

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

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In the matter of Application 10550 of Harry C. and Lela W. Nelson to appropriate from Grass Valley Creek and an unnamed spring tributary to the West Fork of Mojave River in San Bernardino County, for irrigation purposes.

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DECISION A. 10550 D. 550
DECIDED April 22, 1947

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APPEARANCES AT FIELD INVESTIGATIONS CONDUCTED ON AUGUST 30, 1943 AND ON JULY 9, 1946 UNDER THE PROVISIONS OF ARTICLE 13, SECTION 733B OF THE CALIFORNIA ADMINISTRATIVE CODE AND PREVIOUS PROVISIONS OF THE RULES AND REGULATIONS OF THE DIVISION OF WATER RESOURCES.

For Applicants

Harry C. and Lela W. Nelson - August 30, 1943	Harry C. Nelson
July 9, 1946	None

For Protestant

Carver Investment Company - August 30, 1943	Chesney W. Carver
July 9, 1946	Chesney W. Carver Boyd Maddox

INVESTIGATOR: Biscoe Kibbey, Associate Hydraulic Engineer for Edward Hyatt, State Engineer, Division of Water Resources, Department of Public Works, State of California.

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OPINION

Application 10550 having been filed and a protest against approval there of having been received, was regularly set for field investigations of which applicants and protestant were duly notified and did agree, by signed stipulations, to abide by the reports and subsequent findings of such investigations.

As the result of the first field investigation and other data and information available Decision A.10550 D.505 was rendered on October 26, 1943 about which time another controversy developed between the applicants and protestant resulting in the withholding of action on Application 10550 pending further field investigation of the situation involving the application.

The investigation reports and subsequent correspondence indicate that the representatives of both protestant and applicants are in agreement that, except during the period from about November 1 to about May 15, there is normally no flow in Grass Valley Creek at applicants' proposed diversion point and at the time of the first field investigation the protestant's representative stated that the maximum use by protestant is about 4.0 cubic feet per second, that at times use to that extent is not made although sufficient water might be available and that during a portion of the time the flow is in excess of that amount. It would accordingly appear that, at least during a portion of the season of flow, water would be available for direct diversion by applicants.

The protestant's representatives also admitted that during flood flow periods there was normally sufficient run-off, in excess of protestant's requirements, to permit the applicants to divert to storage the 45 acre feet per annum sought.

The reports of the investigations also indicate that applicants' proposed point of diversion from Grass Valley Creek is not on the property of protestant and that it is approximately one-half mile below protestant's point of diversion.

In view of the above there would appear to be no question as to there being unappropriated water available for use by applicants, that no interference with any rights of protestant is involved and, accordingly, that protestant has shown no grounds for denial of Application 10550 with respect to Grass Valley Creek.

In connection with the unnamed spring, from which applicants seek to appropriate, the protestant claims only stockwatering rights and since the report of the first investigation indicates that the maximum use for stockwatering purposes by protestant is about 1500 gallons per day and since the summer surface flow of the spring, as measured during the course of the first investigation, was found to be at the rate of 48,500 gallons per day, it is evident that unappropriated water from the spring is available to applicants.

The use to which applicants propose to put the waters sought is a beneficial one and there appearing to be no bar to approval of Application 10550 it is the opinion of this office that said application should be approved subject to the usual terms and conditions and the condition that the season of diversion from Grass Valley Creek be limited to the period from about November 1 to about May 15.

RECORDS RELIED UPON

Application 10550 and all data and information on file therewith.

ORDER


Application 10550 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, field investigations having been made, a stipulated hearing having been held in accordance with Article 13, Section 733B of the California Administrative Code and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Decision A.10550 D.505 decided October 26, 1943 by the Division of Water Resources be declared null and void and as having no force or effect and:

IT IS FURTHER ORDERED that Application 10550 be approved for the amount of water applied for and a season of diversion from about November 1

to about May 15 from Grass Valley Creek and for the amount and season of diversion applied for from the unnamed spring and that a permit be granted to the applicants 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 22nd day of April, 1947.



EDWARD HYATT, State Engineer

