

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

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IN THE MATTER OF APPLICATIONS NUMBER 3029 and NUMBER 3512
OF GUY M. AND CATHERINE WALDEN, AND E. W. SKAGGS TO APPRO-
PRIATE FROM ST. HELENA AND PUTAH CREEKS, IN LAKE COUNTY,
FOR AGRICULTURAL PURPOSES

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Decision No. 3029 - 3512 D 50

Decided April 8, 1925.

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APPEARANCES AT HEARING HELD February 6, 1925

For Applicants: Guy M. Walden in propria persona
H. B. Churchill, Attorney at Law
for E. W. Skaggs
For Protestants: C. C. Donovan and Guy M. Walden
in propria persona
Examiner: Edward Hyatt, Jr., Chief of Division
of Water Rights
No Appearance: O. M. Goldaracena

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O P I N I O N

On September 11, 1922, Guy M. and Catherine Walden filed their application Number 3029 to appropriate 0.62 cubic feet per second from St. Helena and Putah Creeks for irrigation of 50 acres. This application was protested by C. C. Donovan.

On July 5, 1923, E. W. Skaggs filed his application Number 3512 to appropriate 0.75 cubic feet per second from Putah Creek for irrigation of 60 acres. This application was protested by O. M. Goldaracena, and Guy M. and Catherine Walden.

These 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 707 Forum Building, Sacramento, at 10:00 o'clock a.m. on February 6, 1925. Of this hearing applicants and protestants were duly notified. Both applicants and all protestants of record except O. M. Goldaracena appeared at the hearing as noted above.

O. M. Goldaracena filed his protest for the purpose of calling attention to his rights as a downstream riparian claimant and as a prior appropriator under application Number 638 before the Division upon which license Number 151 was issued for 1 cubic foot per second to be diverted from Fudah Creek between March 1st and October 1st. Mr. Goldaracena did not express a desire to submit any further data than that already on file with the records of application Number 638.

The land for which water is claimed by Guy M. and Catherine Walden, in their protest against application Number 3512, is located upstream from the project proposed by applicant E. W. Skaggs. Consequently the project proposed under application Number 3512 offers no conflict with the claims under a prior application of these protestants.

C. C. Donovan in his protest set up riparian claims as well as a right of appropriation to 4 cubic feet per second by virtue of a filing dating many years prior to 1914 and continuous use thereunder for the irrigation of about 175 acres. The claims of this protestant were disputed by Mr. Walden. The lands of Mr. Donovan adjoin Fudah Creek but drainage from the area irrigated finds its way back to Fudah

Creek through a tributary. Upon this ground that the area irrigated was outside the Putah Creek Watershed Mr. Walden disputed the riparian claims of Mr. Donovan. This point does not appear to be well taken since Mr. Walden admitted that any drainage from the Donovan lands would eventually find its way back into Putah Creek. It is immaterial that the drainage collects in a small stream before reaching Putah Creek. Other factors, upon which no evidence was submitted at the hearing, enter into a determination of the existence of riparian rights or the matter of divorcing riparian rights from land.

Applicant Walden set forth claims to riparian rights in addition to the right sought under application Number 3029 to appropriate. This applicant introduced testimony for the purpose of showing that his riparian rights were superior to the right of appropriation claimed for the Donovan lands. Since the relation of these claims was not an issue at the hearing, protestant Donovan did not go into this matter.

Applicant Walden raised the point that any right that protestant Donovan may have had in the past to appropriate from Putah Creek had been forfeited by virtue of the fact that the headworks of the diversion conduit had been shifted about from time to time and that water had been diverted at one point for a period during which protestant did not have a deeded right of way. Protestant claimed that he had verbal permission to use the right of way for which he subsequently obtained a deed, and consequently protestant would be classed as a licensee rather than a trespasser during the above mentioned period. The important points were the actual conveyance of the water through to the place of use and the application of same to beneficial use by protestant, which points were not disputed.

It seems quite clear that during the early part of the irrigating season there is an abundant water supply for all claimants on Putah Creek but during the latter part of the summer the water is entirely appropriated except possibly during the night time when very little use is made of the water by any of the claimants. The channel of Putah Creek in the vicinity of these projects has its course alternately through gravel or sand deposits, and outcroppings of bedrock or other impervious strata. The creek is a living stream over the impervious outcroppings but the flow entirely disappears underground for several hundred yards in many of the gravel bars. These gravel and sand bars act as regulators for the stream as the water flows comparatively slow through same. Therefore water that is not used during the night time is not necessarily lost to the claimants as it is temporarily held in storage in the gravel and sand bars.

There are numerous other users of water on Putah Creek below these applicants who did not protest these applications of whom the Division has some record. Thad Dashiell, L. J. Gamble, James Quale, F. F. Button, W. H. Sweikert, Arthur Smythe, Mr. Harp and Mr. Short and possibly others of whom the Division has no record, have used some water under riparian claims.

The important point therefore appears to be a determination of the approximate date when normally the dry-weather flow becomes so deficient that it is largely appropriated. Records of the discharge of Putah Creek were kept at the Guenoc Dam Site by the United States Geological Survey continuously during the three years 1904, 1905 and 1906. It is probable that upper diversions of water for irrigation were unimportant at that time. The average precipitations of the four stations, Guinda, Helen Mine, Upper Lake and North Lakeport for

the three years 1904, 1905 and 1906 were compared with the average of their normal precipitation for the purpose of furnishing a guide as to whether the runoff was above or below normal for the three years of record. The following table shows the dates when the flow of Putah Creek at the Guenoc Dam Site fell below 10 cubic feet per second for the above mentioned three years, and the precipitation for the average of the four stations mentioned above expressed in percent of normal.

YEAR	Date when flow of Putah Creek fell below 10 second feet	Precipitation in % of normal
1904	August 8th	138%
1905	July 14th	83%
1906	July 25th	138%

The year 1905 was preceded by several years in which precipitation was above normal which probably resulted in a carry-over of some underground storage. For this reason July 14th is probably somewhat late for a year in which the precipitation was 83 per cent of normal. 1906 was preceded by a dry year and 1904 by a wet year which may largely explain the difference of two weeks when the flow fell below 10 cubic feet per second whereas the total precipitation was practically the same. The only other record available is a measurement made by an engineer of the Division on July 27, 1923 at the Donovan intake. The total flow of Putah Creek was 5.1 cubic feet per second at that time.

Both of the applicants lay claims to a reasonable amount of water from Putah Creek under their riparian rights in addition to the appropriations sought under these applications.

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It is therefore concluded that there is unappropriated water in sufficient quantity to warrant issuance of permits to both applicants for an irrigating season ending about July 15th of each year; that it would be unreasonable and unwarranted to issue permits to appropriate subsequent to about July 15th of a normal year in addition to the existing rights of applicants on the ground that there might be occasional periods of short duration in which there would be sufficient unappropriated water for these applications.

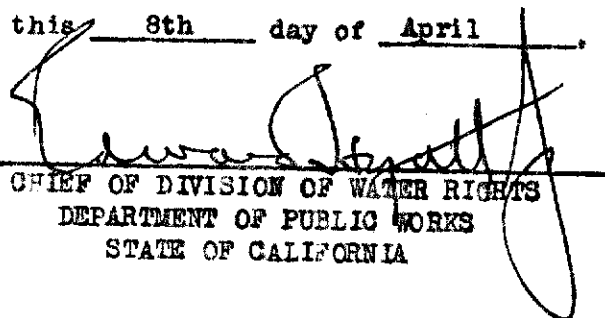
O R D E R

Applications Number 3029 and Number 3512 for permits 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 now being fully informed in the premises:

IT IS HEREBY ORDERED that said applications Number 3029 and Number 3512 be approved and that a permit be granted to applicant on application Number 3029 for 0.62 cubic feet per second, to be diverted from about April 1st to about July 15th of each season and that a permit be granted to applicant on application Number 3512 for 0.75 cubic feet per second, to be diverted from about May 1st to about July 15th of each season, and that both permits shall be subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, this 8th day of April, 1925.

TRS:MP


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