

Division

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

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IN THE MATTER OF APPLICATION NUMBER 3685 OF WILLIAM E. IRVING TO APPROPRIATE FROM AN UNNAMED SPRING TRIBUTARY TO LITTLE CREEK, THE MATTER OF APPLICATION NUMBER 4132 OF OLIVER S. CUTTS TO APPROPRIATE FROM AN UNNAMED BRANCH OF LITTLE CREEK, AND IN THE MATTER OF REVOCATION OF PERMIT NUMBER 1756 GRANTED UNDER APPLICATION NUMBER 2932 OF OLIVER S. CUTTS TO APPROPRIATE FROM SPRING IN TUNNEL ON PICES MINING CLAIM, IN SAN BERNARDINO COUNTY.

DECISION No. 3685 - 4132)
2932 - P. 1756) D 92

Decided February 18, 1926

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APPEARANCES AT HEARING HELD SEPTEMBER 23, 1925;
Application No. 2932, Permit No. 1756

For Applicant:- No appearance

For Protestant:- Frank T. Bates, Attorney at Law for
William E. Irving.

Application Number 3685

For Applicant: Frank T. Bates, Attorney at Law
For Protestant: No appearance

Application Number 4132

For Applicant: No appearance
For Protestant: Frank T. Bates, attorney at law for
William E. Irving.

Examiner: Edward Hyatt, Jr., Chief of Division of Water Rights

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O P I N I O N

On October 22, 1923, William E. Irving filed his Application Number 3685 for a permit to appropriate 0.07 cubic foot per second from an unnamed spring tributary to Little Creek, in San Bernardino County, for agricultural

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and domestic purposes. This application was protested by Oliver S. Cutts.

On August 1, 1924, Oliver S. Cutts filed his Application Number 4132 for a permit to appropriate 50 acre feet per annum, by means of storage from an unnamed branch of Lytle Creek, in San Bernardino County, for mining purposes. No protest was filed against this application.

On July 17, 1922, Oliver S. Cutts filed his Application Number 2932, to appropriate 0.25 cubic foot from a spring in a tunnel on Pices Mining Claim, tributary to Lytle Creek, in San Bernardino County, for mining purposes. On June 23, 1924, the Division of Water Rights approved the application and issued Permit No. 1756, which permit, in accordance with applicant's indicated intentions, allowed until November 1, 1924, November 1, 1926, and July 1, 1927, for beginning and completion of construction and application of the water to beneficial use, respectively. It appearing to the Division of Water Rights that applicant was not complying with the terms of the permit in this regard a hearing was set for the purpose of allowing permittee to show cause, if any existed, wherefore this permit should not be revoked.

Applications Number 3685 and Number 4132 were completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights. Application Number 3685 being protested was set for a public hearing in the Court House at San Bernardino at 10:00 o'clock A. M. on September 23, 1925. At the same time, a joint hearing was held on Applications Number 2932 and Number 4132 in order to develop information concerning the relation between the three applications and for the additional purpose stated above. Of this hearing, applicants and protestants were duly notified. As noted above, the

only appearance at the hearing was in behalf of William E. Irving.

Application Number 3685 was protested by Oliver S. Cutts on the ground of a prior appropriation by virtue of Application Number 2932 on which Permit Number 1756 had been issued for 0.25 cubic foot per second.

At the hearing, Mr. Irving expressed a desire to protest Application Number 4132 provided the source of water under this application was the same as that under Application Number 3685.

At the hearing, further information was developed indicating that construction had not been commenced on the project covered by Application No. 2932 and Permit No. 1756. No appearance was made in defense of this permit. It therefore appears that Mr. Cutts has forfeited his rights under said permit for not complying with the terms therein.

Upon revocation of Permit Number 1756 which was issued on Application Number 2932 there would appear to be nothing standing in the way of issuance of permit on Application Number 3685.

The descriptions of the sources under Applications Numbers 3685 and 4132, and the maps filed therewith indicate that said applications cover different sources of water. The conditional protest against Application Number 4132 offered by Mr. Irving at the hearing is therefore considered ineffective. There appears to be nothing standing in the way of issuance of permit on Application Number 4132.

ORDER

Applications Number 3685 and Number 4132 for permits to appropriate water having been filed with the Division of Water Rights as above stated,

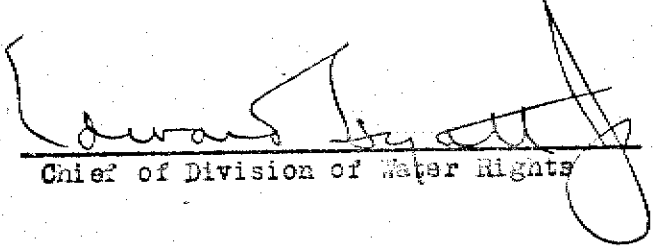
protests having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said applications Number 3685 and Number 4132 be approved and that permits be granted to the applicants subject to such of the usual terms and conditions as may be appropriate, and

Application Number 2932 having been filed and approved, permit Number 1756 having been granted the applicant as stated above, it appearing permittee had failed to comply with the terms of the permit, a public hearing having been held and the Division of Water Rights now being fully informed in the premises:

IT IS FURTHER ORDERED that said Permit Number 1756 be revoked and cancelled upon the records of the Division of Water Rights.

Dated at Sacramento this 18th day of February, 1926.


Chief of Division of Water Rights

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