

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

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In the matter of Revocation of Permit Number 575 heretofore issued upon Application Number 307 of H. Colwell allowing the appropriation of thirty acre feet from Buck Lake situate on Buck Lake Creek a tributary of McKinney Creek in Placer County for agricultural and domestic purposes.

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DECISION NO. 307 - D 104

Decided: May 7, 1926

APPEARANCES AT HEARING HELD April 19, 1926

For Permittee

H. Colwell

in propria persona

Examiner: Everett M. Bryan, Deputy Chief, Division of Water Rights

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O P I N I O N

On June 10, 1919, a permit was issued on Application Number 307 allowing the permittee to appropriate for agricultural and domestic purposes 30 acre feet per annum by means of storage in Buck Lake. The applicant proposed to build an earth and rock dam at the outlet of Buck Lake to be 6 feet in height, 40 feet in length at the top, 6 feet in length at the bottom with a top width of 2 feet and a slope of 1 to 1 on the front or water face and thereby impound water which would be released into Buck Lake Creek during the season of low flow whence it would flow through the natural channel of Sucks Creek and McKinney Creek to a point 2890 feet south of the Northeast corner of Section 13, T 14 N, R 16 E, M.D.B. & M. where it would be diverted by means of a ditch to the lands of the applicant in Section 7, 8 and 18, T 14 N, R 17 E, M.D.B. & M. where 260 acres of land were to be irrigated and domestic use made. By the terms of the permit the season of diversion to

storage was to end on July 1st of each year, construction work was to begin on or before June 1, 1920, thereafter to be prosecuted with reasonable diligence, and to be completed on or before November 1, 1920, and complete beneficial use of the water was to be made on or before August 1, 1921.

An inspection of the project was made by an engineer of this office on October 10, 1920, and an extension was allowed to August 1, 1921, to complete construction.

A further inspection was made by an engineer of this office on November 29, 1922, who reported completion of the dam at Buck Lake and 1200 feet of diversion ditch on permittee's land but owing to difficulties encountered in the construction of the latter, permittee desired to move the point of diversion from McKinney Creek 500 feet upstream. Upon this showing a further extension of time for the completion of construction work was allowed to December 1, 1923, and to July 1, 1924, for the completion of use.

A further inspection was made September 4, 1924, by an engineer of this office who reported that some use of water was being made for the purpose of wetting down the ground and thereby preventing fires but that the applicant would withdraw the permit and file a new application in order to obtain more time for completion of use. Subsequently, however, permittee visited the office stating that he intended to construct some cabins and would like an extension of time under this permit in order to complete the use, which extension was allowed to July 1, 1925.

A further inspection was made on July 30, 1925, by an engineer of this office who reported the construction and use to be in substantially the same condition as previously reported except that permittee had moved his point of diversion on McKinney Creek 500 feet upstream and to a different place than that specified in the application. He further reported that the diversion ditch leaked badly and that only a very small portion of the amount diverted reached the end of the diversion conduit and that none reached the

limits originally proposed in the application. The use consisted in the irrigation of meadows and underbrush apparently for the purpose of preventing fires.

The use being of doubtful benefit and incomplete and the point of diversion having been moved without the consent of this office as requested by law, a hearing was set upon the permit to be held in Room 707 Forum Building, Sacramento, at 11:00 o'clock A.M., April 19, 1926, at which permittee was required to show cause why the permit should not be revoked for failure to comply with the terms of the permit.

Permittee appeared and stated that the construction remained as described in the report of our inspection of July 30, 1925. He stated that the water impounded leaked through the outlet gates of the reservoir and emptied the reservoir within a few weeks after the water ceased to run over the spillway and without the operation of the gates. This water, or a corresponding amount he diverted together with natural flow of McKinney Creek under claim of riparian right at his new point of diversion below. He made no claim of production of irrigated crops or pasturage but stated that the use was for fire protection.

It was suggested to him that if diversion under the permit were to be continued, a petition should be filed seeking the consent of this office to divert at the new point he was using. This he refused to do on the ground that it was not worth the trouble and that he had a riparian right anyway whereupon he left the hearing prior to adjournment.

It therefore appears that on account of the desultory manner in which the construction and use was prosecuted under the permit, the doubtful benefit derived from the use, and failure and refusal of permittee to proceed properly in accordance with the law in securing permission of this office to move the point of diversion described in his application, ~~it appears proper~~ that the permit should be revoked on the grounds that permittee has failed to comply with the terms and conditions of the permit.

O R D E R

A permit having heretofore been issued in approval of Application Number 307 which allowed time within which to complete construction and use as therein provided, good cause having been shown and extensions having been allowed to July 1, 1925, within which to complete construction and use, it appearing to the Division of Water Rights that due diligence was not being exercised by permittee and that said permittee had failed to comply with the terms and conditions of the permit, a hearing having been held at which permittee was afforded an opportunity to show cause why permit should not be revoked for failure to comply with the terms and conditions of the permit and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that Permit Number 575 issued upon Application Number 307 be revoked.

Dated this 7th day of May , 1926.

EDWARD HYATT, JR.  
(Edward Hyatt, Jr.)  
CHIEF OF DIVISION OF WATER RIGHTS

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