

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

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In the Matter of Applications 4469 and 4711 of John Terribilini to
Appropriate from Underground Waters Tributary to the San Jacinto
River via Poppett Creek in Riverside County for Domestic and
Irrigation Purposes and Application 4511 of H. S. Goets to
Appropriate from an Unnamed Spring Tributary to the San
Jacinto River via Poppett Creek in Riverside County
for Domestic and Irrigation Purposes.

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DECISION A 4469, 4511, 4711 D 180

Decided Jan. 23, 1928.

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APPEARANCES AT HEARING HELD June 16, 1927

For Applicants and Protestants

John Terribilini

Swing & Wilson
by Mr. Wilson

H. S. Goets

Clement L. Shinn

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EXAMINER: Harold Conkling, Hydraulic Engineer, for Edward Hyatt, Jr.,
Chief of Division of Water Rights, Department of Public
Works, State of California.

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O P I N I O N

Application 4469 was filed by John Terribilini on February 19, 1925.

It proposes an appropriation of 0.20 cubic foot per second by direct diversion
from underground water tributary to the San Jacinto River via Poppett Creek
from about April 1st to about December 1st of each year. The point of diver-
sion is located within the SE₄ of SW₄ of Section 2, T 4 S, R 1 E, S.B.B. & M.

in the County of Riverside. The water is to be used for domestic purposes and the irrigation of 30 acres of land located in Section 2, T 4 S, R 1 E, S.B.B. & M. The application was protested by H. S. Goets.

Application 4611 was filed by H. S. Goets on March 19, 1925. It proposes an appropriation of 0.12 cubic feet per second by direct diversion from an unnamed spring tributary to the San Jacinto River via Poppett Creek and 2.0 acre feet by diversion to storage from the same source. The period of diversion for both direct diversion and diversion to storage is from about November 1st to about July 15th of each season. The point of diversion is located within the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, T 4 S, R 1 E, S.B.B. & M. The water is to be used for domestic purposes and for the irrigation of 31 acres of land lying within Sections 2 and 3, T 4 S, R 1 E, S.B.B. & M. The application was protested by John Terribilini.

Application 4711 was filed on July 25, 1925 by John Terribilini. It proposes an appropriation of 0.17 cubic feet per second by direct diversion from underground waters tributary to San Jacinto River via Poppett Creek throughout the entire year. The point of diversion is located within the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 2, T 4 S, R 1 E, S.B.B. & M. The water is to be used for domestic purposes and the irrigation of 30 acres of land located in Section 2, T 4 S, R 1 E, S.B.B. & M.

This application was protested indirectly by H. S. Goets through Application 4469.

APPLICATIONS SET FOR PUBLIC HEARING

These several applications were 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 were set for a public

hearing at the Council Chamber of the City Hall, San Bernardino, at 10:00 o'clock A.M. on June 16, 1927. Of this hearing applicant and protestants were duly notified.

PROTESTS

H. S. Goets alleges in effect that if the applications of John Terribilini were approved it would result in depriving him of water which from time immemorial has flowed to and upon his lands and which he has used for domestic purposes prior to the filing of Application 4469.

John Terribilini alleges in effect that the proposed application of H. S. Goets if approved would result in depriving him of the use of the waters of Poppett Creek, all of which are necessary and have been used in the past for the irrigation of his lands. He claims a right to the use of these waters by virtue of prior appropriation and use and under Application 4469 which has been filed with this office.

PHYSICAL CHARACTERISTICS

From the testimony presented at the hearing it appears that the source of appropriation in all three of these applications is a cienaga or seepage area consisting of approximately 2 or 3 acres which is bounded on the north and west by small canyons or arroyos. This seepage area is divided nearly equally by the section line common to Sections 2 and 11, T 4 S, R 1 E, S.B.B. & M. which line is also the southerly boundary line of the property of John Terribilini; the land lying in Section 11 being government land. Although the points of proposed diversion of applicants Terribilini and Goets as described in their applications lie within Sections 2 and 11 respectively, the source may be considered as being common to both applications. In Section 11 there are two spots where the flow of water appears to be more pronounced than it is anywhere else in the cienaga and these

spots may be designated as the springs from which H. S. Goets seeks to divert. From these springs the water flows, except during the summer months, in a pronounced channel northerly, most of it entering the northern arroyo but a portion of the flow finds its way into the westerly arroyo. These arroyos are indirectly tributary to the San Jacinto River via Poppett Creek and its tributaries.

PRIOR RIGHTS

Although both of the applicants claim prior rights to the waters which they are now seeking to appropriate, by virtue of past use, the testimony presented at the hearing indicated that Mr. Terribilini has been obtaining his supply from a branch of Poppett Creek above the point where the water from the cienaga enters said branch and that applicant Goets has been obtaining his supply from two wells located upon his property. In both cases it appears unlikely that the waters which the applicants are now seeking to appropriate have in the past found their way to the respective sources of supply from which the applicants are now diverting. This statement is also substantiated by the report of the forest ranger on Application 4469 who stated that as near as he could ascertain "the water from this spring reaches no other user".

It appears that about one or two years prior to the filing of Application 4469 by John Terribilini, Mr. Pierce, predecessor in interest of Mr. Goetz posted a notice at the cienaga and proposed to divert but little or no use was ever made of the water. On January 15, 1925, about one month prior to the filing of Application 4469 Applicant Goetz removed this notice and posted another to the effect that he had filed on 10 miners inches of water for irrigation and domestic purposes. Since both of these notices were posted subsequent in time to the passage of the Water Commission Act

and not in accordance therewith, the posting thereof could not be considered as the initiation of a water right.

WATER SUPPLY

Mr. Terribilini stated that the greatest amount of water that he had seen flowing from the springs during the months of July and August was about 10 miners inches which amount gradually decreased to about one inch. He also stated that during the last four or five years the flow has been very small, probably from five inches down to half an inch.

Mr. J.B. Flynn, engineer for applicant Coets, estimated that about 10 miners inches (0.20 cubic foot per second) might be developed at the cienaga by tunneling and opening the spring. He stated that in January (1927) there was a flow of about 2½ or 3 miners inches from the spring.

It is impossible for this office to estimate the amount of water that can be developed from the cienaga but it would appear that with proper development the present supply can be considerably increased.

The total amount of water to be diverted under the three applications is as follows:

<u>Application</u>	<u>Direct Diversion</u>	<u>Storage</u>	<u>Period of Diversion</u>
4469	0.20 c.f.s. = 10 mi. inches So. Calif.		April 1 - Dec. 1
4511	0.12 c.f.s. = 6 mi. inches and 2 ac. ft.		Nov. 1 - July 15
4711	0.17 c.f.s. = 8½ mi. inches		Jan. 1 - Dec. 31

If the entire amount of water is diverted which the applications propose the amounts diverted during the several months of the year will be as follows:

January 1 - April 1	0.29 c.f.s. = 14½ miners inches (Southern Calif.)
April 1 - July 15	0.49 c.f.s. = 24½ " "
July 15 - November 1	0.29 c.f.s. = 14½ " "
November 1 - December 1	0.49 c.f.s. = 24½ " "
December 1 - January 1	0.29 c.f.s. = 14½ " "

In addition to these amounts 2.0 acre feet is to be diverted to storage from November 1st to July 15th of each season.

It appears that neither of the applicants can develop all of the water from the cienaga under their present plans but it may be possible that enough water may be developed to satisfy all three of the proposed appropriations and in justice to the applicants it is believed that they should be given the opportunity to develop this water to the greatest extent possible it being understood that the water should be diverted in accordance with their respective priorities.

Attention is directed to the fact that applicant Ferribilini contemplates no storage and in his later application contemplates using the water throughout the entire year while in his earlier application he proposes to divert during the period from April 1st to December 1st only. Mr. Goetz proposes to divert during the period from November 1st to July 15th. It is therefore apparent that during a portion of the year at least there will be water available for the proposed diversion of Mr. Ferribilini under his Application 4711.

CONCLUSION

The uses to which the applicants propose to put the water are beneficial and as there is a possibility that sufficient water may be developed from the cienaga to supply the needs of both applicants the three applications should be approved.

ORDER

Applications 4469, 4511 and 4711 to appropriate water having been filed with the Division of Water Rights as above stated, protests 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 the said applications 4469, 4511 and 4711

be approved and that permits be granted to the applicants subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this 23rd day of January, 1928.

(Harold Conkling)
CHIEF OF DIVISION OF WATER RIGHTS

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