

L. J. Hall

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

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In the Matter of Revocation of Permit 1017 Heretofore
Issued upon Application 2491 of W. B. Mason, allow-
ing the Appropriation of two cubic feet per second
from Indian Creek Tributary to Sacramento River
in Shasta County for Agricultural and Domestic
Purposes.

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DECISION A 2491 - D-256

Decided *April 23, 1930*

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APPEARANCES AT HEARING HELD FEBRUARY 3, 1930.

For Permittee

W. B. Mason

In propria persona

EXAMINER: Everett N. Bryan, Hydraulic Engineer.

O P I N I O N

On March 22, 1922, a permit was issued on Application 2491 allow-
ing the permittee to appropriate 2.0 cubic feet per second from Indian Creek
tributary to the Sacramento River in Shasta County throughout the entire
year for agricultural and domestic purposes on 320 acres of land located
within Section 18, T 35 N, R 4 W, and Sections 12 and 13, T 35 N, R 5 W,
M.D.B. & M. with the understanding that diversions under the permit together
with those under existing rights of permittee should not exceed the rate
of one cubic foot per second continuous flow to eighty acres of irrigated
land.

The applicant proposed the installation of a conduit system consisting of one mile of 6 or 7 inch steel pipe. By the terms of the permit construction work was to begin on or before July 1, 1922, to be completed on or before May 1, 1923 and complete beneficial use of the water was to be made on or before June 1, 1924.

No progress report was submitted for the year 1922 and the project was consequently inspected by T. R. Simpson on September 4, 1923, who reported that construction work had been only partially completed and the intake of the conduit had not been constructed. He stated however that about 30 acres of orchard had been irrigated by water pumped directly from the Sacramento River. Based upon the report of Mr. Simpson an extension of time was granted to July 1, 1924 to complete construction work and to July 1, 1926 to complete use.

On November 7, 1924, Mr. Mason called at the office and stated that agriculture was unprofitable due to lack of water and that he proposed to use the water for a hotel and camping ground. He was advised that such a change as proposed would not prejudice the privileges acquired under the permit.

According to the progress report for 1924 filed March 11, 1925, construction work had been practically completed and a maximum area of 11 acres irrigated.

On May 16, 1926, the project was inspected by Mr. Ingerson of this office who reported that the construction work had been completed but that the pipe line crossing the Sacramento River on a suspension cable had been destroyed during the winter of 1924. He reported that in 1924 10 acres

of young pears interplanted with strawberries were irrigated by the water from Indian Creek, that the permittee planned to plant strawberries as the commercial crop on the property but in order to assure the proper variety he had been devoting his efforts to determining the proper variety and for this reason the acreage irrigated has not increased rapidly during the past three years. He also reported that the permittee planned to extend the pipe line upstream from the point of diversion in order to increase the available head upon the syphons across the Sacramento River and to reconstruct the pipe line where it had been destroyed. Based upon the report an extension to December 1, 1928, was granted within which to complete construction and apply the water to beneficial use.

No reports were filed for the years 1925 to 1929 inclusive although permittee was informed under date of January 14, 1928 and January 31, 1929 that failure on his part to file the reports would indicate that the project had been abandoned and this office would govern itself accordingly.

On September 25, 1929 the project was inspected by Mr. Wheeler of this office who reported that at the point of diversion no further work had been done and accordingly the conduit was as described in previous reports. The portion of the pipe line which had been destroyed in 1924 had not been replaced due to a lack of finances. Mr. Wheeler reported that no use of water had been made directly from Indian Creek since 1924 but the permittee had installed a pump in the Sacramento River, below the confluence of Indian Creek and claimed that he had thus continued full use of Indian Creek water in conjunction with a riparian claim to Sacramento River water. Mr. Mason stated that he planned to reconstruct the pipe line from a point higher up

on Indian Creek and to establish a resort on that portion of his property lying within Section 12 and to irrigate the balance of the land which would not be flooded by the proposed Kennett Reservoir. He stated that he was endeavoring to interest San Francisco people in the enterprise and believed that construction work would be completed during 1931 and use completed in 1932.

It appearing to this office that permittee had failed to comply with the terms and conditions of the permit a public hearing was held on February 3, 1930, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, in accordance with Section 20 of the Water Commission Act. Of this hearing permittee was duly notified.

Mr. Mason appeared at the hearing and the showing made by him was substantially the same as that made at the time of Mr. Wheeler's inspection. He had not reconstructed his diversion works from Indian Creek because of financial reverses but expected to do this within the next year or so and in the meantime proposed to continue his use from the Sacramento River below the confluence of Indian Creek.

It was indicated to him that if he would file a petition to change his point of diversion by adding an alternate place of diversion below the confluence of Indian Creek, this office would be disposed to grant the petition and allow a reasonable extension of time but unless such a petition were filed promptly this office would have no alternative other than to revoke the permit. Under date of February 8, 1930, Mr. Mason requested the privilege of adding an alternative point of diversion located 1700 feet south of the north line of $W\frac{1}{2}$ of $NW\frac{1}{4}$ of Section 18, T 35 N, R 4 W. The petition not being in regular form/^ablank for the purpose was sent to him

under date of March 6, 1930 together with a township plat upon which to indicate the correct location of the alternative point of diversion, and his attention directed to Regulation 13 of our Rules and Regulations. No reply to the letter accompanying the petition form and map has been received.

The application has been before this office for $8\frac{1}{2}$ years, and was approved more than 8 years ago. Although the project was partially completed at one time the diversion works were partially destroyed more than five years ago and have not been restored. Applicant and permittee has been diverting water from Sacramento River below the confluence of Indian Creek (the source named in the application and permit) for more than five years and although repeatedly advised that this use could not be construed as coming within the terms of the permit unless an alternative point of diversion were added by petition to this office he has failed to complete a proper petition. Indifference on the part of permittee in this connection places the Division in such position that it cannot consistently allow further extension of time and therefore permit should be revoked because of failure to comply with the terms and conditions thereof.

O R D E R

Permit 1017 having heretofore been issued in approval of Application 2491; it appearing to the Division of Water Resources that permittee had failed to comply with the terms and conditions of said permit; a hearing having been held at which permittee was afforded an opportunity to appear and show cause why the permit should not be revoked for failure to comply with the terms and conditions thereof and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Permit 1017 heretofore issued upon Application 2491 be revoked and cancelled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 23 day of April, 1930.

EDWARD HYATT, State Engineer

BY Harold Conkling
Deputy

WES:MP