

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

oOo

In the Matter of Application 5278 of the American River Water and Power Company to appropriate from the North and Middle Forks of the American River, Tributary of the Sacramento River via the American River in Placer County for Power Purposes.

oOo ^

DECISION A. 5278 - D 241

Decided

Sept 27, 1929

oOo

APPEARANCES AT HEARING HELD June 25, 1928

For Applicant

American River Water & Power Co. )  
Dunn, White, & Acken by  
Carlos G. White  
Lowell, Lowell & Lowell by  
Orin Lowell  
Walter M. Gleason

For Protestants

Stephen E. Kieffer in propria persona  
Power Timber Company T. R. Myer  
California-Hawaiian Development Company G. V. Bockus  
Pacific Gas & Electric Company No appearance  
Walter L. Huber No appearance

EXAMINER: Harold Conkling, Chief of the Division of Water Rights,  
Department of Public Works, State of California.

oOo

O P I N I O N

This application involves the use of the headwaters of North Fork and Middle Fork of American River through two power houses to be located on Middle

Fork. At a point in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 15, Twp. 16 N, R 14 E. M.D.B. & M. it is proposed to appropriate a maximum of 90 second feet by direct diversion throughout the year and 50,000 acre feet by storage between November 1st and July 31st of each season. This water would pass by open conduit and tunnel to Middle Fork of American River and into French Meadows Reservoir, the dam of which would be located in Lot 3 of Section 36, Twp. 15 N., R. 13 E., M.D.B. & M. At this point there is to be appropriated a maximum of 180 second feet by direct diversion throughout the year and 100,000 acre feet by storage between November 1st and July 1st of each season.

At the French Meadows dam the combined waters of North Fork and Middle Fork are to be diverted and conveyed down Middle Fork Canyon a distance of some nine miles to Power House No. 1, which is to operate under a head of some 2,000 feet. These waters will there be returned to Middle Fork and will be again diverted a short distance downstream, together with some additional waters contributed by the intervening watershed in Lot 1 of Section 31, Twp. 14 N, R 13 E, M.D.B. & M. By a conduit some nine miles in length a maximum of 200 second feet will here be conveyed down Middle Fork Canyon to Power House No. 2 situated in Lot 8 of Section 3, Twp. 13 N, R 11 E., M.D.B. & M. This plant will operate under a head of some 1730 feet and return the water to Middle Fork of American River.

The application was completed in accordance with the law and the Rules and Regulations of the Division of Water Rights, was duly advertised and protests were received, and thereafter the matter was set for hearing on June 25, 1928.

#### PROTESTS

Protests against approval of the application were received from Harold Power of the Power Timber Corporation, Walter L. Huber, California Hawaiian Development Company, Stephen E. Kieffer, and Pacific Gas & Electric Company.

The Power Timber Corporation objected upon the ground that it owned a large area of land which would be flooded by the proposed French Meadows Reservoir and that no arrangements had yet been made to acquire its lands which were to be

so flooded.

Walter L. Huber objected upon the ground that the project proposed would interfere with one proposed by him under Application 5412, and involved the use of certain lands which were held under contract by him for use in connection with his own project, which lands would not be sold to this applicant and were not subject to condemnation.

The California Hawaiian Development Company objected upon the ground that construction of the development proposed would destroy the diverting dam and ditch which carried water to its mining property.

Stephen E. Kieffer objected upon the ground that the development would interfere with that proposed by him under his prior Applications 5206 and 5207, unless diversions to storage were subordinated to diversions to storage in the proposed Folsom Reservoir.

Pacific Gas & Electric Company objected upon the ground that the diversions to storage proposed would at times interfere with use of water at its existing Folsom Power Plant.

Our action upon this application is governed, however, by other considerations than those involved in the protests which were filed and it is unnecessary that we should consider further the probable effect of the appropriation proposed upon the several protestants.

Necessary Rights of Way Lacking. It appears that on June 4, 1927, applicant filed a suit in condemnation against the Power Timber Corporation et al, having as its object the acquisition of lands of the Power Timber Corporation et al, which would be flooded by the proposed French Meadows Reservoir. An amended complaint was filed June 26, 1928, but as late as 2½ months ago no summons had been placed in the hands of any sheriff for service.

At its meeting of January 26, 1929, the Federal Power Commission rejected the application of American River Water & Power Company for use of federal lands

necessary to consummation of this project. Applicant was given the right of appeal, which right was exercised and on June 14, 1929, the Federal Power Commission reaffirmed its action of January 26th.

While Application 5278 was filed November 22, 1926, the same parties had theretofore held a permit under Application 2608, filed October 24, 1921, for the same purpose which permit was revoked because of failure to pay permit fees. In a period of approximately eight years therefore the proponents of this project have not only made no progress toward securing private lands which are absolutely essential to consummation of the project, but have also failed to secure necessary rights of way upon federal lands. Application 5278 therefore is subject to cancellation in accordance with Regulations 14 and 15 of this office. Applicant was advised of this fact on June 28, 1929, and given an opportunity to correct this condition, which it has failed to do. The application should therefore be cancelled.

ORDER

Application 5278 of the American River Water & Power Company for a permit to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a hearing having been held, and the Division of Water Resources now being fully informed in the premises,

IT IS HEREBY ORDERED that said Application 5278 be rejected and cancelled upon the records of the said Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 27 day of Sept 1929.

EDWARD HYATT, State Engineer

BY Harold Parkling  
Deputy.

ENB:GG

27/6/29