

BEFORE THE DIVISION OF WATER RESOURCES

DEPARTMENT OF PUBLIC WORKS

STATE OF CALIFORNIA

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In the Matter of Application 11099 of Jack Byers to Appropriate Water from Swanson Gulch, Tributary to Scott River in Siskiyou County for Domestic, Irrigation and Power Purposes.

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Decision A. 11099 D. 541

Decided October 18, 1946

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Appearances at Investigation Conducted by the Division of Water Resources at the Site of the Proposed Appropriation on June 13, 1946.

For Applicant

Jack Byers

In propria persona

For Protestant

George A. Milne

No appearance

For Division of Water Resources

Paul E. Stephenson, Assistant Hydraulic Engineer for Gordon Zander, Principal Hydraulic Engineer, Division of Water Resources, Department of Public Works, State of California.

O P I N I O N

GENERAL DESCRIPTION OF PROPOSED DEVELOPMENT

Application 11099 of Jack Byers was filed with the Division of Water Resources on July 9, 1945.

Applicant proposes an appropriation of 0.75 cubic foot per second from Swanson Gulch, tributary to Scott River in Siskiyou County, to be diverted at a point within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 20, T. 45 N., R. 10 W., M.D.B. & M. from about May 1 to about November 1 of each season for the irrigation of 2 acres of orchard and berries and throughout the entire year for power and domestic purposes. All uses of water will be made on applicant's property within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 29, T 45 N, R 10 W, M.D.B. & M. The total fall to be utilized in the development of power is 125 feet and the maximum amount of water which it is proposed to deliver to the penstock is 0.75 cubic foot per second, thereby generating a maximum of 10.7 theoretical horse-power. Water used for the development of electrical energy will be returned to Swanson Gulch at the tail race of the power house.

#### PROTEST

George A. Milne claims an appropriative right initiated prior to December 19, 1914, the effective date of the Water Commission Act under which he is entitled to appropriate 2.0 cubic feet per second throughout the year for irrigation, domestic, mining and power uses. His point of diversion is located within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 29, T 45 N, R 10 W, M.D.B. & M. and is approximately three-eighths mile below the proposed point of diversion of applicant and immediately below the applicant's power-house where the water used for power purposes will be returned to the stream. Protestant objects to any use of water by the applicant which results in depriving him of water at his point of diversion.

#### Field Investigation

Stipulations to an informal hearing under Regulation 12B (now Section

733b) of the Rules and Regulations of the Division of Water Resources having been entered into by both applicant and protestant and the stipulations having been approved by the State Engineer, an investigation was conducted at the site of the proposed appropriation by an engineer of the Division on June 13, 1946 at which the applicant was present. No appearance was made on behalf of the protestant. Subsequent observations of the stream flow were made by the engineer on July 17 and August 20, 1946.

In arriving at<sup>a</sup>/decision in the matter of Application 11099, reliance is placed on the entire file in connection therewith, but especially upon the report of Engineer Paul E. Stephenson who conducted the field investigation.

#### General Discussion

According to the report of the engineer who investigated the proposed development the only evidence of use of water by the protestant, who was not present at the investigation, was approximately  $6\frac{1}{2}$  acres of land which showed signs of having been irrigated in recent years. This area would require less than 0.10 cubic foot per second continuous flow for irrigation of general crops.

All of the water which applicant seeks to appropriate for power purposes will be returned to Swanson Gulch above the intake of the protestant as will also all return flow from the two acres which applicant proposes to irrigate, which should not require more than 0.025 cubic foot per second including the domestic use.

According to the engineer's report referred to above, there was unappropriated water in Swanson Gulch during the 1946 season, over and above the amount necessary to irrigate  $6\frac{1}{2}$  acres of land.

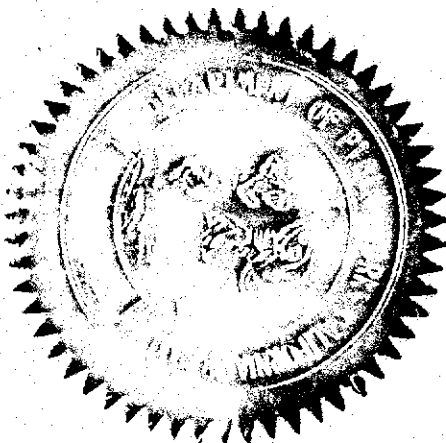
The precipitation at Yreka for the season 1945-46 was 16.47 inches which is approximately 96% of normal, and the U. S. Weather Bureau records indicate that the precipitation during the two preceding seasons was less than normal. It may, therefore, be concluded that during a season preceded by normal precipitation there is sufficient unappropriated water in Swanson Gulch to justify the approval of Application 11099.

ORDER

Application 11099 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been received, stipulations to an informal hearing under Regulation 12B (now Section 733b) of the Rules and Regulations of the Division of Water Resources having been filed by both applicant and protestant and approved by the State Engineer, a field investigation by the Division of Water Resources having been made and the Division now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 11099 be approved and that permit be issued 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 18th day of October, 1946.



  
Edward Hyatt, State Engineer.