

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

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In the Matter of Application 5668 by C. A. Holbrook,
Victor Marthini and Elmer G. Little to appropriate
from an unnamed tributary of the South Fork of
the American River in Eldorado County for
Domestic Purposes.

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DECISION NO. 5668 D 204

Decided

August 31, 1928

APPEARANCES AT HEARING HELD August 7, 1928

For Applicants

C. A. Holbrook

For Protestants

Luppe B. Luppen and
Clinton E. Harber, Atty.

EXAMINER: Everett N. Bryan, Deputy Chief of Division of Water Rights.

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O P I N I O N

This is an application to appropriate 0.003 cubic foot per second or approximately 1,950 gallons per day from an unnamed stream for the domestic benefit of a duplex house and a single house on two U. S. Forest Service cabin sites in the Riverside group, Eldorado National Forest. Protest was jointly filed by Luppe B. Luppen and Clinton E. Harber.

This application was filed August 24, 1927, was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights and being protested was set for a public hearing in the Division of Water Rights hearing room in the Public Works Building, Sacramento, California, at 10:00 o'clock a.m. on Tuesday, August 7,

1928. Of this hearing applicants and protestants were duly notified and appearances thereat were made by all parties concerned.

The protest by Luppen and Harber recites that protestants have not been able, at certain periods, to secure sufficient water from the source to satisfy the right of each to 650 gallons per day as covered by prior applications to and permits and licenses from the Division of Water Rights. Protestants further state that any further diversions from the source at any point above them would diminish a supply already insufficient.

A field investigation of the project and the protest thereto was made by representatives of the Division of Water Rights and the U. S. Forest Service prior to the time of the hearing and no question has been raised by either applicants or protestants as to the correctness of the data reported. It was found that protestants' proposed diversion is some 200 feet downstream from applicants' proposed point of diversion and that there are numerous pools and the gravel is saturated between the two points. Volumetric measurement of the surface flow of the stream showed a flow of 1 gallon per minute 50 feet above applicants' point of diversion, 0.4 gallon per minute at applicants' point of diversion, no surface flow at protestants' point of diversion, and 0.4 gallon per minute a short distance below protestants' diversion, on July 30, 1928 at 2:00 o'clock P.M. Since these measurements were made on the surface overlying an underground channel of pervious gravels without attempt at development, it is impossible to escape the conclusion that a quantity considerably in excess of 0.4 gallon per minute, if not in excess of 1.0 gallon per minute, was passing both points of diversion on that date which was toward the close of a summer season following a year of only about 90% of normal precipitation and in a cycle of years of sub-normal precipitation and at a time of day when stream flow is probably near its minimum.

At the hearing protestants stated definitely that their use of water was less than 650 gallons per day each but were unable to estimate the amount beneficially used. Experience has shown that use of water in parallel cases does not exceed 200 gallons per day per lot and the policy of the Division of Water Rights as indicated in Regulation 2 of the Rules and Regulations is to consider this amount ample. The fact that licenses heretofore issued to protestants specify the maximum as 650 gallons per day does not necessarily confer on them a right to that amount as the appropriative right confirmed is further limited to the amount put to beneficial use for the purpose specified in the applications. In the absence of more definite information, therefore, it may be assumed that both protestants use will not exceed a total of 400 gallons per day which use will be more or less intermittent as experience shows that summer homes are seldom continuously occupied. As indicated above the combined surface and underflow is considerably in excess of this amount and no reason has been submitted for believing that such excess is not subject to appropriation by applicants.

The use proposed is a beneficial one and permit will therefore issue on the application, except that consistently with the policy of the Division of Water Rights as mentioned above the amount to be allowed will be reduced to 600 gallons per day.

O R D E R

Application 5668 for a permit to appropriate water having been filed with the Division of Water Rights as above stated, protest having been filed, a public hearing having been held and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application 5668 be approved for an amount not to exceed 600 gallons per day and that a permit be granted to the applicants subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento this 31 day of Aug , 1928.

Harold Conking
(Harold Conking)
CHIEF OF DIVISION OF WATER RIGHTS

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