

Before the Division of Water Resources
Department of Public Works
State of California

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In the Matter of Application 9906 of Arthur D. Grafton to
Appropriate from an unnamed gulch (known locally as
French's Gulch), tributary of Slate Creek in Shasta
County for Irrigation and Domestic Purposes.

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Decision A. 9906 D - 466

Decided *January 20, 1941*

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APPEARANCES AT INVESTIGATION CONDUCTED AT THE SOURCE OF THE PROPOSED
APPROPRIATION ON SEPTEMBER 1, 1940.

For Applicant

Arthur D. Grafton

Arthur D. Grafton
Mrs. Grafton (his mother)

For Protestants

A. Sperry and Erma Scott

Mrs. Sperry
Erma Scott

Mrs. Ida Harris

Mrs. Jennie Ince

For Division of Water Resources

A. S. Wheeler, Assistant Hydraulic Engineer, representing Harold Conkling,
Deputy State Engineer in Charge of Water Rights, Division of Water Re-
sources, Department of Public Works, State of California.

O P I N I O N

General Description of Project

Application 9906 was filed by Arthur D. Grafton on April 28, 1940
seeking to appropriate an amount of water not to exceed 0.10 of a cubic foot
per second from an unnamed gulch, locally known as French's Gulch, tributary
to the Sacramento River via Slate Creek to be diverted for irrigation and

domestic purposes. It is proposed to irrigate 10 acres of land within the $\frac{1}{2}$ of $\frac{1}{2}$ of $\frac{1}{2}$ of $\frac{1}{2}$ of Section 21, T 36 N, R 5 W, M.D.B.M. from about May 1 to about November 30 of each season and to use water throughout the entire year for domestic purposes. The point of diversion is described as being within the $\frac{1}{2}$ of $\frac{1}{2}$ of Section 21, T 36 N, R 5 W, M.D.B.&M. from which it is proposed to conduct the water to the place of use through 3000 feet of earthen ditch.

Protests

A. Sperry and Erna Scott in a joint protest filed June 24, 1940 claim an appropriative right initiated in 1885 and that they and their predecessors in interest have used all of the water flowing in French's Gulch for domestic purposes and the irrigation of $5\frac{1}{2}$ acres of land. Their point of diversion is described as being within the $\frac{1}{2}$ $\frac{1}{2}$ of Section 16, T 36 N, R 5 W, M.D.B.M. These protestants allege in effect that should Application 9906 be approved it would result in depriving them of water to which they are entitled.

Ida Harris in a protest filed July 13, 1940 claims that since 1880 she and her predecessors in interest have been diverting water from French's Gulch for the irrigation of about 3 acres of garden and fruit trees. Her two points of diversion are described as being within the $\frac{1}{2}$ of $\frac{1}{2}$ of $\frac{1}{2}$ of Section 16, T 36 N, R 5 W, M.D.B.M. She alleges in effect that there is insufficient water naturally flowing in French's Gulch to supply both the applicant and herself.

Investigation

On September 14, 1940, an investigation of Application 9906 was conducted in the field by an engineer of the Division in accordance with the provisions of Regulation 11a of the Rules and Regulations of the Division of Water Resources. Of this investigation applicant and protestants were duly notified.

Stipulated Hearing

At the time of the investigation a stipulation under Regulation 12B was signed by the applicant and the protestants or their representatives and has been approved and accepted by the Division. The records relied upon in the determination of the matter are as follows:

- (1) Application 9906 filed May 22, 1940.
- (2) Map filed in support of Application 9906 on May 23, 1940.
- (3) Protest filed by Erna Scott and A. Sperry on June 24, 1940 supplemented by two letters filed July 1, 1940.
- (4) Protest filed by Mrs. Ida Harris on July 18, 1940.
- (5) Stipulation under Regulation 12B.
- (6) Report of Investigation conducted on September 14 and October 1, 1940 by A. S. Wheeler.

General Discussion

The report of the engineer who conducted the investigation indicates that on September 14, 1940 there was available to all claimants 1.75 cubic feet per second of which 0.31 cubic feet per second was available from the natural flow of French's Gulch and 1.44 cubic feet per second was imported to the gulch from Slate Creek through the Sperry-Andrews ditch. On this date the claimants were diverting 1.485 cubic feet per second, and 0.285 cubic feet per second was flowing unused into Slate Creek. The flow in French's Gulch above applicant's proposed point of diversion was 0.22 cubic feet per second which is less than the amount which was flowing unused into Slate Creek.

Apparently the extent of the rights to the use of the waters of French's Gulch is vague and indefinite and it appears that the lower claimants are considering a court action for the purpose of obtaining an adjudication of the existing rights.

If dependence was placed entirely upon the flow of water in French's

Gulch it is possible that during the summer months, especially July and August, there would be insufficient water available for appropriation by the applicant without interfering with the lower users but usually water is imported throughout the entire year from Slate Creek to French's Gulch in sufficient quantities to so augment the flow in French's Gulch that not only are the claimants afforded an ample supply but the amount of water which applicant seeks to appropriate may be taken by him without interfering with diversions below.

The report of the engineer directs attention to the fact that the type of soil through which the applicant's ditch passes is such that the conveyance losses will be excessive and that it was possible that the entire amount of water which applicant seeks to appropriate would be lost en route to his place of use. For this reason a special clause should be incorporated in any permit issued in approval of Application 9906 to the effect that permittee shall install a pipe line to the end that excessive seepage losses may be avoided.

ORDER

Application 9906 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a field investigation by the Division of Water Resources having been made and a stipulated hearing having been held in accordance with Regulation 12B of the Rules and Regulations of the Division of Water Resources and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 9906 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to a further special term

and condition as follows, to wit:

"To the end that excessive seepage losses may be avoided, permittee shall install a pipe line for the conveyance of the water from the point of diversion to the place of use."

WITNESS my hand and the seal of the Department of Public Works of the State of California this 20 day of Jan 1941.

EDWARD HEATT, State Engineer

By HAROLD CONKLING

Deputy

(Seal)

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Dec. 27, 1940