

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

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In the Matter of Application Number 4286 of M. B. Burkey
to Appropriate Water from an Unnamed Spring in San
Bernardino County for Domestic Purposes at
a Resort.

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DECISION NO. 4286. D 108

Decided May 25, 1926

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APPEARANCES AT HEARING HELD April 27, 1926

For Applicant: Leory B. Lorenz, Attorney

For Protestants: No appearances

EXAMINER: Harold Conkling, Associate Engineer, for
Edward Hyatt, Jr., Chief of the Division of Water Rights

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O P I N I O N

This is an application to appropriate 0.07 cubic foot per second from a spring which applicant proposes to develop to a greater surface flow than now exists. Use thereof for domestic and allied purposes would be made at "Moon Camp", a year round resort maintained by applicant on the shore of Big Bear Lake. The application was filed October 30, 1924, and protested by certain parties between the point of diversion specified and Big Bear Lake, all of whom are in the same watershed.

This 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 a public hearing in the Law

Decided
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Library of the Court House at San Bernardino at 10:00 o'clock a.m. on Tuesday, April 27, 1926. Of this hearing applicant and protestants were duly notified.

Throughout its consideration of this application the Division of Water Rights has had considerable doubt whether there is any interference possible with downstream appropriators. Protestant Doyle makes no claim to any right to use water and the protests of Ernest C. Wright and Martha Gilmore Krom both indicate that no right to use water from the source has vested in them, although under subsequent applications they have initiated appropriations. The effects of Burkey's appropriation on the interests of Robert House and Margaret Gilmore are therefore the only ones to be considered. The diversions by these protestants under prior applications are from the same gulch as that from which applicant seeks to appropriate, some quarter of a mile downstream from applicant approximately 100 yards from each other and will therefore be considered jointly.

Mr. F. Jeken, Assistant Supervisor of San Bernardino National Forest, who has known the entire area in question intimately for 23 years testified at the hearing that the water which appears at the proposed point of diversion shows on the surface for about 300 feet and there sinks underground. From this point the gulch is dry to a point where it is entered by a tributary. This water is evidently forced to the surface at protestant's points of diversion by a non-porous formation. Evidence submitted shows that there is about 150 acres tributary to the lower appropriators which is not tributary to applicant's diversion. Mr. Jeken was definite in stating his opinion that protestants water emanates in part from this lower area and that House and Gilmore will not be injured through consummation of the application.

Furthermore it appears that the protestants make use of water from

the source only at such times as they reside in their cabins which is probably during the summer months. Applicant, on the other hand, operates his resort throughout the year and the injustice of denying him a permit to appropriate water because of an effect which is problematical upon protestants part time use if in fact any such effect exists is manifest. The application will therefore be approved.

O R D E R

Application Number 4286 for a 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 now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application Number 4286 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento this 25th day of May, 1926.



(Edward Hyatt, Jr.)

CHIEF OF DIVISION OF WATER RIGHTS

JCF:MP