

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

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In the Matter of the Petition to Change the Point of Diversion  
under Application 2526, Permit 2153, of G. M. and R. L. Bart-  
lett to appropriate from Talmadge Creek and Cienega at  
Head of Seeley Creek, Tributaries of Bear Lake in San  
Bernardino County, for Domestic purposes.

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Decision A. 2526 D 356

Decided May 23, 1934

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Appearances at Hearing Held at Los Angeles, June 23, 1933

For Petitioners

G. M. and R. L. Bartlett

No appearance

For Protestants

Jennie A. Mathis

C. F. Seecombe

Examiner

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

## O P I N I O N

### Description of Proposed Change in Point of Diversion

On September 27, 1932 a petition was filed by the Bartlett Brothers seeking to change the points of diversion under Application 2526, Permit 2153.

### From points described as follows:

- (1) A point located on Talmadge Creek N. 68° 10' E. 1282 feet from the west quarter corner of Section 25, T. 2 N., R. 1 W., S.B.B. and M. being within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 25.
- (2) Points located on cienega at head of Seeley Creek N. 43° 30' E., 222 feet and N. 81° 40' E. 199 feet from the west one quarter corner of Section 25, T. 2 N., R. 1 W., S.B.B. and M., being within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 25.

### To a point:

On cienega at head of Seely Creek located S. 55° 31' W., 569.8 feet from the west one quarter corner of Section 25, T. 2 N., R. 1 W., S.B.B. and M., being within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 26, T. 2 N., R. 1 W., S.B.B. and M.

Petitioner represented that this change would involve no change in source and no increase in the amount of appropriation.

Petitioner also understands that should the change be approved the right heretofore allowed to appropriate from Talmadge Creek would be voided and the right under Application 2526, Permit 2153, would be limited to an amount not to exceed 25,000 gallons per day from the new point of diversion. The petition to change was protested by Mrs. Jennie A. Mathis.

## P R O T E S T

Mrs. Jennie A. Mathis claims a right to divert water from Seeley Creek at a point about 2400 feet below the new point of diversion described

in the petition, which right is based upon Application 2331, Permit 1374, License 612 to appropriate an amount of water not to exceed 500 gallons per day throughout the entire year for domestic purposes within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 25, T. 2 N., R. 1 W., S.E.B. and M. Mrs. Mathis alleges in effect that the proposed change would result in shortening her season of diversion under License 612.

HEARING SET IN ACCORDANCE WITH SECTION 16  
OF THE WATER COMMISSION ACT

The petition to change the points of diversion under Application 2526, Permit 2153 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 a public hearing in accordance with Section 16 of the Water Commission Act on June 23, 1933 at 10:00 o'clock A.M. in Room 803 California State Building, Los Angeles, California. Of this hearing petitioners and protestant were duly notified.

GENERAL DISCUSSION

No appearance was made at the hearing on behalf of the petitioners which fact was explained as due to lack of finances.

The necessity for the filing of a petition to change the points of diversion was first brought to the attention of the Bartlett Brothers after a field inspection by this office. The engineer who made the inspection on July 6, 1932 reported that no development had been made at the two points on the cienega described in Application 2526, Permit 2153 but that a tunnel had been driven on a cienega at the head of Seeley Creek about 750 feet south-west of the most southerly of these two points of diversion from which water was being collected and diverted at the rate of 2,700 gallons per day. The engineer also reported that the overflow from the tunnel down the cienega was about 20,500 gallons per day.

The Bartlett Brothers claimed that an error had been made by their engineer in the location of the points of diversion as described in the permit.

Testimony presented at the hearing indicated also that no attempt had been made by the Bartlett Brothers to develop water at the original points of diversion on Seeley Creek, that these two springs were tributary to Talmadge Creek whereas the waters which the petitioners are now diverting are tributary to Seeley Creek, the source of protestant's supply and that whereas the usual season of diversion by protestant extended from about June 15th to about August 1st, during the years 1931 and 1932 the flow at protestant's intake ceased about July 15th due to the operations of the petitioners.

#### FIELD INVESTIGATION

In order to clarify certain points brought up at the hearing, an investigation of the situation was made in the field by an engineer of this office on July 22, 1933, accompanied by G. M. Bartlett representing the petitioners and C. F. Seccombe, son-in-law of Mrs. Jennie A. Mathis, representing the protestant. The result of this investigation is incorporated in a report by Bissac Kibbey dated February 6, 1934.

According to the report the Bartlett Brothers had driven a 4' x 6' tunnel into material consisting of decomposed granite and boulders at a cienega at the head of the east branch of Seeley Creek. The center of the tunnel had caved in and the end and mouth were connected by four inch pipe. No definite water bearing seam was apparent. At the time of the investigation about 5,900 gallons per day were being diverted from the tunnel to a lake on Talmadge Creek and approximately 7,100 gallons per day were overflowing from the tunnel on to the surface of the cienega, a

distance of some four or five hundred feet at which point the water spread out over a flat some 200 feet in width covered by a heavy growth of water grass. At this point there is a divide between the watersheds of East Fork of Seeley Creek and Talmadge Creek, a portion of the water draining easterly toward Talmadge Creek and the points of diversion designated in Permit 2153 and a portion draining westerly toward the East Fork of Seeley Creek.

Diversion point "(a)" which is the most northerly of the two points of diversion, described in Application 2526, Permit 2153 as being on a cienega at head of Seeley Creek, is actually within the area of a small cienega which is apparently supplied in part by the seepage escaping to the east from the cienega on which petitioner's tunnel is located and according to the investigating engineer, the water which is being diverted by the petitioners at the tunnel could be made available by proper development at diversion point "(a)". The amount thus obtained however would be problematical as much of the summer flow is lost in transit by evaporation and transpiration.

Point "(b)" or the most southerly of the two points named in Permit 2153 was found to be located on a ridge or hog-back and the description is apparently in error.

In passing from the flat cienega down the East Fork of Seeley Creek it was observed that the moisture in the creek bed and the resulting vegetation became less and less until at a point about one-eighth mile above the junction of the West Fork and the East Fork the moisture and vegetation entirely disappeared.

The watershed of the West Fork of Seeley Creek is said to have four or five times the watershed area of the East Fork and following up the West Fork, a few hundred feet, pools of water were observed which

would apparently indicate that the bulk of protestant's water which is diverted at a point about 200 feet below the junction, is derived from the West Fork or main channel of Seeley Creek rather than from the East Fork.

The question of whether or not there is unappropriated water in Seeley Creek available under Application 2526, however, has already been decided and is not now at issue. Suffice it to say that the burden is upon the Bartlett Brothers to so regulate their diversion that the prior right of Mrs. Mathis will not be interfered with.

#### C O N C L U S I O N

That the Bartlett Brothers originally intended to divert water from a cienega at the head of Seeley Creek is a definitely established fact as the original application filed by them so states and it is not unlikely that an error was made by their engineer in locating the points of diversion. That such a mistake may have been made is evident from the fact that one of the points described in the application as being within the area of a cienega was in fact on a ridge or hog-back and furthermore no attempt was made by the petitioners to divert any water from Seeley Creek other than from the point at which the tunnel was constructed.

Be this as it may, the record indicates that at least a portion of the water which is available at the proposed new point of diversion would have been available with proper development at the lower point of diversion and to this extent the petition for change in point of diversion should be approved.

#### O R D E R

A petition having been filed with the Division of Water Resources on September 27, 1932 for permission to change the points of diversion under Application 2526, Permit 2153, as above stated, a protest having

been filed, a public hearing having been held which was followed by a field investigation and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that the petition received on September 27, 1933 to change the points of diversion under Application 2526, Permit 2153 be approved.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 23rd day of May 1934.

EDWARD HYATT, State Engineer

By HAROLD CONKLING  
Deputy.

WES:JR.

May 14, 1934.