

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

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In the Matter of Application 8024 of John E. Dorius  
To appropriate from Steep Hollow Creek, Tributary to  
Bear River in Nevada County for Mining and Domestic  
Purposes.

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Decision A 8024 D 389

Decided: May 23, 1936

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APPEARANCES AT HEARING HELD AT SACRAMENTO, DECEMBER 2, 1935

For Applicant

John E. Dorius

David F. Hart

For Protestant

Liberty Hill Gold Mines Ltd.

No Appearance.

Examiner

Everett N. Bryan, Supervising Hydraulic Engineer  
for Harold Conkling, Deputy in Charge of Water  
Rights, Division of Water Resources, Department  
of Public Works, State of California.

O P I N I O N

GENERAL DESCRIPTION OF PROJECT

Under Application 8024, filed with the Division of Water Resources on  
July 16, 1934, John E. Dorius proposes to appropriate 25 cubic feet per second  
of the waters of Steep Hollow Creek throughout the year for hydraulic mining  
and domestic purposes at the Swamp Angel and Golden Bull Placer Mining Claims  
within Sections 12 and 13, T 16 N, R 10 E. and Sections 7 and 18, T 16 N, R 11 E.  
M.D.M. The proposed point of diversion is described as lying within lot 4,  
Section 4, T 16 N, R 11 E, M.D.B. & M. After use for mining purposes, it is

proposed to return the water to Steep Hollow Creek at a point within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 12, T 15 N, R 10 E, M.D.B. & M.

Application 8024 was protested by Liberty Hill Gold Mines Ltd.

PROTEST

Liberty Hill Gold Mines Ltd., claims an appropriative right to the waters of South Fork of Steep Hollow Creek initiated prior to the effective date of the Water Commission Act and the ownership of the Lowell Hill ditch which applicant proposes to use and alleges in effect that should Application 8024 be approved it would result in depriving it of water to which it is entitled.

On the other hand the applicant claims that whatever rights the protestant may have had to the waters of Steep Hollow Creek and the Lowell Hill ditch have been lost by non-user.

HEARING HELD IN ACCORDANCE WITH SECTION 1a  
OF THE WATER COMMISSION ACT

Application 8024 was completed as to engineering detail, in accordance with the Water Commission Act and the requirements of 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 Monday, December 2, 1935 at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestant were duly notified.

GENERAL DISCUSSION

The record indicates that although Application 8024 stands in the name of John E. Dorius, the mining property to be served belongs to the Swamp Angel Mining Company, a corporation of which John E. Dorius is president and a large stock holder. It also appears that necessary right of access has not been obtained through the property of one William Maguire.

Under date of December 12, 1935 Applicant was advised that the purpose of an application to appropriate is to initiate and establish title to a water right and that this could not be successfully accomplished when uncertainty exists as to the division of interest between parties to the application, or where uncertainty exists as to the legal relationship between the applicant and user, provided these are different parties and that in such cases where the applicant fails to remove uncertainties with respect to these matters, an application is deemed incomplete. Applicant was informed that action upon Application 8024 would be suspended pending an adequate showing by him with respect to legal relationship with the owner of the property to be served and with respect to his ability to secure the necessary easements and rights of way.

As no such showing was made, the applicant was advised under date of March 21, 1936 that unless appropriate showing was made within 30 days from date that actual steps were being taken to conform to the requirements of this office relative to legal relationship between applicant and user and right of access, Application 8024 would be subject to cancellation upon the grounds of failure to complete.

Upon request, a further extension was granted until May 1, 1936. Under date of April 30, 1936 applicant's attorney advised this office that due to the fact that the corporation had no funds available to defray the expense of procuring the necessary documents it would be quite impossible to make the showing required by this office, that the agreement between the applicant and the Swamp Angel Mining Company was not in form to be submitted and that the Corporation officials were somewhat discouraged due to the fact that even should the water be available it probably could not proceed with the mining operations in the face of a recent judgment obtained

by the Pacific Gas and Electric Company against pollution of the streams by various mining concerns.

Also under date of May 4, 1936 applicant's attorney advised this office that the officers of the corporation felt that little if anything could be accomplished at the present time, even should permit be issued, due to the injunctions against the mining companies in the Bear River Watershed and other deterring factors that would cause them to refrain from the use of water for a considerable length of time.

In view of the above, apparently no purpose can be served by longer delay and it is therefore the opinion of the Division that Application 8024 should be cancelled upon the grounds of failure to complete.

O R D E R

Application 8024 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 now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 8024 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 23rd day of May, 1936.

EDWARD HYATT, State Engineer

By Harold C. ...  
Deputy

WES:CS

MAY 27 1936