

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

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IN THE MATTER OF APPLICATION NUMBER 4823 OF GEORGE
B. WHEATON TO APPROPRIATE WATER FROM BRADLEY CREEK IN
CALAVERAS COUNTY FOR AGRICULTURAL PURPOSES

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DECISION NO. A4823, D 137

Decided January 20, 1927.

APPEARANCES AT HEARING HELD DECEMBER 2, 1926:

For Applicant:

William H. Stitt

343 East Weber Ave., Stockton, Calif.

For Protestant:

Samuel T. Osborne

Charles P. Snyder, Attorney
San Andreas, Calif.

EXAMINER

E. H. Bryan, Deputy Chief of Division

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O P I N I O N

On November 3, 1926, George B. Wheaton filed his application No. 4823 to appropriate water from Bradley Creek in Calaveras County for agricultural purposes, seeking the appropriation of 0.019 cubic feet per second to be diverted between March 1st and October 1st of each season. The application was protested by Samuel T. Osborne, since deceased, who contended that he had a right to use the water which would be injured if the opposed appropriation was consummated, and also stated that the application could not be consummated without certain rights of way across land owned by protestant, which rights of way he was unwilling to allow.

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 public hearing at 707 Forum Building, Sacramento, at 10:30 o'clock A.M. on December 2, 1926. Of this hearing, applicant and protestant were duly notified, and appearances thereat were made on behalf of both.

Since filing this application, Wheaton has been more or less undecided as to whether or not any purpose would be served by his proceeding with the application, it appearing to him that he may now have a right to use water from the source which is superior to any right he might gain through approval of the application. At the hearing, applicant received information which resulted in his decision to withdraw the application, and at the close of the hearing, he submitted a request in writing that the application be cancelled upon the records of the Division of Water Rights, without prejudice to his right to re-file at a subsequent date to appropriate water from the same source.

Action will therefore be taken on the application in accordance with this request and without consideration of protestant's contention that he would be affected by the appropriation proposed.

O R D E R

Application No. 4823 for a permit to appropriate water having been filed with the Division of Water Rights, as above stated, a protest having been filed, a public hearing having been held, applicant having submitted a request in writing that his application be cancelled upon the records of the Division of Water Rights, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said application No. 4923 be cancelled upon the records of the Division of Water Rights without prejudice.

Dated at Sacramento this 20th day of January, 1927.

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

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