

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

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In the Matter of Application 11461 of William Clinton Wren to  
Appropriate Water from Mill Creek Tributary to Russian River  
via Dry Creek in Sonoma County, for Domestic, Irrigation and  
Stockwatering Purposes.

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Decision A. 11461 D. 593

Decided February 2, 1948

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Appearances at Investigation conducted on May 19, 1947, under the  
provisions of Article 13, Section 733b of the California Administrative  
Code

For the Applicant

William Clinton Wren

Mrs. William Clinton Wren

For the Protestants

Mildred Dodson

Francis M. Passalacqua, A. H. Folger  
and W. M. Matte

C. H. Rickman

In propria persona

For the State Engineer

S. C. Whipple, Associate Hydraulic Engineer, Division of Water Resources,  
Department of Public Works, State of California.

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OPINION

GENERAL DESCRIPTION OF PROJECT

The application was filed with the Division of Water Resources  
by William Clinton Wren on July 9, 1946. It involves an appropriation  
of 0.19 cubic foot per second from January 1 to December 31 of each year,  
from Mill Creek, for domestic, irrigation and stock watering purposes.  
The application contemplates pumping water from a sump in the creek  
channel, lifting it 175 feet through a 2500 foot pipe line and applying

it to the irrigation of 20 acres of pasture and to the domestic supply of 2 homes, including the garden irrigation and stock watering incidental thereto.

#### PROTESTS

The California Fish and Game Commission protested, alleging that destruction of steelhead and other trout would result, the 0.19 cubic foot per second applied for sometimes exceeding the flow of the stream. This protestant stated that its protest may be disregarded and dismissed if the permit, if issued, contains a clause providing that the permittee shall at all times release into the stream channel immediately below his point of diversion not less than 150 gallons per minute, or the natural flow in the stream, whichever is less, to maintain fish life. The applicant agreed in writing to this condition and the protest was dismissed.

C. H. Rickman protested that the proposed diversion will cause the creek to dry up in early summer and thereby deprive him of a water supply which he utilizes in irrigating 10 acres of clover, a 12 acre orchard and a  $\frac{1}{2}$  acre truck garden, and in watering upward of 200 animals. He claims riparian ownership and use since 1896. According to the protest he operates a 4 inch centrifugal pump 10 hours per day during the spring and summer months for five days at a time at 10 day intervals. He states that the protest may be disregarded and dismissed if the applicant's use is restricted to domestic use only.

Mildred Dodson protested also that the proposed diversion will cause failure of her water supply in early summer. She claims to water 200 head of sheep and other livestock and to irrigate 4 acres of alfalfa, 1 acre of garden and a 6 acre orchard. She asserts that there is scarcely enough water under present conditions and that the

creek often fails entirely due to diversions by upper users. She estimates her use as varying in amount from 1000 to 20,000 gallons per day from May 15 to October 15.

The applicant answered the Fish and Game Commission protest by agreeing to leave in the stream the amount of water by them stipulated; the Rickman protest by asserting that the protestant's irrigation system is inefficient and wastes more water than is currently applied for; and the Dodson protest by challenging her right to prevent upstream diversion.

#### FIELD INVESTIGATION

Stipulations to an informal hearing under the provisions of Article 13, Section 733b of the California Administrative Code having been entered into by both the applicant and the protestants 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 May 19, 1947.

#### RECORDS RELIED UPON

Applications 4612 and 11461 and all data and information on file therewith.

#### DISCUSSION

Above the proposed point of diversion the watershed comprises some 19 square miles of typical Coast Range hill country, moderately wooded, ranging in elevation from about 300 to about 1800 feet. Rainfall has been estimated to average 42 inches and runoff appears to be well sustained until mid-summer. The flow of Mill Creek at the Rickman property is reported to have been 3 cubic feet per second on June 2, 1928. On the date of the investigation it measured 3.4 cubic feet per second just above the applicant's property, and was estimated

to be 3 cubic feet per second just below Dodson, the lower most protestant. Protestant Rickman concedes that the supply is sufficient, normally, until about August 1. The applicant is not in accord with this statement, asserting that the supply is sustained considerably longer. The available data are too meager to settle this difference of opinion, but that shortages have sometimes occurred is evidenced by a complaint dated July 16, 1931 (filed under Application 4612) by one P. D. Mothorn, a former owner of the Dodson place, to the effect that quantities passing the Rickman dam were repeatedly insufficient for garden irrigation by Mr. Mothorn.

Present use of water from Mill Creek on the reach under consideration, is small. Applicant Wren derives his domestic supply from a spring and diverts no water, currently, from Mill creek; altho a former owner did so divert, to the extent of irrigating a 1/2 acre garden. Protestant Rickman, whose place is immediately downstream from the applicant's, and Protestant Dodson, some 2 miles farther downstream, irrigate 19 $\frac{1}{2}$  and 4 acres respectively. This is "bottom" land of superior quality and raises clover, alfalfa, prunes and vegetables. On the basis of 1 cubic foot per second to 80 acres, approximately 0.3 cubic foot per second would seem sufficient for all present irrigation requirements. Non-irrigation use is negligible, water being supplied generally from sources other than Mill Creek. Harold K. Miller, the only other known user on the reach, is authorized under Application 11327, Permit 6656 to divert 0.022 cubic foot per second for domestic use and stock watering but did not protest Application 11461.

The land which the applicant proposes to irrigate is medium grade, "hill" land. The soil is a somewhat shallow reddish clay. Rock outcrops occur and the land is uneven, topographically. The protestants

consider the proposition of lifting water 175 feet to irrigate clover on land of such quality is neither economical nor in the public interest: they argue that the limited existing supply should be allocated to rich, level land, adjacent to the Creek.

Despite the objections of Protestants Rickman and Dodson no reason is seen for disapproving the application under consideration. The sufficiency of supply through July of normal years would seem well assured; later in the season it is more problematical, but the practice of the principal irrigator (Rickman) to irrigate by pumping 10 hours per day for 5 days out of 15 indicates that surpluses exist when the Rickman pump is not operating. It follows, therefore, that there are, at times, unappropriated waters in the stream from which the applicant proposes to appropriate which may be taken and used without injury to the protestants. In view of all the circumstances the application should be approved and permit issued subject to the usual terms and conditions and also subject to a special term and condition to the effect that the permittee shall at all times release into the natural stream channel immediately below the point of diversion not less than 150 gallons per minute or the natural flow in the stream, whichever is less, to maintain fish life.

#### ORDER

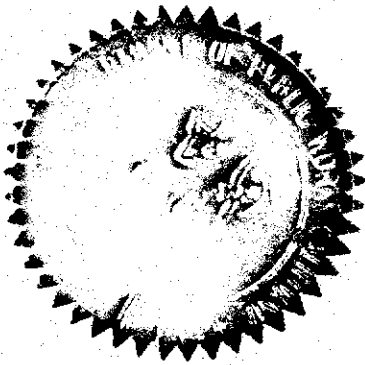
Application 11461 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733b of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 11461 be approved and that a permit be issued to the applicant subject to such of the usual terms and conditions as may be appropriate, and subject also to the following

special term and condition, to wit:

Permittee shall at all times bypass a minimum of 150 gallons per minute or the natural flow of the stream whenever it is less than 150 gallons per minute at the point of diversion to maintain fish life.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 2nd day of Feb. 1947.



  
Edward Hyatt, State Engineer