

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

*Decision file*

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IN THE MATTER OF APPLICATION NUMBER 1566 OF THE GRENADA IRRIGATION DISTRICT FOR A PERMIT TO APPROPRIATE UNAPPROPRIATED WATER FROM SHASTA RIVER, IN SISKIYOU COUNTY, FOR AGRICULTURAL PURPOSES

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DECISION NO. 1566, D 68  
Decided August 5, 1925

APPEARANCES AT HEARING HELD JUNE 9, 1925:

For Applicant: James M. Allen, Attorney.

For Protestants: Tapscott & Tapscott, Attorneys, by James R. Tapscott, for Protestant Mary Antonio.  
Clifford E. Butler, Attorney, for Protestants Henry Piock, George Piock, Charles O. Payot, Dan Lucas, and the Edson-Poulke Company.

NO APPEARANCE FOR Webb Brothers

EXAMINER: Edward Hyatt, Jr., Chief of Division of Water Rights

IN ATTENDANCE: Gordon Zander, Hydraulic Engineer, Division of Water Rights

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On December 10, 1919, the Lucerne Water Company filed Application Number 1566 for a permit to appropriate twenty-three cubic feet per second of the waters of Shasta River, in Siskiyou County, the waters sought to be appropriated to be used as a supplemental supply to the forty cubic feet per second for which Permit Number 501 was issued upon Application Number 448, for the irrigation of 4,144 acres of land now included within the

Grenada Irrigation District.

On February 3, 1922, all rights under both Applications Numbers 448 and 1566 were assigned by the Lucerne Water Company to the Grenada Irrigation District.

Application Number 1566 was duly advertised, and protests against the same were filed by Webb Brothers, Dan Lucas, Mary Antonio, George Flock, Henry Flock, and Charles O. Payot. All protestants are water users from Shasta River below the proposed point of diversion of the application.

The application was set for public hearing in the City Hall at Yreka, California, at 10:00 A. M., on June 9, 1925, of which hearing applicant and protestants were all duly notified.

The hearing was held at the time and place specified, Chief of Division Edward Hyatt, Jr., presiding. Hydraulic Engineer Gordon Zander also attended as a representative of the Division of Water Rights. James M. Allen, attorney at law, appeared for the applicant, James R. Tapscott, attorney at law, appeared for the protestant Mary Antonio, and Clifford E. Butler, attorney at law, appeared for protestants Henry Flock, George Flock, Charles O. Payot, and Dan Lucas, as well as for the Edson Foulke Company, who were not record protestants. Protestants Webb Brothers made no appearance at the hearing.

At the opening of the hearing, the attorney for the applicant announced that he desired to so amend the application as to reduce the

amount of water applied for to 10 cubic feet per second, and to reduce the period of diversion so as to extend from about April 1st to about July 1st, of each year, which amendments were allowed by the examiner.

Mr. Victor Bove, Secretary of the Lucerne Water Company and Director of the Grenada Irrigation District, was called as a witness for the applicant, and testified that there are a little over 3,900 acres of irrigable land within the District, of which about 2,250 acres are irrigated at the present time. He testified, further, that in his opinion the additional ten cubic feet per second applied for would be necessary in order to irrigate the total area of irrigable land within the District, and that there is that amount of water available for appropriation until about July 1st in normal years. His testimony was based upon personal experience in irrigating lands within the District with water from Shasta River each year commencing with 1917.

Mr. Henry Flock, protestant, and one of the lowest water users on Shasta River, was called as a witness for the protestants and testified that he is 64 years old, has lived all his life on his ranch on Shasta River, and has been familiar with the use of water from Shasta River through the Antone and Flock Ditches ever since he was old enough to pay attention to it. In his opinion there is no unappropriated water in Shasta River after about June 1st in normal years. Mr. Flock's attention was called to the fact that the records of the Division of Water Rights show that in the year 1920 complaint was first made of the Division of a shortage of water by the lower users on Shasta River

on July 17th, and in the year 1921 on July 25th. In this connection he testified that in each instance there was an actual shortage of water a week or ten days prior to the Division being notified, the intervening periods being consumed in an attempt to induce the upper users to turn some water.

In acting upon the application, there are two points to be considered, as follows:

(1). Whether or not the additional amount of water applied for is needed for the irrigation of lands within the District.

(2). Whether or not such amount of unappropriated water is available in normal years.

Relative to Point (1), there is the testimony of Mr. Bove to the effect that the additional amount of water is needed, against which no testimony was introduced by the protestants. Actual records kept by the Division of Water Rights in connection with its investigation in the Shasta River Adjudication Proceedings show that during the year 1922 there were a total of 8,367 acre feet of water diverted from Shasta River during an irrigation season of 174 days for use on 2,202 acres of land, indicating a duty of one cubic foot per second to about 92 acres of land, and in 1923 there were a total of 10,087 acre-feet diverted during an irrigation season of 170 days for use on 2,380 acres of land, indicating a duty of one cubic foot per second to about 80 acres of land. In 1922, however, the District's system was being repaired during the early portion of the irrigation season, and they were unable to divert water to the full

capacity of their pumping plant until sometime in May; consequently the use during that year was below normal. It is believed that the amount of water used during the 1923 season represents the normal requirements of the land, and that a duty of one cubic foot per second to eighty acres of land may be assumed; so with approximately 4,000 acres of irrigable land within the District, a total diversion of about 50 cubic feet per second will be required. Subtracting from this the 40 cubic feet per second claimed under Permit Number 501, there remains 10 cubic feet per second representing the additional supply required, which is the exact amount of water covered in the amended application. It is therefore found that the additional 10 cubic feet per second applied for is needed for the development of the full area of irrigable land within the Grenada Irrigation District.

Relative to Point (2), the Division has a record of conditions on Shasta River covering each season commencing with 1920. During the seasons of 1922 and 1923 very complete records of the flow of Shasta River at various points, and of the amounts of water diverted by the various systems, were kept as a part of the field investigation in connection with the Shasta River Adjudication Proceedings. It was agreed at the hearing by the attorneys representing all parties involved that in passing upon the application the Division should take judicial notice of all data which it has collected, provided, however, that such agreement should not bind any party thereto to similar action at any other hearings that might be held by the Division.

It is admitted by the applicant that all of the protestants have vested rights in and to the waters of Shasta River, to the extent of the beneficial use that has been made and that all of such rights are prior to the right initiated under the application. There are also several claimants of prior rights, in addition to the protestants, who divert from Shasta River below the proposed point of diversion of the application.

It would appear safe to assume, however, that there was unappropriated water in Shasta River each season until such time as the entire flow of Shasta River was diverted at the lowest diversion dam. Such assumption is on the side of safety as it is based upon the theory that all claimants above are entitled to the full amount of water that they are using.

Disregarding the diversion dam of the California Oregon Power Company, which is not used during the summer months, and that of Manual Shelley, which is amply supplied by return water from the Antone and Flock ranches, the lowest diversion dam on Shasta River may be considered as that at the head of the Antone and Flock Ditches. Assuming that during the years 1920 and 1921 there was an actual shortage at this dam ten days before complaint was made to the Division, in accordance with the testimony of Mr. Flock, it may be concluded that there was ample water for all users until July 7th in 1920, and until July 15th

in 1921. According to the observations of field representatives of the Division, there was ample water for all users until June 24th, in 1922, until May 28th, in 1923, and until about May 15th, in 1924. In 1925 it was reported to the Division that a shortage of water first occurred at the Antone and Flock dam on June 26th.

The above facts indicate June 19th as the average date upon which a shortage of water in Shasta River has occurred during the past six years. This cycle includes two very dry years, 1923 and 1924, the latter being the driest years of record in the northern part of the State. On the other hand no very wet year is included in the cycle; 1920 and 1921 being slightly below normal, 1922 about normal, and 1925 a little above normal. If we therefore assume the average date upon which a shortage of water has occurred during the past six years as the date upon which such shortage will occur in a normal year, our assumption will again be on the side of safety.

The rate at which the flow of the river is decreasing at the time a shortage first occurs will vary from year to year, depending upon the weather. According to the records of the United States Geological Survey Gaging Station on Shasta River immediately above Montague, the flow at that point dropped 10 cubic feet per second, in about two days prior to June 24, 1922, and in about three days prior to May 28, 1923. It may therefore be assumed that there will be 10 cubic feet per second of unappropriated water in Shasta River until about three days prior to the date

upon which an actual shortage of water will occur in a normal year,  
or until about June 15th.

O R D E R

Application Number 1566 for a permit to appropriate unappropriated water having been filed with the Division of Water Rights as above stated, protests against the same 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 Number 1566 be approved as amended, except that the period of diversion be reduced so as to end on about June 15th instead of on about July 1st, and that a permit be issued to the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this fifth day of August, 1925.

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

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