

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

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In the Matter of Application 8906 of Caroline Flavell and  
Application 9088 of W. Zuckerman, Inc. to Appropriate  
from Rock Creek, a Tributary of Owens River in  
Mono County for Domestic Purposes

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DECISION A. 8906 - 9088 - D 411

Decided

*November 20, 1937*

APPEARANCES AT HEARING HELD November 15, 1937

For Applicants

None

For Protestants

None

EXAMINER: Everett H. Bryan, Supervising Hydraulic Engineer for Harold  
Conkling, Deputy in Charge of Water Rights.

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O P I N I O N

Application 8906

Application 8906, by Mrs. Caroline Flavell, is to appropriate  
800 gallons per day from Rock Creek, a tributary of Owens River in Mono  
County, from about May 1 to about November 1 of each season for domestic  
purposes, the diversion to be made within the NW<sub>4</sub> of NE<sub>4</sub> of Section 25,

T 4 S, R 30 E, M.D.B. & M., and use is to be made at the cabin of the applicant on Lot 6, Lower Rock Creek Tract, Inyo National Forest, within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 33.

Application 9085

Application 9085, by M. Zuckerman, Inc., is to appropriate 1500 gallons per day from Rock Creek, a tributary of Owens River in Mono County, from about March 1 to about January 1 of each season for domestic purposes, diversion to be made within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 33, T 4 S, R 30 E, M.D.B. & M. and use to be made on Lot 11 of Lower Rock Creek Tract of Inyo National Forest within the same 40-acre subdivision.

These applications were protested by the Department of Water and Power of the City of Los Angeles upon the basis of anticipated interference with the rights and uses of the Department in its proposed Long Valley development, the protestant claiming rights based both upon prior application and riparian ownership. Protestant represented that it used the entire flow of Rock Creek for municipal purposes in the City of Los Angeles and had done so for more than 20 years, its point of diversion being within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 21, T 10 S, R 34 E, M.D.B. & M.

Protestant's point of diversion is some 25 to 30 miles downstream from the points of diversion proposed by the applicants, whose use would be within the watershed and, in fact, closely adjacent to the banks of the stream from which diversion is to be made.

It has been the position of the Division heretofore, in similar cases, that no substantial interference with the rights of protestant would result from such uses and in this assumption the Division has on various occasions overruled the protests of this protestant and approved applications similar to these.

Under date of August 25, 1937, a letter was addressed to protestant recalling the case of Application 8368 by T. J. Yerby wherein the City protested and was heard in Bishop on April 27, 1937. In that case the application was for 15,000 gallons per day for domestic uses at a resort located on the banks of Rock Creek. After careful consideration of the evidence it was the conclusion of the Division that the appropriation would have only a negligible effect upon protestant's water supply and that, inasmuch as the appropriation was for the highest use recognized from the standpoint of public interest, doubt should be resolved in favor of the applicant. The application was accordingly approved.

It was suggested to this same protestant in the matter of Applications 8906 and 9025 that unless it had some additional evidence or argument to present in support of its protest that the convenience of all parties would be served if it would rest upon its previous showing. Protestant consented to this, and being advised of this fact, there was no appearance by either of the applicants at the hearing on November 15. Upon the basis of the previous showing it is in order for the Division to reject the protests which were filed by the City of Los Angeles and consider these applications for approval.

