

BEFORE THE DIVISION OF WATER RESOURCES

DEPARTMENT OF PUBLIC WORKS

STATE OF CALIFORNIA

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In the Matter of Application 7502 of George E. and Ora E. Parrish to appropriate from McNeill Creek, tributary to Pacific Ocean, in Humboldt County for Irrigation and Domestic Purposes.

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Decision A 7502 D 365

Decided January 11, 1935

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APPEARANCES AT HEARING HELD AT EUREKA, OCTOBER 4, 1934

For Applicant

George E. and Ora E. Parrish In propria persona

For Protestant

Agnes M. McNeil A. G. Bradford

Examiner

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

FILED BY G. B.

OPINION

General Description of Project

Application 7502 was filed by George E. and Ora E. Parrish on February 14, 1933. As advertised it proposed an appropriation of 30,000 gallons per day to be diverted from McNeill Creek, tributary to the Pacific Ocean in Humboldt County for irrigation and domestic purposes within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 14, T 8 N, R 1 W, H.B. & M., where it was proposed to use the water for the irrigation of two acres of land and for domestic purposes. It was proposed to irrigate from about April 1 to about November 1 of each season and to use the water throughout the entire year for domestic purposes at two permanent houses and fifteen tourist cottages. The point of diversion is located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11, T 8 N, R 1 W, H.B. & M.

The application was protested by Agnes M. McNeill.

PROTEST

Agnes M. McNeill claims that the source of the proposed appropriation flows through her property and that she has used the water throughout the year for approximately 25 years for domestic, dairy, and agricultural purposes and that her predecessors in interest had used the water for approximately 60 years. Mrs. McNeill diverts water within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11, T 8 N, R 1 W, H.B. & M., below the proposed diversion point of the applicant and alleges in effect that during the summer months she uses practically all the water flowing in the creek and that should Application 7502 be approved it would deprive her of the water to which she is entitled.

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

Application 7502 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 1-a of the Water Commission Act on October 4, 1934 at 10 o'clock A.M. in Supervisors Room, Court House, Eureka, California. Of this hearing applicants and protestant were duly notified.

APPLICATION 7502 AMENDED

At the hearing applicants requested that Application 7502 be amended by striking therefrom the irrigation phase of the project and by reducing the amount of water applied for from 30,000 gallons per day to 5,000 gallons per day.

Subsequent to the hearing the applicants under date of October 6, 1934, consented to a further reduction in the amount applied for, to 3,000 gallons per day and the application has been so amended.

WATER SUPPLY

McNeill Creek is a small stream originating on the lands of the Hammond Lumber Company. The record indicates that the flow varies considerably during the course of an average season of runoff. No records of flow are available excepting those which were presented at the hearing and these were somewhat conflicting.

It appears that under the direction of Captain Arthur Elam, engineer for the Hammond Lumber Company, Mr. Parrish constructed a sharp edged rectangular weir in McNeill Creek above the intake of the protestant by means of which water was measured on August 1 and October 4, 1933. On both dates the flow in McNeill Creek was found to be approximately 60,000 gallons per day and according to Captain Elam this amount was about the minimum for that year. The U. S. Weather Bureau records at Eureka indicate that the precipitation for the year 1933 was approximately 82% of normal. On August 14, 1934 the flow in McNeill Creek at the weir measured by Mr. Parrish was also about 60,000 gallons per day and on

September 13, 1934 Mr. Elam measured the flow about two hundred feet below the intake of Mr. Parrish and found it to be about 34,000 gallons per day which amount did not include the amount which Mr. Parrish was diverting which amount was apparently not measured. At this time Captain Elam computed the capacity of the protestants one-inch pipe line upon the assumption that the pipe was in condition as new and found it to be approximately 10,600 gallons per day. He also stated that considerable water was passing her point of diversion although he made no measurement of it.

On the other hand, George S. Winzler, an engineer employed by the City of Eureka and a witness for the protestant presented testimony to the effect that on September 22, 1934 he measured the flow of McNeill Creek below protestants point of diversion and found it to be approximately 12,800 gallons per day. William L. McNeill, son of protestant testified that before this measurement was made he shut off protestants diversion above. He also testified that before shutting off the water there was water passing protestants point of diversion which flowed down the creek through pasture but could not estimate this amount.

On the same day another measurement was made by Mr. Winzler at the weir above protestants intake which indicated that the flow was approximately 11,800 gallons per day or about 1000 gallons per day less than the amount measured below protestants intake although the record gives the impression that the stream is a losing rather than a gaining stream between these points.

USE OF WATER BY PROTESTANT

Mrs. Agnes M. McNeill, the protestant, owns a tract of land containing some 115 acres which lies immediately below Bishop Pine Lodge the property of the applicants. The record indicates that this property was acquired by her in 1904 and that she resided thereon until 1925 at which time she moved away and

leased the property to others until January 1, 1932. Since January 1, 1932 no one has resided on the property although her son has occasionally visited the place.

During the time the property was occupied water was used for stock watering, domestic and irrigation purposes. Two or three acres of clover were irrigated primarily by sub-irrigation, the protestant allowing the water to spread out from the pipe line onto the sloping lands below thereby keeping the water table up. Some water was used for irrigating the gardens with a hose and spray and stock were watered by drinking from the stream which flowed through the pasture. It appears that at the present time the water is used for irrigating grass only as there are no cultivated crops and is used for watering about 9 head of cattle and 104 head of sheep. Water which is not consumed flows into the Pacific Ocean. Although the engineer for the applicant estimated the capacity of protestants pipe line as 10,600 gallons per day, this estimate was based upon the assumption that the pipe was in condition as new whereas the record indicates that the pipe is badly corroded and will soon need replacing. We believe that actually the present capacity of the pipe line would not exceed 7,000 gallons per day. The protestants son is now working in Eureka until such a time as he may be able to return to the property and make the necessary improvements.

UNAPPROPRIATED WATER IN McNEILL CREEK

Although there may be times during seasons of abnormally low runoff when the flow in McNeill Creek will not exceed the capacity of protestants diversion works, the record clearly indicates that during a year of normal runoff there is water escaping past the diversion point of the protestant and escaping into the Pacific Ocean without serving any useful or beneficial purpose and as applicants are in a position to use such water beneficially it is ou

opinion the Application 7502 be approved as amended.

In view of the fact that it is intended to serve two permanent houses and fifteen tourist cottages and possibly to supply a service station rest rooms and a drinking fountain it is not considered that 3,000 gallons per day is unreasonable.

ORDER

Application 7502 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a public hearing having been held and the Division now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application 7502 be approved and that a permit be granted 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 11 day of *January* 1935.

EDWARD HYATT, State Engineer

By *Harold Conkling*
Deputy.

