

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

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In the matter of Application 7650 of Lewis O. Griffith to  
Appropriate from an Unnamed Spring or Seep at Mouth  
of Tunnel in El Dorado County for Domestic and  
Incidental Irrigation Purposes.

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DECISION A 7650 D - 355

Decided

*May 1, 1934.*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, MARCH 20, 1934

For Applicant

Lewis O. Griffith

In propria persona

For Protestant

Mathew J. Murray

In propria persona

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 7650

Application 7650 was filed on September 18, 1933, by Lewis O. Griffith. It proposes an appropriation of 0.025 of a cubic foot per second throughout the entire year from an unnamed spring or seep at the mouth of an old abandoned mine tunnel on the watershed of the South Fork of American River in El Dorado County. The water is to be used for domestic purposes at applicant's residence and for incidental garden irrigation. The

point of diversion is described as being North 174 feet and East 328 feet from the Southwest corner of Section 32, T 11 N, R 11 E, M.D.B.&M. being within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section 32.

Application 7650 was protested by Mathew J. Murray and Anna Murray, his wife.

#### PROTEST

Mathew J. and Anna Murray claim a right to the use of water from the source from which applicant proposes to divert, which right is based upon use begun prior to the effective date of the Water Commission Act and upon riparian ownership and allege in effect that the waters of the spring flow directly on to their property and that the water has been used continuously for domestic and irrigation purposes.

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

Application 7650 was completed in accordance with the Water Commission Act and 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 20, 1934, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestant were duly notified.

#### INVESTIGATION

The testimony presented at the hearing was so conflicting that it was agreed that an investigation would be made by an engineer of this office in order to determine whether or not protestants would be injured by the diversion proposed by the applicant. Both applicant and protestants

signified their willingness to abide by a decision based upon the result of the investigation.

Pursuant to the agreement an engineer of this office visited the site of the proposed source of diversion on the morning of April 18, 1934, and accompanied by Mr. Griffith and Mrs. Murray made a very thorough investigation of the situation. The results of this investigation are set forth in a report by Walter E. Stoddard dated March 24, 1934, and to which reference is made.

The investigation clearly indicated that there was a misunderstanding on the part of the protestants as to the source of the proposed appropriation; that whereas the water from one tunnel actually flowed to protestants' property there were no indications that the water from the tunnel or spring described in Application 7650 ever reached the drain from the source of supply claimed by protestants, the flow therefrom being dissipated by evaporation, percolation and transpiration a short distance below the appearance of the water on the surface.

It is not seen where any injury can inure to the protestants from the approval of Application 7650.

As a result of the investigation and under date of April 25, 1934, Mathew J. Murray and Anna Murray informed this office that they were willing to withdraw their protest provided that Mr. Griffith did not interfere with any of the water "coming to" their place and that he "lives up to his application at point of diversion."

#### O R D E R

Application 7650 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having

been received, a public hearing having been held followed by a field investigation by an engineer of this office, and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application 7650 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this *First* day of *May*, 1934.

EDWARD HYATT, State Engineer

BY *Harold Conkling*  
Deputy

