

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

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In the Matter of Revocation of Permit 2239 Heretofore
Issued Upon Application 4431 of Elda Slack. Allowing the Approp-
riation of 3.38 Cubic Feet per Second From Old River Tributary of
San Joaquin River in San Joaquin County for Agricultural Purposes.

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Decision A-4431 D 233

Decided July 12, 1929

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Appearances at Hearing Held July 2, 1929.

For Permittee

Elda Slack

Charles A. Slack, Jr.

Examiner

Everett N. Bryan, Deputy
Chief for Harold Conkling,
Chief of the Division of
Water Rights.

O P I N I O N

On September 19, 1925, Application 4431 was approved by the issuance
of Permit 2239 allowing the permittee the privilege of appropriating 3.38
cubic feet per second of the waters of Old River from about March 1st to
about November 1st of each season for agricultural purposes on 270.8 acres.

According to the terms of the permit actual construction work was to have been commenced on or before March 1, 1926, completed on or before December 1, 1928 and the water completely applied to beneficial use on or before June 1, 1929.

On March 25, 1927 the permittee reported that there were just a few acres irrigated in 1926 and that she did not expect to use much water until 1929.

On January 4, 1928 permittee reported that \$100.00 had been expended on construction work which consisted of setting the foundation for the motor and pipe through the levee.

On December 24, 1928 the project was reported as having been completed although apparently no lands had been irrigated during 1928.

On May 20th the project was inspected by an engineer of this office who reported that the place of use described in the application adjoined the property of Mrs. Slack's sister, Mrs. A. Banta, (Application 4429) upon which a 15" pump had been installed about 200 feet east of the dividing line; that Mrs. Slack's point of diversion lay within a few feet west of that line but at this point nothing whatever had been done in the way of construction work. It seems that Mrs. Slack had planned to use the Banta pump but under existing circumstances there was little probability either that an agreement to that end would be reached in the near future or that Mrs. Slack would install a pump at the point designated in her permit.

The reference to construction work in the progress reports submitted by Mrs. Slack, as well as the reference to use of water, appear to have been made in connection with the installation of, and irrigation from, the Banta Pump.

On Tuesday, June 2, 1929, a hearing was held in Room 401 Public Works Bldg., at Sacramento, it appearing that the permittee had failed to comply with the terms of the permit.

At the hearing Mr. Charles A. Slack Jr. appeared in behalf of the permittee and presented a letter from Mrs. A. Banta indicating that she would permit the use of her pump on adjoining land for the irrigation of permittee's land under the permit.

The only cause which Mr. Slack could state for failure to comply with the terms and conditions of the permit was the fact that Mrs. Slack had been waiting until she could secure some sort of financial settlement of an estate involving her own property and that of Mrs. Banta. It was her hope that in the settlement of this estate she would secure funds with which to make this development or permission to use the Banta Pump.

It is the opinion of this office that the cause shown at the hearing was insufficient to justify the granting of an extension of time within which to complete the project and therefore Permit 2239 should be revoked for failure on the part of the permittee to comply with the terms and conditions of the permit.

O R D E R

Permit 2239 having heretofore been issued in approval of Application 4431 which allowed reasonable time within which to commence construction work and to complete construction work and use of water therein proposed, it appearing to the Division of Water Rights that permittee had failed to comply with the terms and conditions of the permit, a hearing having been held at which permittee was afforded an opportunity to appear and to show cause why the

permit should not be revoked for failure to comply with the terms and conditions of the permit and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Permit 2239 heretofore issued upon Application 4431 be revoked and cancelled upon the records of the Division of Water Rights.

Dated at Sacramento, California this 12th day of July, 1929.

Harold Conkling
CHIEF OF DIVISION OF WATER RIGHTS.

WES:JR.