

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

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IN THE MATTER OF APPLICATION NUMBER 3245 OF CLARENCE A SULLENS TO  
APPROPRIATE FROM KELLOGG RAVINE, IN PLUMAS COUNTY, FOR MINING  
PURPOSES

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DECISION NUMBER 3245 D 64  
Decided July 22, 1925

APPEARANCES AT HEARING HELD APRIL 3, 1925

For Applicant:	None
For Protestants:	T. L. Phillips, for Western Pacific Railroad Company Victor Challen and G. E. Marshall for Cooper-Challen Realty Co.
Examiners:	Edward Hyatt, Jr., Chief of Division of Water Rights

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O P I N I O N

This application is for the appropriation of three cubic feet per second of the flood waters of Kellogg Ravine, for mining purposes, in the period from November 1st to July 1st of each season. It was protested by Frank, Lena and Eva Gyraud, Cooper Challen Realty Company, and Western Pacific Railroad Company.

This application was completed in accordance with the Water Commission Act and the requirements of the rules and regulations of the Division of Water Rights, and being protested was set for a public hearing at the Court House, Oroville, at 1:30 o'clock P. M. on Friday, April 3, 1925. Of this hearing applicant and protestants were duly notified. No appearance was made upon behalf of the applicant, but appearances were made for the protestants, Cooper-Challen Realty Company and Western Pacific Railroad Company. These protestants introduced testimony tending to show that the use of water by applicant in the manner as proposed under this application would work to their injury in that their water supply would be polluted.

The protest of Frank, Lena and Eva Eyrand was filed March 22, 1923. It is based upon a claim of right to appropriate water for mining, agricultural and domestic uses from Kellogg Ravine at a point below the applicant's proposed point of diversion so situated that, according to the protestant, the waters returning to the stream from applicant's mining operations would cause his diversion works to be filled with debris. Subsequent to a field investigation by an engineer of the Division of Water Rights on September 11, 1923, an agreement was reached between applicant and this protestant whereby in consideration of the applicant's guarantee to construct works to keep protestant's ditch free of debris, the protest was withdrawn. This agreement was filed November 30, 1923.

The protest of Cooper-Challen Realty Company was filed April

9, 1923. It is based upon a riparian claim to use Kellogg Ravine waters for domestic, irrigation and mining purposes on patented land located below the applicant and below protestants Eyraud and Western Pacific Railroad Company. It would appear that this protestant has been using the water for domestic purposes and garden irrigation for a number of years and for mining since about the year 1920.

The protest of the Western Pacific Railroad Company was filed March 16, 1925. It is based upon a claim of right to appropriate water for domestic purposes at the section house and bunk house located on protestant's property below the applicant and protestant Eyraud and above protestant, Cooper-Challen Realty Company. It would appear that this protestant has been using water for domestic purposes continuously since the year 1910.

As far as the sufficiency of water for appropriation by the applicant is concerned it appears that there are periods of flood flow during which there is water ample for the requirements of both protestants and the applicant and the latter, recognizing the claims of protestants as to amount of water asks only to appropriate from the flood flows in excess of protestant's requirements. An appropriation of this character is not contested by protestants as to amount, but the protest lies in the pollution of the water incident to placer mining which it is claimed will injure protestants.

The applicant has agreed to construct works to cause the

water from his mining operations to enter the stream below the Byraud point of diversion. It would still enter above the points of diversion of the other protestants. To overcome the pollution of water above the latter the applicant proposes to build small barrier or retaining dams below his mine to impound the solid <sup>matter</sup> ~~water~~ being washed down and prevent its reaching the protestant's points of diversion. From the evidence it would appear that the applicant, in all probability, would have to use additional measures than the construction of small barrier dams to insure that the water returned to the stream from his mining operations would be no more roily nor polluted than would be the case under natural flood flow conditions. Were the barrier dams not sufficient, it would appear to be necessary that the applicant return all abnormally roily or unclarified water resulting from his mining use to the stream below the points of diversion of all protestants, or carry out such other expedient as would insure that the protestants' domestic water supply would be no more polluted than in the past from natural flood flows.

As for the pollution of water to be used for mining purposes by protestant Cooper-Challen Realty Company, it appears that the applicant would need only to take such measures as to insure that debris which might clog or injure protestant's pipe lines and machinery would not enter the stream above protestant's point of diversion.

O R D E R

Application Number 3245 for permit to appropriate water having been filed with the Division of Water Rights as above stated, protests having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

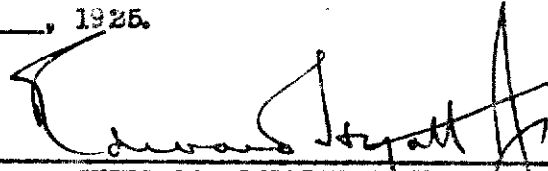
IT IS HEREBY ORDERED that said application No. 3245 be approved and that permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and the following special terms and conditions, to-wit:

"It is expressly agreed by the permittee that he will construct such works or use such expedient in his mining operations as to insure

1. That the water at points of diversion for domestic water supply below him on Kellogg Ravine will be no more polluted than it is at present from natural flood flow conditions, and

2. That debris which might clog or injure pipe lines and machinery now used in mining on Kellogg Ravine below applicant will not be allowed to enter that stream above the point of diversion for such mining use."

DATED at Sacramento, California, this 22nd day of July, 1925.

  
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CHIEF OF DIVISION OF WATER RIGHTS  
DEPARTMENT OF PUBLIC WORKS  
STATE OF CALIFORNIA