

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

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In the Matter of Applications Numbers 3893, 3928 and 3930
by W. E. Hounshell, Wm. Rector and G. A. Hounshell to
Appropriate Water From Santa Margarita Creek in San
Luis Obispo County for Agricultural Purposes

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DECISION NO. 3893-3928-3930 D - 120

Decided August 30, 1926

APPEARANCES AT HEARING HELD August 13, 1926:

For Applicants: No Appearance

For Protestant: Norbert Korte of Pillsbury, Madison & Sutro,
Standard Oil Bldg., San Francisco, Calif.

Examiner: Everett N. Bryan, Deputy Chief of Division of Water Rights

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O P I N I O N

These three applications were filed on March 6th, 28th and 29th, 1924, respectively and propose the appropriation of 0.14, 0.12 and 0.12 second feet for the agricultural benefit of lands purchased from Santa Margarita Land and Cattle Company being lots 33, 34 and 35 of Subdivision No. 1 of Santa Margarita Rancho. Each of the applications was protested by Santa Margarita Land and Cattle Company.

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 jointly set for a public hearing in the Court Room of the County Court House in San Luis Obispo on Friday, August 13, 1926 at 10:00 o'clock A.M. Of this hearing applicants and protestant were sent due notice.

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Applicant Rector at one time felt he could rely on his riparian claim and an agreement with the Santa Margarita Land & Cattle Company and requested withdrawal of his application number 3928. The requested cancellation was not consummated because the Division of Water Rights felt that a more thorough understanding by this applicant would result in his desire to proceed therewith. Although abundant opportunity has been allowed him his attitude remains unchanged and this application is to all intents and purposes abandoned.

At the hearing it was determined that applicant W. E. Hounshell had definitely abandoned his purchase contract and that title to the land he desired to irrigate had reverted to protestant. It is therefore manifest that he would never benefit under the application and that approval thereof would be an idle and meaningless proceeding.

Nothing has been heard from applicant G. A. Hounshell since under date of January 20, 1925, he advised this office that he had reached an agreement with protestant. Although his intention to abandon his application was not definitely stated at the time in the light of his subsequent attitude as shown by his entire lack of interest in the matter it is clear that he also has abandoned his application.

The opinion that each of the three applicants has abandoned his application is strengthened by the non appearance of any of them at the hearing.

At the hearing protestant made it clear that while there could be no actual interference with their diversion of water for use on riparian land upstream from the applicants points of diversion, approval of the applications would, in their opinion, cloud riparian rights which they claim. Action on the applications however is not predicated on the existence or

otherwise of unappropriated water but on the abandonment of the applications by the respective applicants.


A further reason for rejection of the applications is seen in the fact that the points of diversion as located are all on land which is now owned by protestant and it is manifest that rights of access will be denied to the applicants.

ORDER

Applications Numbers 3893, 3928 and 3930 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 Numbers 3893, 3928 and 3930 be rejected and cancelled upon the records of the Division of Water Rights.

Dated at Sacramento, this 30th day of August, 1926.



(Edward Hyatt, Jr.)
CHIEF OF DIVISION OF WATER RIGHTS

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