

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

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In the Matter of Application Number 4256 of Mrs. E. W. Homer
to appropriate from an unnamed Spring Tributary of Big
Bear Lake in San Bernardino County, for Domestic
Purposes

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Decision No. 4256 D - 121

Decided September 23rd, 1926

APPEARANCES AT HEARING HELD May 15, 1926

For Applicant:

Mrs. E. W. Homer

in propria persona

For Protestants:

Mrs. Nelle Don Carlos

in propria persona

Ora E. Bacon

in propria persona

(Successor to Kate S. Vosburg)

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

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O P I N I O N

Application Number 4256 was filed October 9, 1924. It proposes an appropriation of 0.001 cubic feet per second of direct diversion throughout the entire year for domestic purposes from an unnamed spring located in a small ravine tributary to Kidd Bay on the south side of Big Bear Lake. It was protested by Mrs. Nelle Don Carlos and Kate S. Vosburg who has since transferred her right to Ora E. Bacon.

The application was completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Rights and being protested was set for a public hearing at Room 1026 Sun Finance Building, Los Angeles, at 9:00 o'clock A.M. on May 19, 1926. Of this hearing applicant and protestants were duly notified.

Kate S. Vesburg whose rights have since been transferred to Ora E. Bacon claims the right to divert 0.20 miners inches or 0.005 cubic feet per second from the spring named as the proposed source of diversion by the applicant for domestic purposes during the period May 1st to November 30th of each year under Application Number 857, Permit Number 445, License Number 51, and alleges in effect that during the past few years the water supply from the spring has not been adequate for her small use.

Mrs. Welle Don Carlos claims the right to divert 0.004 cubic feet per second from the spring for domestic purposes during the period June 1st to November 30th of each year under Application Number 713, Permit Number 444, License Number 123 and alleges in effect that the full flow of the spring is diverted under the license, which amount is barely enough for her household uses and that the approval of the application would practically render her improvements valueless.

From information on file in this office and testimony presented at the hearing the facts in the case appear as follows.

The spring from which the applicant proposes to divert is the source of supply upon which Mrs. Don Carlos and Mr. Bacon are dependent. The Don Carlos diversion works consist of two shallow open cuts to bedrock in the form of the letter "V" having a concrete dam and catchment basin from which water is conducted to a tank at the Don Carlos house through a half inch galvanized iron pipe.

The development made by the predecessor in interest of Ora E. Bacon consisted of a tunnel driven into the bed of the ravine about 75 feet distant below the Don Carlos diversion from which water was conducted through a half inch galvanized iron pipe to the house. This development has been apparently abandoned due to the fact that the source of supply was covered over by a

newly constructed road in that locality and at the present time through the courtesy of Mrs. Don Carlos Mr. Bacon obtains his water supply from the overflow from her tank.

A measurement made of the flow from the Spring on May 8th by Mr. Bacon indicated that the flow at this time was about 8 to 11 gallons per hour or from 0.0003 to 0.0004 cubic feet per second which is about 3 to 4% of the total amount appropriated under existing licenses and testimony presented at the hearing indicated that during the licensees' period of diversion there was no overflow at the Don Carlos diversion reservoir.

At the hearing it was suggested that if the spring was cleaned out possibly more water could be developed and piped to the Don Carlos tank, thereby increasing the overflow at this point sufficiently to supply water to both Mr. Bacon and the applicant and it was agreed that an attempt would be made to formulate an agreement by which Mrs. Don Carlos would assign jointly to them such water under her license as she did not need herself, allowing them the use of her reservoir and pipe lines to convey the water in return for which they jointly would accept responsibility for maintenance of all the works and in addition to which there would probably be cash compensation of some amount to be agreed upon; that if such an agreement could be satisfactorily arranged between the three interested parties it would be drawn up by them, submitted to an attorney and a copy sent to the Division of Water Rights in which case Application Number 4256 could be dismissed and the Bacon license be allowed to continue until it would be necessary to reject it on the grounds of abandonment as Mr. Bacon felt that it might be necessary to continue the development.

After further consideration the suggestion was made by Mr. Bacon that Mrs. Homer connect a pipe line to the overflow at his tank, his idea being that there would be sufficient water to satisfy the Homer household by so doing, Mr. Bacon already being in possession of the overflow water from the Don Carlos tank.

It was finally agreed by all present that this plan would be followed for the present and if it developed later that legal protection in the form of a contract with Mrs. Don Carlos was advisable then such a contract could be entered into.

Under date of July 12, 1926, a letter was addressed by this office to Mrs. Hemer, copies of which were sent to Mr. Bacon and Mrs. Don Carlos, requesting that she advise this office as to the progress made in the matter by the three parties involved and that if an agreement had been reached and actually drawn up, a copy of the same should be filed in this office and that if a verbal agreement had been reached which was mutually satisfactory it would be logical for her to withdraw her application as it could serve no further purpose.

No reply to this letter was received and it was thought that further delay in acting upon the application was unnecessary.

Consequently a study was made of the situation and from the facts above mentioned this office concluded that from June 1st to November 30th of each year the entire flow of the spring was appropriated, however as the period of diversion in the application extended throughout the entire year, a letter was addressed to the applicant under date of August 30, 1926, stating that this office had concluded that during the summer months the flow from the spring was not sufficient to justify the approval of the application but that if it were desired to use the water during the winter months the Division would consider the issuance of a permit during that period providing that a reply to that effect was received within fifteen days from the date of the letter but that if no reply were received it would be assumed that she did not care to appropriate water during the winter months and this office would therefore take the necessary steps to cancel the application.

As no reply to this letter has been received Application Number 4256 should be rejected upon the grounds that there is not sufficient water in the proposed source of supply during the period which the applicant proposes to divert to justify the approval of the application.

O R D E R

Application Number 4256 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 4256 be rejected and cancelled upon the records of this office.

Dated at Sacramento, California, this 26rd day of September, 1926.

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

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