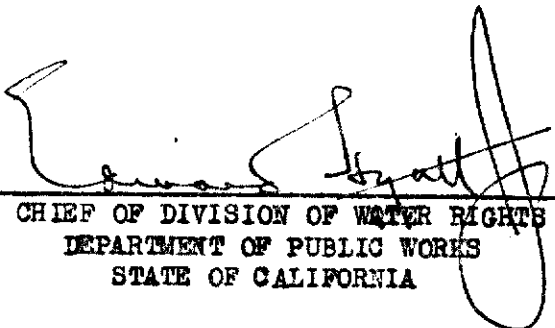
Since testimony presented at both hearings would indicate that the water from the proposed point of diversion would ultimately reach the diversion works of the protestant and that the protestant by virtue of prior appropriation had a legal right to use practically all of the water of the canyon and that only for short intervals of time during very wet years does water pass beyond the submerged dam of the protestant it would appear that there is not sufficient unappropriated water in the source named to justify the approval of the application.

O R D E R

Application Number 3333 for permit to appropriate water having been filed with the Division of Water Rights as above stated, a protest having been filed, a public hearing having been held and the Division of Water Rights now being fully informed in the premises

IT IS HEREBY ORDERED that application Number 3333 be rejected.

Dated at Sacramento, this ninth day of March, 1925.

  
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CHIEF OF DIVISION OF WATER RIGHTS  
DEPARTMENT OF PUBLIC WORKS  
STATE OF CALIFORNIA

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