

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

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In the Matter of Application 4847 by Peninsula Farms
Company to appropriate water from Gasos Creek in
San Mateo County for purposes of irrigation,
domestic and fire protection.

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DECISION A 4847 D-184
Decided February 6, 1928

APPEARANCES AT HEARING HELD AT SACRAMENTO, January 17, 1928

No appearances

EXAMINER: Everett M. Bryan, Deputy Chief, for Harold Conkling, Chief
of Division of Water Rights.

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O P I N I O N

This application filed November 27, 1925, proposes the use of 1.5 cubic feet per second between May 1st and December 1st of each season from Gasos Creek at a point some quarter of a mile from its mouth into the Ocean for agricultural, domestic and fire protection of 200 acres owned by applicant. Protests against the appropriation were filed by C. E. Steele and Frank Steele.

The 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 hearing in Room 707 Forum Building, Sacramento at 1:30 o'clock P.M. on Tuesday, January 17, 1928. Of this hearing applicant and protestants were duly notified, each choosing not to appear or submit any evidence.

The protest by Frank Steele is based on his claimed riparian right to divert from the source at a point some distance upstream. No information has been received from this protestant since he was advised that an upstream diverter cannot be heard to protest issuance of a permit subject to vested rights, on a downstream applicant and that his protest therefore states no cause of action. This protestant did not avail himself of the opportunity allowed to submit an amended protest showing a cause of action within thirty days and the protest is accordingly overruled.

The protest by G. E. Steele is against interference with his diversion under riparian claim. Applicant and protestant have composed their difference by means of an agreement providing that applicant's rights under his application shall be subject to and shall not affect protestant's riparian rights; also that applicant may maintain a dam across the source with consent and permission of protestant. Although this office has received no signed copy of this agreement its existence is admitted by both parties.

Both protestants insisted on their respective protests being maintained in the belief that withdrawal thereof would be prejudicial to the rights claimed. Available information, however, is to the effect that the project can be consummated without injuring either protestant if not with their acquiescence.

The proposed use is a beneficial one and since protestants will not be injured thereby, the application should be approved.

O R D E R

Application 4847 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 4847 be approved and a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento this 6th day of Feb. , 1928.

(Harold Conking)
CHIEF OF DIVISION OF WATER RIGHTS

JCF:MP