

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

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In The matter of Application 9009 of Stuart D. Allen To
Appropriate From Whitewater River In Riverside County For Irrigation Purposes.

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Decision A. 9009 D 415
Decided *April 4, 1938*

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Appearances at hearing held at Riverside, February 2, 1938

For Applicant

Stuart D. Allen

Wing and Wing, by George L. Wing

For Protestant

Coachella Valley County Water District

Stewart, Shew & Murphey
by Arvin B. Shaw

Examiner:

Harold Conkling, Deputy in Charge of Water Rights,
Division of Water Resources, Department of Public Works,
State of California.

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OPINION

General Description of Project

Under Application 9009, filed with the Division of Water Resources
on June 17, 1937, Stuart D. Allen proposes to appropriate an amount of water
not to exceed 2 cubic feet per second throughout the entire year from Whitewater

River at a point within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 24, T 3 S, R 3 E, S.B.B.&M. for the irrigation of 10 acres within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, 40 acres within Lot 10 (SE $\frac{1}{4}$ SW $\frac{1}{4}$) Section 24 and 30 acres within Lot 11 (SW $\frac{1}{4}$ SE $\frac{1}{4}$) Section 24, T 3 S, R 3 E, S.B.B.&M. or a total of 80 acres. Application 9009 was protested by Coachella Valley County Water District.

Protest

The Coachella Valley County Water District has two appropriations before this office to appropriate from Whitewater River.

Application 1122 was filed on October 25, 1918 and approved on January 7, 1919 by the issuance of Permit 536 for an amount of water not to exceed 400 c.f.s. to be diverted and spread from the west line of Sections 20 and 29, T 3 S, R 4 E. to the west line of Sections 30 and 31, T 3 S, R 5 E, and Section 6, T 4 S, R 5 E, S.B.B.&M. In the order determining and establishing the several rights by appropriation to the use of the waters of the Whitewater River Stream System entered April 23, 1928 in connection with the Whitewater River adjudication proceedings this right was limited to an amount not to exceed 80,000 acre-feet per annum.

Application 2922 was filed on July 8, 1922 and approved on April 19, 1928 by the issuance of Permit 3011 for an amount of water not to exceed 39,000 acre-feet per annum for underground storage of which 20,000 acre-feet per annum is to be diverted from the Whitewater River at a point within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 11, T 35 N, R 3 E, S.B.B.&M. and the remainder is to be diverted from tributaries thereto. These rights are also set forth in the order of determination referred to above.

Protestant alleges in effect that the approval of Application 9009 will only result in interference with its existing rights as more water is now being extracted each year from the basin underlying the Coachella Valley.

to serve existing users than annually flows into the basin. Protestant also alleges in effect that should applicants diversion works be constructed at the point of diversion described in Application 9009 it would interfere with the exercise of its rights acquired from the Department of the Interior to use this land for spreading purposes.

Hearing Set

Application 9009 was completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested was set for public hearing in accordance with Section 1a of the Water Commission Act on February 2, 1938 at 11:00 o'clock A.M. in the Council Chamber of the City Hall, Riverside, California. Of this hearing applicant and protestant were duly notified.

General Discussion

According to the "Report on Water Supply and Use of Water from Whitewater River Stream System" prepared by this office in connection with the Whitewater River Adjudication Proceedings in November 1923, the lowest diversion on the Whitewater River is that of the Coachella Valley County Water District which has constructed a spreading dam in the E $\frac{1}{2}$ of E $\frac{1}{2}$ of Section 20, T 3 S, R 4 E, S.B.B.&M. at which the District under Application 1122, Permit 536 may spread waters of the Whitewater River to the extent of 400 c.f.a. By means of this dam the storm waters are spread over a greater area than would be covered under natural conditions thus increasing the absorption by the gravels and conserving water which would otherwise waste into the Salton Sea. The water thus spread and sunk into these upper gravel beds goes to replenish the underground water supply of the lower valley which is tapped by wells through which the water flows or is pumped and used for irrigation and domestic purposes.

Except in times of extreme flood the water of the Whitewater River entirely sinks into the gravels of the lower Coachella Valley to replenish the water which is pumped therefrom. On occasions, and for short periods of time water reaches the Salton Sea.

The record indicates that although only about 17,500 acres have been irrigated under Applications 1122 and 2922 out of a possible 25,000 acres the water level in the valley has been lowering during the past 17 years at an average rate of from 1/2 to 1 foot per year. The record also indicates that approximately every other year there is no flow in the Whitewater River below the Whitewater Bridge at Bridgehouse which is located above applicant's proposed point of diversion. (Transcript p. 15).

Applicant claims that the water which he seeks to appropriate will be used on lands within the area of protestant's spreading grounds and that such water as is not lost by evaporation will eventually sink into the sands and gravels to commingle with the waters that replenish the underground basin of the lower Coachella Valley. The map filed in support of Application 9009 indicates however that the proposed place of use lies outside of the proposed spreading grounds of protestant as indicated on the map filed in connection with Application 1122, Permit 536. The proposed place of use however does lie within the boundaries of the drainage basin and some return water may therefore ultimately reach the underground basin. The fact remains however that there would be a loss by evaporation and plant transpiration which would deprive the protestant of a portion at least of the water which is necessary to augment the already deficient water supply.

Only at times of extreme flood flows would it be possible for applicant to take and use water without probable injury to the protestant and these flood flows occur at such rare intervals as to render the proposed

development infeasible. It is therefore the opinion of this office that there is insufficient unappropriated water in Whitewater River to justify the approval of Application 9009 and permit should be denied.

ORDER

Application 9009 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a public hearing having been held and the Division of Water Resources now being fully advised in the premises:

IT IS HEREBY ORDERED that said Application 9009 be rejected 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 *Fourth* day of *April* 1938.

(Seal)
WES:NE

[Signature]
STATE ENGINEER.