

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

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In the Matter of Application 6821 of Gus Wissendorf to  
Appropriate from Mine Gulch, tributary to San Gabriel  
River via Prairie Fork in Los Angeles County for  
Mining and Domestic Purposes.

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DECISION A. 6821 D - 316

Decided *May 4, 1932*

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APPEARANCES AT HEARING HELD AT LOS ANGELES MARCH 29, 1932

For Applicant

Gus Wissendorf

Grant Holcomb

For Protestants

Azusa Irrigating Company, et al.  
Covina Irrigating Company

Tscharner & Miller  
Walter Haas

EXAMINER: Harold Conkling, Deputy in Charge of Water Rights,  
Division of Water Resources, Department of Public Works,  
State of California.

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O P I N I O N

GENERAL FEATURES OF APPLICATION

Application 6821 was filed on October 24, 1930, by Gus Wissendorf. It proposes an appropriation of 1.25 cubic feet per second throughout the entire year from Mine Gulch, tributary to San Gabriel River via Prairie Fork in Los Angeles County for mining and domestic purposes. The point of diversion is described as being within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 17, T 3 N, R 8 W, S.B.B.&M. The water after being used for mining purposes within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 16, T 3 N, R 8 W, S.B.B.&M. will be returned to the mouth of Mine Gulch within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section 16. The domestic use com-

prises household use at a cabin and the irrigation of 1/2 acre of garden. The application was protested by Azusa Irrigating Company, Azusa Foothill Citrus Company, Azusa Agricultural Water Company, Covina Irrigating Company, Central Water Company, Duarte Mutual Irrigation and Canal Company, Beardslee Water Ditch Company, Mrs. Louise S. Macneil, and Murray S. Vosburg, Roydon Vosburg and Keith Vosburg, successors to the interests of Kate S. Vosburg, deceased, by their agent the San Gabriel River Water Committee, otherwise known as the "Committee of Nine" and by Covina Irrigating Company in an individual protest.

#### PROTESTS

The "Committee of Nine" claims a right to the waters of the San Gabriel River and its tributaries by virtue of appropriation and use begun prior to 1900. Diversion is made by them at the intake of Southern California Edison Company on east line of Section 21, T 2 N, R 9 W, S.B.B.&M., and through the Azusa Duarte Tunnel in SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 23, T 1 N, R 10 W, S.B.B.&M.

The Covina Irrigating Company in an individual protest claims the right to divert water from the San Gabriel River at the mouth of the canyon at a point within Section 13, T 1 N, R 10 W, S.B.B.&M. at the head of what is known as the "Development Tunnel" and at a point about six miles above the mouth of the canyon in the SE $\frac{1}{4}$  of Section 31, T 2 N, R 9 W, S.B.B.&M. In addition to direct diversions from the San Gabriel River this protestant has sunk a number of wells in the valley from which underground water is pumped.

These protestants allege in effect that any diversion made by applicant under Application 6821 will still further diminish the already inadequate water supply and deprive them of water to which they are entitled under prior vested rights.

The City of Pasadena filed a protest against the approval of Application 6821 which was subsequently withdrawn with the understanding that the water would be used for mining purposes only and also domestic use if not in excess of 0.025 cubic foot per second confined to lands adjacent to Prairie Fork and subject to prior filings and permits granted to the City of Pasadena to divert water from the San Gabriel River.

HEARING HELD IN ACCORDANCE WITH SECTION 1a  
OF THE WATER COMMISSION ACT

Application 6821 was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources and being protested was set for a public hearing in accordance with Section 1a of the Water Commission Act on March 29, 1932, at 9:00 o'clock A.M. at 1026 Associated Realty Building, Los Angeles, California. Of this hearing applicant and protestants were duly notified.

PHYSIOGRAPHY AND HYDROGRAPHY

Mine Gulch, the proposed source of appropriation is a "dry wash" comprising a drainage area of some two square miles extending from North Baldy in the San Gabriel Mountains, in a southeasterly direction a distance of about  $2\frac{1}{2}$  miles to its junction with Prairie Fork, a tributary of the San Gabriel River. During storms there is a continuous flow on the surface of the gulch from its head to its junction with Prairie Fork which flow is torrential in character due to the slope of the stream bed which varies from a grade of 15% to a grade of 20%. Ordinarily, however, water rises to the surface at the head of the canyon, flows a short distance and disappears into the gravels about two miles above the mining claims of the applicant which are located at the junction of Mine Gulch and Prairie Fork. This flow dur-

ing seasons of normal runoff is approximately 50 miners inches. During dry seasons the flow decreases to about 15 miners inches.

#### PROPOSED PLANS OF APPLICANT

Applicant proposes to drive a tunnel through the gravels of Mine Gulch at a point about one half mile above the junction of Mine Gulch and Prairie Fork and extend it about 200 feet to bedrock thereby tapping the underground flow. This water will be used for washing the gravels in sluice boxes after which the water will be collected in small settling basins in the side channels into which the debris will be deposited. Applicant states that the area of the settling basins will not exceed 400 square feet and in his opinion the evaporation will be negligible. The domestic use proposed will be incidental to the mining use and the amount so used will not exceed that necessary to supply one cabin and two or three men.

#### CONTENTIONS OF PROTESTANTS

It is protestants' contention that the waters which rise at the head of Mine Gulch sink into the gravels and unite with the subsurface flow of Prairie Fork and the San Gabriel River and contribute to the source from which they obtain their supply during the irrigation season. These protestants allege in effect that by bringing the underflow to the surface as proposed by the applicant and allowing it to flow over the barren rocks of Mine Gulch and exposing it to the elements in settling basins, the evaporation loss will be considerable. They contend also that damage will result to them in that the silt will be washed down the Gulch during storm periods thereby increasing the silt content of the waters used for irrigation pur-

poses below, and that during other periods a coating of silt will be deposited on the stream beds thereby preventing seepage into the underground basin.

PRESENT DIVISION OF SAN GABRIEL CANYON WATER

On January 26, 1889, all claimants to the waters of San Gabriel Canyon entered into a "Compromise Agreement" which provided a schedule for the diversion of water between them, the water being divided into 720 units, each claimant receiving a certain number of the 720 units. Up to 1700 miners inches of river discharge one set of percentages is used to determine the amount each claimant may receive. All the water above 1700 miners inches is divided on a different percentage than prevails for the first 1700.

According to Bulletin 5 there are under these various systems some 16,000 acres gross, all of which, except the territory of Azusa Land and Water Company and that of the Azusa Agricultural Water Company lying to the northwest of the City of Azusa, is intensely cultivated. The dry cycle of years from 1894 to 1904 forced these interests to augment their surface supply by pumping from wells. The Covina Irrigating Company sunk wells in San Dimas Wash and in La Verne District. The other companies interested in the gravity water sunk wells either at the south end of San Gabriel Canyon or in the Canyon sub-basin where water stands at a comparatively high elevation or in the Main Basin over which most of the lands in the Compromise Agreement lie. No definite agreement has been reached among the various companies as to the maximum draft allowed to each. It appears that these interests would eventually have been forced to augment their supply by pumping even had the gravity supply remained constant.

### GENERAL DISCUSSION

Very few facts were presented at the hearing upon which the availability or non-availability of unappropriated water could be definitely determined. It appears that some time in the past measurements were made of the surface flow of Prairie Fork immediately above and below its confluence with Mine Gulch and the results of these measurements indicated that during the irrigation season there was no surface accretion from Mine Gulch. It appears reasonable to assume therefore that in the event the waters of Mine Gulch reach the waters of the San Gabriel River they do so by underground channels or percolation.

The protestants introduced Bulletins 5, 6 and 7 of the Division relating to the San Gabriel Investigation, in support of their contentions. These bulletins are the result of an investigation conducted under the direction of this office from July 1923 to September 30, 1928, costing \$105,000.

The results of the investigation indicate that overdraft does not exist in the area as a whole; that there is a surface supply to the San Gabriel Valley over and above the present needs and that the demand will not equal the supply at the present rate of growth until about the year 1945. Although there has been a general lowering of the water plane during recent years, this fact is not prima facie evidence that the underground reservoir is overdrawn but on the other hand may indicate that the water plane is reduced to such an extent that the water which formerly wasted underground or was lost by evaporation is now being beneficially used.

Table 9 of Bulletin 7 indicates that the average total supply to the San Gabriel Valley above the Narrows is approximately 329,000 A.F. per annum; that the total outflow is 141,000 A.F. per annum and that the consumption was 188,000 A.F. which amount was used to supply the needs of

85,000 acres of irrigated land and the precipitation consumed by 47,900 acres not irrigated. On page 43 of the same bulletin, the total consumptive use of water in San Gabriel Valley based upon the duty of water for various crops and native vegetation as well as for loss on lands where vegetation is <sup>at</sup> a minimum is estimated at 195,000 A.F. per annum which is somewhat in excess of the 188,000 A.F. shown above. Based upon the present consumptive use of 195,000 A.F. per annum it is estimated that the increased future consumption will be approximately 224,000 A.F. per annum.

Table 29 of Bulletin 7 indicates that the average discharge of San Gabriel Canyon is 151,000 A.F. per annum of which 60,400 A.F. per annum is wasted into the ocean.

From the above it would appear that there is unappropriated water in San Gabriel Canyon.

The protestants are concerned with the possible pollution of the waters of the San Gabriel River as a result of the proposed mining operations of the applicant. The testimony presented at the hearing indicated that at the time of the year when there was a possibility of freshets in Mine Gulch which might wash down the silt which had been deposited in the settling basins, the waters of the San Gabriel River already carried considerable silt and at other times the proportion of silt would be so small as to render no damage to the protestants. In the event that damage should result to these protestants, their relief lies not in the denial of the application but in injunctive or other appropriate court action.

While there can be no doubt that protestants are entitled to injunctive relief and damages should the mining operations of applicant so pollute the waters as to result in injury to them, no legal or other basis

has been established upon which this office may deny the appropriation upon a showing that damage may result to the protestants from this cause.

The uses to which the applicant proposes to put the water are useful and beneficial ones and as the existence of unappropriated water has been shown it is our opinion that Application 6821 should be approved.

In view of the terms of the withdrawal of the protest of the City of Pasadena, a special clause should be incorporated in the permit to the effect that the use of water thereunder for domestic purposes shall not exceed 0.025 cubic foot per second.

#### SUMMARY AND CONCLUSIONS

While a mining use such as proposed by the applicant is generally deemed a non-consumptive one, there appears to be some merit in protestants' contentions that a portion of the water may be lost by evaporation which otherwise would not have been lost should the water be allowed to flow underground in the state of nature. It seems reasonable to assume however, that this loss by evaporation together with the small amount of water consumed for domestic purposes will have no appreciable effect upon the protestants' diversions.

The water which applicant proposes to divert under this application is not surface flow but rather underground water which he seeks to develop by means of a tunnel and no testimony was introduced which would indicate that the diversion of this water would be reflected at the points of surface diversion of the protestants, the uppermost one of which is some twelve miles below the junction of Mine Gulch and Prairie Fork.



Insofar as underground water is concerned it has been shown that during a year of normal runoff some 60,000 acre feet of water is wasted into the ocean, clearly indicating that there is unappropriated water in San Gabriel Canyon.

O R D E R

Application 6821 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held, and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 6821 be approved and that a permit be issued thereon subject to the usual terms and conditions as may be appropriate and to the special terms or conditions as follows, to-wit:

"The amount of water used for domestic purposes under this permit shall not exceed 0.025 cubic feet per second."

WITNESS my hand and the seal of the Department of Public Works of the State of California, this *4th* day of *May*, 1932.

EDWARD HYATT, State Engineer

BY *Harold Conkling*  
Deputy

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