

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

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In the Matter of Application 7862 of Coneland Water
Company to Appropriate from the Sacramento River
in Tehama County for Irrigation Purposes.

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DECISION A 7862 D-339

Decided *August 20, 1934*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, AUGUST 7, 1934.

For Applicant

Coneland Water Company None

For Protestants

Glenn Colusa Irrigation District None
Noel Sullivan, et al. None
Parrott Investment Company None

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.

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OPINION

GENERAL FEATURES OF APPLICATION 7862

Under Application 7862 it is proposed to install a pumping plant
on the left bank of the Sacramento River at a point within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$
of projected Section 31, T 27 N, R 2 W, M.D.B.&M. by means of which an amount
of water not to exceed 5 cubic feet per second will be diverted from about
April 1st to about September 30th of each season for the irrigation of

540.31 acres of land situated within projected Section 31, T 27 N, R 2 W, and projected Sections 6 and 7, T 26 N, R 2 W, M.D.B.&M. The application was protested by Glenn Colusa Irrigation District, Noel Sullivan, et al. and the Parrott Investment Company.

PROTESTS

Protestants have definitely stated two causes of complaint and have indicated the possibility of a third, to wit:

(1) That the appropriation proposed would have the effect of lowering the water surface in the Sacramento River thereby increasing the pumping lift of protestants and adding to their cost of diversion.

(2) That the proposed appropriation would infringe upon the riparian rights of protestants by impairment of their opportunities for the extension of irrigation service to lands not yet irrigated.

(3) That there is insufficient water in the Sacramento River at least during periods of low flow to supply present users and therefore the proposed appropriation if approved would interfere with the uses of protestants.

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

Application 7862 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 hearing in accordance with Section 1a of the Water Commission Act on August 7, 1934, at 2:00 o'clock P.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestants were duly notified.

No appearances were made at the hearing on behalf of either the ap-

plicant or the protestants, they having previously informed this office that the matter would be submitted upon the records now on file with the Division of Water Resources.

GENERAL DISCUSSION

Under date of July 16, 1934, protestants' attention was directed to the fact that in a previous case in which the three groups of protestants were involved this office, after hearing and extensive study of briefs submitted in connection therewith, had ruled that protestants had no right to insist upon maintenance of water level for the sole purpose of facilitating pumping but must defer to the public policy and welfare declared in Section 3, Article XIV of the Constitution of the State of California and that since that time on several occasions we have had to rule on the same point thereby well establishing the policy of this office in the matter.

Relative to the complaint that a proposed appropriation would infringe upon a riparian right by impairment of opportunity for future development protestants' attention was directed to the fact that in view of the provisions of Section 11 of the Water Commission Act and Section 3 of Article XIV of the Constitution of the State of California the rule had been well established by this office that the Division would not deny a permit to appropriate upon the ground that the appropriation might interfere with a future prospective use of a riparian owner.

The protestants were afforded an opportunity to submit new evidence or argument which might result in a reversal of the Division's previous rulings but none have been submitted and therefore this office has no alternative but to adhere to the previous rulings.

As to the third cause of complaint, it is admitted that during years

of deficient runoff there are periods of low flow in the Sacramento River when with present development under riparian claims and with full development under appropriative rights already initiated there is need of conservation and on occasion later appropriators might of necessity be obliged to restrict their use. In our judgment however this fact in itself does not justify denial of future appropriations. The protestants were advised that if they were prepared to show that shortage of water is so great in the Sacramento River that further appropriations were not feasible and that water would not be available except by invasion of protestants' rights, the Division would be pleased to have a full and complete showing in the matter.

The Division, since the year 1924, has kept complete records of river discharge and diversions in the Sacramento Valley and the Delta and these records indicate that during a year of normal runoff there is unappropriated water in the Sacramento River.

In the interests of the entire welfare of the State which is dependent upon the agricultural resources for its prosperity, it is of the utmost importance that as much of the available water as possible be put to beneficial use and if applications were approved for water available only during seasons of drought, much of the water upon which the agricultural interests are dependent would be wasted.

No showing has been made by the protestants that further appropriations from the Sacramento River are not feasible and in view of the above, this office must necessarily dismiss this ground of complaint.

CONCLUSION

The use to which the applicant proposes to put the water is a useful and beneficial one and as the records of this office indicate that during

a year of normal runoff there is unappropriated water in the Sacramento River
it is our opinion that Application 7862 should be approved subject to the usual
terms and conditions.

O R D E R

Application 7862 for a permit to appropriate water having been filed
with the Division of Water Resources as above stated, protests having been filed,
a public hearing having been held and the Division of Water Resources now being
fully informed in the premises:

IT IS HEREBY ORDERED that said Application 7862 be approved and that
a permit be issued thereon subject to the usual terms and conditions.

WITNESS my hand and the seal of the Department of Public Works of
the State of California, this *20th* day of *August*, 1934.

EDWARD HYATT, State Engineer

BY *Harold Conkling*
Deputy

