

Mr. Stoddard

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

oOo

In the Matter of Application 7958 of D. A. Hatfield to appropriate
from Hungry Mouth Creek and Three Springs Tributary to
North Fork Yuba River in Sierra County for
Mining Purposes

oOo

DECISION A. 7958 D-391

Decided *July 9, 1936*

oOo

APPEARANCES AT HEARING HELD AT DOWNIEVILLE, APRIL 9, 1936

For Applicant

D. A. Hatfield

In propria persona

For Protestants

William Peckwith
W. A. Healeben

A. J. Just
In propria persona

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.

oOo

O P I N I O N

GENERAL DESCRIPTION OF PROJECT

Under Application 7958 filed with the Division of Water Resources on
May 29, 1934, by D. A. Hatfield, it is proposed to appropriate 2.55 cubic feet
per second throughout the year by direct diversion and 6.0 acre feet per annum
to be collected to storage throughout the year from Hungry Mouth Creek at a
point situate North 500 feet and East 100 feet from the S.W. corner of NE $\frac{1}{4}$ of

SE $\frac{1}{4}$ of Section 35, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 35, T 20 N, R 10 E, M.D.B.&M. and 0.15 cubic feet per second from three springs, b, c and d, located as follows:

- b. 2800 feet East and 800 feet North from S.W. corner Section 35, being within SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, T 20 N, R 10 E, M.D.B.&M.
- c. 100 feet North and 1600 feet East from S.W. corner Section 35, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T 20 N, R 10 E, M.D.B.&M.
- d. 800 feet South and 1500 feet East from S.W. corner Section 35, being within NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2, T 19 N, R 10 E, M.D.B.&M.

It is proposed to use the water for mining purposes within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 35, T 20 N, R 10 E, M.D.B.&M. After use for mining purposes it is proposed to return the water to North Fork Yuba River within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T 20 N, R 10 E, M.D.B.&M.

The application was protested by Wm. Peckwith and W. A. Henleben.

PROTESTS

Wm. Peckwith claims a right to appropriate from Hungry Mouth Creek at a point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, T 20 N, R 10 E, M.D.B.&M. which right he claims was initiated prior to the effective date of the Water Commission Act. Water is used to supply the residents of Dargan Flat, Downieville, with water for domestic purposes. He alleges in effect that the entire flow of Hungry Mouth Creek and springs tributary thereto is necessary to meet the present and increasing demand and that the approval of the application would result in depriving him of the necessary water to meet these demands. Protestant further claims that the Springs (c) and (d) are located in Slug Canyon and tributary to the Peckwith ditch, that Spring (b) is situate in the Hungry Mouth drainage area at a point immediately above the intake of Peckwith ditch on Hungry Mouth Creek

and that interference by the applicant with the flow of the springs would in all probability jeopardize his present water supply.

W. A. Henleben claims a riparian right to use water from Hungry Mouth Creek which right is based upon the ownership of mining claims covering the entire course of Hungry Mouth Creek throughout the $SE\frac{1}{4}$ of Section 35, T. 20 N., R. 10 E., M. D. B. & M.; that water has been used throughout the year for mining, domestic and irrigation purposes and that should Application 7958 be approved it would result in depriving him of water to which he is entitled.

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

Application 7958 being protested was set for public hearing in accordance with Section 1a of the Water Commission Act on Thursday, April 9, 1936, at 10:00 o'clock A.M. in Court Room, Court House, Downieville, California. Of this hearing applicant and protestants were duly notified.

GENERAL DISCUSSION

Testimony presented at the hearing indicated that Application 7958 was defective in that the applicant's points of diversion were not correctly described. Accordingly Mr. Hatfield, under date of April 27, 1936, was informed by registered mail that a map would be required prepared by a licensed land surveyor or civil engineer and bearing his certificate, which would show the details of his project including ties to the several points of diversion. Applicant was allowed sixty days to submit an amended and perfected application with map in accordance with the provisions of Section 17 of the Water Commission Act.

Mr. Hatfield was also informed that the official shorthand reporter

who reported the hearing had advised this office that he had not been compensated
cost of the
by him for his proportional share of the transcript of the hearing and that Regu-
lation 12 of the Rules and Regulations of the Division required that such charges
must be paid before the testimony submitted would be considered.

Under date of June 12, 1936, applicant pleading financial inability
requested an additional sixty days within which to submit the amended application
and map and to pay the reporter's charges. This request was denied and as the
sixty day period within which to complete Application 7958 expired on June 26,
1936, and the amended application and map have not been filed it is the opinion
of the Division that Application 7958 should be rejected and cancelled upon the
records of this office on the grounds of failure to complete.

O R D E R

Application 7958 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 now being fully informed in
the premises:

IT IS HEREBY ORDERED that Application 7958 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 9th day of July, 1936.

EDWARD HYATT, State Engineer

(Seal)
WES:MP

BY MAROLD GONKLING

Deputy