

*Opinion
file*

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 12111 of H. F. Dangberg Land and Livestock Company to appropriate water from an unnamed spring, tributary to Topaz Lake in Mono County for stock watering purposes.

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Decision A. 12111 D. 599

Decided March 10, 1949

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In Attendance at Investigation Conducted by the Division of Water Resources near the Site of the Proposed Appropriation on August 18, 1948:

H. F. Dangberg	Representing the Applicant
Graham Sanford	Representing the Applicant
C. O. Gelmstedt	Representing the Protestant
A. S. Wheeler	Assistant Hydraulic Engineer Division of Water Resources Department of Public Works For the State Engineer

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OPINION

General Description of the Project

The application was filed on behalf of H. F. Dangberg Land & Livestock Company by Grace M. Dangberg, vice-president thereof, on September 26, 1947. It contemplated a diversion of 3 gallons per minute (later amended to 1 gallon per minute) from May 15 to October 15 of each season (later amended to from about

June 1 to about June 20 and from about August 20 to about September 15 of each year) from an unnamed spring, tributary to Topaz Lake, in Mono County, for stock-watering purposes. The point of diversion is described as lying within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, T 10 N, R 22 E, MDB&M. The water is to be lifted by a hydraulic ram of a capacity of 3 gallons per minute and conveyed through a 1 inch pipe line 800 feet long rising a total of some 320 feet to the place of use in the same SE $\frac{1}{4}$ NW $\frac{1}{4}$, where it was originally anticipated that 100 head of cattle and 3000 sheep would be watered.

Protest

✓ The Walker River Irrigation District of Yerington, Nevada protests Application 12111, alleging that the water therein applied for has already been appropriated by the protestant District, which collects and stores it in Topaz Lake and later releases it and applies it to beneficial use. The protestant claims that its alleged prior right is based on Application 2615, and that the water supply obtained thereunder is insufficient for the needs of the landowners which it serves.

The applicant answers the Walker River Irrigation District protest by stating in effect that the point of appropriation under the Protestant's approved Application 2615 is at the shore line of Topaz Lake, that the stream in question is a flash stream ranging in flow from a maximum of about 3 cubic feet per second to a minimum of about 10 miner's inches; that there is surplus and excess water in that stream and that the granting of Application 12111 will not interfere with or injure any rights held by the Protestant under Application 2615 or otherwise.

Field Investigation

The applicant and the protestant having stipulated to an informal hearing as provided for in Section 733 (b) of the California Administrative Code,

a field investigation was conducted at the site of the proposed appropriation on August 18, 1948 by an engineer of the Division. The applicant's and the protestant's representatives were present during the investigation.

Records Relied Upon

Application 12111 and all data and information on file therewith.

Discussion

From the report of investigation it appears that the unnamed spring designated as the source of the proposed appropriation is tributary to California Creek and that the latter in turn discharges into Topaz Lake. It appears also that the unnamed stream named as a source in the protestant's Application 2615 is in reality the same California Creek and that the protestant's point of diversion is at the mouth of that stream, i.e. at the shore line of Topaz Lake. Finally, it appears that the extent of the protestant's right to utilize water from California Creek under Application 2615 is limited to the amount stated in that application, viz., 200 acre-feet per annum.

California Creek probably discharges considerably more than 200 acre-feet per season. While exact data are lacking a rough approximation of seasonal discharge may be arrived at through considerations of watershed area, topography and precipitation. According to the Markleeville quadrangle, U.S.G.S., California Creek watershed is about 1.6 square miles in extent; it is rugged and elevations range from about 5000 to about 8500 feet. If normal annual precipitation be taken at around 12 inches, it may be expected that runoff in a normal year will roughly approximate $\frac{1}{3}$ of precipitation or $\frac{1}{3} \times 1.6 \times 640$ or 341 acre-feet annually, from the watershed. Mean seasonal runoff within the Great Basin (within California) has been estimated at 438 acre-feet per square mile, suggestive of 1.6 times this amount or 701 acre-feet for the watershed under consideration. According to the report of investigation California Creek flows during all months of the

year and on August 18, 1948 its flow was estimated at 0.5 cubic feet per second. Such flow at low stage is indicative of a seasonal runoff in excess of 365 acre-feet. The investigating engineer expresses the belief that discharge will average in excess of 1 cubic foot per second from January to May both inclusive; he ventures the remark that the protestant would receive (in a normal year) in its Topaz Lake Reservoir an amount in excess of the 200 acre-feet covered by its permit and all of such waters would be received prior to the time diversion is proposed by applicant.

The applicant by letter dated August 18, 1948 requested reduction of the amount named in Application 12111 to 1 gallon per minute and reduction of the season of use to the two periods from about June 1 to about June 20 and from about August 20 to about September 15 respectively, and the application was amended in accordance with the applicant's request. The quantity of water required to satisfy the application thus becomes approximately $1/450 \times 2 \times (20 \text{ plus } 27)$ or approximately two-tenths acre-foot per annum, a quantity rather insignificant in comparison with the probable yield of the stream and the amount of protestant's prior appropriation.

In view of the foregoing it is concluded that a surplus of unappropriated water exists in California Creek, and that the amount applied for under Application 12111 may be diverted and used without injury to the protestant. The protest by Walker River Irrigation District against Application 12111 is therefore dismissed, as insufficient.

Summary and Conclusions

The protest having been dismissed, no bar remains to the approval of the application. The application should be approved, subject to the usual terms and conditions.

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ORDER

Application 12111 for a permit to appropriate unappropriated water having been filed with the Division of Water Resources as above stated, a protest having been filed, a stipulated hearing having been held in accordance with the provisions of Section 733(b) of the California Administrative Code, and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12111 be approved and that a permit be issued to the applicant, subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 10th day of March, 1949.

EDWARD HYATT, STATE ENGINEER

By A. W. Edmiston
A. D. Edmiston
Assistant State Engineer

