

*of Johnson*  
*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 12005 of Leonard D. Johnson to Appropriate from Dry Creek tributary to North Fork of the Pit River in Modoc County for Irrigation and Domestic Purposes.

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Decision A. 12005 D. 601

Decided March 16, 1949

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In Attendance at the Conferences and Field Investigation Conducted by the Division of Water Resources in the Vicinity of the Proposed Appropriation.

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Leonard D. Johnson	)	Applicant
Hans A. Heesch	)	Protestant
W. C. Dorris	)	
Martha A. Dorris	)	Representing Protestant W. C. Dorris, et al.
James R. Laird	)	
Reuel A. Laird	)	Representing Protestant James R. Laird, et al.
L. C. Jopson	)	
Senior Hydraulic Engineer	)	
J. Victor Scammon	)	Representing the State Engineer.
Assistant Hydraulic Engineer	)	

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OPINION

General Description of Project

Application 12005 was filed with the Division of Water Resources on

July 24, 1947 for a permit to appropriate 170 acre-feet per annum from Dry Creek tributary to North Fork of the Pit River to be diverted from December 1 of each year to May 15 of the succeeding year for irrigation and domestic purposes. The point of diversion is described as being within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 24, T 44 N, R 13 E, MDB&M. It is proposed to use the stored water for the irrigation of 150 acres and for the watering of 200 head of cattle and 30 horses.

#### Protests

The protestants, James R. Laird, et al., Wesley C. Dorris, et al., Hans A. and Margaret Heesch make the following assertions:

(1) Claim a right to the use of water based upon adjudicated rights as set forth in Judgment and Decree No. 4074 in the Superior Court of the State of California in and for the County of Modoc on December 14, 1939.

(2) Assert that water is badly needed in April and May of each year and that to allow the applicant to store water during this period would result in irreparable damage to protestants and injury to their existing water rights.

(3) Further assert that there has been an existing shortage of water and that protestants have been unable to get water badly needed by them and to which they have been entitled under prior rights.

Answers to the protests were not received from the applicant.

#### Field Investigation

The applicant and the protestants having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code, conferences and a field investigation were conducted near the site of the proposed appropriation on September 23 and September 24, 1948 by engineers of the Division.

### Records Relied Upon

Application 12005 and all data and information on file therewith; Dam Filing 178; Division of Water Resources "Report on Water Supply and Use of Water on North Fork of Pit River and Tributaries", dated August 1937; reports on Watermaster Service in North Fork Pit River Watermaster Service Area, 1937-1948, inclusive; and Judgment and Decree in Re North Fork of Pit River, No. 4074, Modoc County.

### Discussion

The report of the field investigation states that conferences were held prior to the investigation in which the applicant, on September 23, 1948, reduced the season of diversion to from December 1 of each year to April 1 of the succeeding year. In consideration of the reduced season of diversion to storage, the protestants, on September 23, 1948, withdrew their protests against Application 12005.

The records of the Dam Department show that the capacity of the Johnson Reservoir is 120 acre-feet. With the reduction in the season of storage, the applicant authorized this office to reduce the amount of water sought to the capacity of the reservoir which is now understood to be 120 acre-feet.

### Summary and Conclusions

The uses to which the applicant proposes to put the waters sought are beneficial ones and since the protests have been withdrawn, and the data indicate that there is unappropriated water in the source named, no bar remains to the approval of the application. The application should therefore be approved subject to such of the usual terms and conditions as may be appropriate.

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### ORDER

Application 12005 for a permit to appropriate unappropriated water

having been filed with the Division of Water Resources as above stated, protests 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 protests having been withdrawn:

IT IS HEREBY ORDERED that Application 12005 be approved and that a permit be issued to the applicants, 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 16th day of March, 1949.

EDWARD HYATT, STATE ENGINEER

By

*A. D. Edmonston*

A. D. Edmonston  
Assistant State Engineer

