

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 12117 of Gilbert W. Luman and Application 12122 by John F. Luman to Appropriate Water from Cromberg Spring in Plumas County for Domestic Purposes and Fire Protection.

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Decision A. 12117, 12122 D. 635

Decided November 9, 1949

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON JUNE 22, 1949:

Gilbert W. Luman	Applicant
John F. Luman	Applicant
M. E. Magill	Father of Protestant Henry Magill
Kernit F. Fuller	Protestant
George W. Sapp	Protestant
Earl E. Schultz	Protestant
A. S. Wheeler	Associate Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer

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OPINION

General Description of the Project

Application 12117 by Gilbert W. Luman and Application 12122 by John F. Luman contemplate diversions from Cromberg Spring in Plumas

County, for domestic purposes and fire protection. The amounts originally applied for were 600 gallons per day and 900 gallons per day respectively. Cromberg Spring is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, T 23 N, R 12 E, M.D.B. & M. The place of use in each instance is to be within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, T 23 N, R 11 E, MDB&M. Delivery in each instance is to be by gravity, by means of a pipe line varying from 1 $\frac{1}{2}$ inch to 3/4 inch in diameter, some 1500 feet long.

Protest

Both of the applications were protested by Henry Magill, George Sapp, Kermit Fuller and Earl Schultz. These protestants assert that a representative of the Division in 1947 at an open meeting at Cromberg Spring stated that that source could not stand further diversion. They base their claim of a right to use water upon prior appropriation and contend in effect that all water available at Cromberg Spring is already in use throughout each year for domestic purposes and fire protection. They state that their protest may be disregarded and dismissed if they receive assurance that the supply afforded by Cromberg Spring will be sufficient to cover existing rights of all present users at all times for every season.

In answer to the protest Applicant Gilbert W. Luman states that all users were advised (presumably at the open meeting referred to in the protest) to re-apply for the amount they were already using and it was agreed that such applications would not be protested; Applicant John F. Luman stated that he was unable financially to afford a hearing and desired to leave the determination of the matter in controversy to the State Engineer.

Field Investigation

The applicants and the protestants having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code a field investigation was conducted at the site of the proposed appropriation on June 22, 1949 by an engineer of the Division. The applicants and the protestants were present or represented during that investigation.

Records Relied Upon

Applications 11205, 12117 and 12122 and all data and information on file therewith.

Discussion

According to the report of the investigation of June 22, 1949 a conference was held with the parties at that time and it was explained to them that at the conference referred to in the protest it was agreed that filings would be made to cover amounts found to have been regularly used in excess of the amounts covered by existing licenses and that such applications would not be protested. The investigating engineer suggested to the parties that the filing of protests in the matter now at issue may have been due to the naming, in Applications 12117 and 12122, of the total amounts in use by the applicants instead of surpluses used in excess of authorizations under existing licenses. The applicants then explained that the naming of gross instead of net amounts in their applications was erroneous and due to misunderstanding on their part and they signed written requests on the spot to reduce the amounts applied for in Applications 12117 and 12122 to 300 gallons per day and 400 gallons per day respectively. In view of this action

the protestants withdrew their protests subject to the reductions just mentioned, in the amounts applied for.

In accordance with the applicants' requests the amounts specified in paragraphs 2(a) of Applications 12117 and 12122 have been changed to 300 gallons per day and 400 gallons per day, respectively. That surpluses to the extent of these amounts exist in Cromberg Spring was established during the investigation in connection with Application 11205 on April 22, 1947.

In view of the existence of an unappropriated surplus and of the withdrawal of the protests against Applications 12117 and 12122, those applications should be approved and permits issued, subject to the usual terms and conditions.

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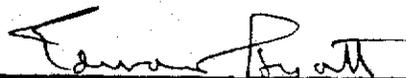
ORDER

Applications 12117 and 12122 for permits to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 12117 and 12122 be approved and that permits be issued 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

State of California this 9th day of November, 1949.


Edward Hyatt, State Engineer

