

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 12546 by George C. Roeding, Jr., to Appropriate Water from Antelope Creek and from an Unnamed Stream, in Placer County, for Irrigation and Domestic Purposes.

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Decision A. 12546 D. 642

Decided December 29, 1949

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES  
AT THE SITE OF THE PROPOSED APPROPRIATION ON MAY 5, 1949:

Roy Gardner	Representing the Applicant
R. E. Hayer	Representing Protestants Ancil Hoffman, et al.
Mose Andrews	A Lower User
A. M. Whipple	A Lower User
A. S. Wheeler	Senior Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

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OPINION

General Description of the Project

The application proposes an appropriation from Antelope Creek at a point within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 8, T 11 N, R 7 E, M.D.B.&M. and from an unnamed stream at a point within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 17 of

the same township. The unnamed stream is tributary via Secret Ravine and Miners Ravine to Antelope Creek. The amount applied for is 2 cubic feet per second from either or both of the sources mentioned. It is proposed to divert from January 1 to December 31 and to utilize the water diverted for irrigation and domestic purposes on a tract of land 273.6 acres in extent, situated within Sections 8 and 17 of T 11 N, R 7 E, M.D.B.&M. Proposed domestic use includes incidental stock watering and requirements at nursery buildings. An area of 273 acres of general crops is to be irrigated. This land is said to have another water right, i.e., a right to purchase from the Pacific Gas and Electric Company. Diversion is to be effected by pumping at each point of diversion, plants of 900 gallons per minute capacity each being contemplated for that purpose. The project includes a conduit of 6 inch riveted steel and wood stave pipe, 7500 feet long.

#### Protests

Ralph B. Aitken asserts a prior appropriative right under Application 8015. He contends that Antelope Creek supplies barely enough water for his needs, and that the applicant's proposed diversion would take away his entire supply. He claims to irrigate 70 acres of pasturage from March 1 until December 1. His point of diversion lies downstream from the applicant's proposed point of diversion on Antelope Creek.

Ancil Hoffman and tenants R. E. Hayer and A. C. Leppard contend that the proposed appropriation will deprive them of sufficient water to irrigate the land developed under Application 11918. They claim riparian rights as well as the appropriative right under the application mentioned. They assert that they irrigate 25 acres, that they have used all the water available which amount however has been less than the amount allowed under

Application 11918. They claim to have land ready for alfalfa but that the water supply is insufficient during June, July and August, to irrigate without supplementation from a standby well. They describe their points of diversion as being located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 33, T 10 N, R 5 E, M.D.B.&M. They state that their protest may be disregarded if sufficient water is made available to cover present permits and that their objection does not apply to the taking of water between November 1 and March 31.

The applicant made answer to neither of the protests.

#### 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 a field investigation was conducted at the site of the proposed appropriation on May 5, 1949 by an engineer of the Division. Representatives of the applicant and of one of the protestants were present during the investigation. The other protestant (Ralph B. Aitken) was neither present nor represented but was interviewed on July 7, 1949, at Sacramento.

#### Records Relied Upon

Applications 8015, 11918 and 12546 and all data and information on file therewith.

#### Discussion

The applicant's proposed diversion on Antelope Creek scales roughly 0.3 mile upstream from Protestant Aitken, and 17 miles upstream from the protestants Hoffman, et al. The applicant's proposed diversion on the unnamed stream cannot affect Protestant Aitken because the unnamed

stream discharges via Secret and Miners Ravines into Antelope Creek below the protestant's intake. Both of the applicant's proposed diversions lie upstream with respect to the protestants Hoffman, et al.

It is plain from the data that unappropriated water does not always exist in the stream system under consideration and that any permit issued to the applicant should be limited accordingly. On July 30, 1937 for example (according to inspection report on Application 8015) the flow of Antelope Creek at Protestant Aitken's point of diversion was but 0.078 cubic foot per second, whereas the permit which he holds is in the amount of 0.59 cubic foot per second. According to the same inspection report the flow of Antelope Creek varies with irrigation above and at times is considerably more than the amount observed at that time, and in early summer is relatively plentiful. The supply reaching Protestant Hoffman, who has qualified under Application 11918 for an appropriation of 1 cubic foot per second likewise appears largely dependent upon return flow from upstream irrigation, rather than upon natural flow, which during summer time may be presumed insignificant.

According to the report of investigation of May 5, 1949 the flow of Dry Creek (into which Antelope Creek discharges and from which Mr. Hoffman and his tenants divert) was 7.5 cubic feet per second on that date and 2.00 cubic feet per second some six week later; and the flow of Antelope Creek above Protestant Aitken was estimated at 2 cubic feet per second and 1 cubic foot per second, respectively, on the same two occasions. According to the same report local users consider that water shortage normally commences between June 1 and June 15. The protestants concede that surpluses sometimes occur but place the time of their cessation somewhat earlier. Protestant Aitken has offered to withdraw his protest

provided that diversions under the application are restricted to periods from January 1 to May 15. Ancil Hoffman et al. consider objectionable any diversion under Application 12546 after May 1. The applicant has stated (according to the report of investigation) that if a limitation to May 1 is placed upon his diversion he will abide by that limitation, but that he would prefer a termination date of May 31.

The date at which diversions under the application should be permitted to begin apparently was a matter of lesser concern to the parties. Whereas the application proposed diversion year round, at the investigation the applicant's representative intimated that a permit covering the months of January to May inclusive would be satisfactory. It appeared to be the applicant's intention to supplement any supply obtained under Application 12546 by purchasing water from the Pacific Gas and Electric Company and it was his feeling that that supplemental supply could not be depended upon until mid-May. Protestant Aitken apparently does not object to diversions after January 1 and Ancil Hoffman et al., in their protest, mention November 1.

From the fact that surpluses at times exist it follows that Application 12546 should be approved with limitations however as to the period within which diversion shall be permitted. When surpluses occur the applicant should be allowed to use them insofar as he can do so beneficially, up to the amount applied for. A limitation as to the period within which diversion should be permitted in this situation may be set approximately only by calendar dates because of the probable variation from one year to another of the period within which surpluses occur. From the data surpluses occur not only during January, February and March but occur occasionally also during November and December and during April

and May. Inasmuch as downstream users are protected by the wording of both applications and permits against diversions when surpluses do not exist it is believed that calendar dates inserted in such permit as may be issued in this instance should not be unnecessarily restrictive. It is concluded that Application 12546 should be approved subject to such of the usual terms and conditions as may be appropriate and with the season of diversion limited to the period from about November 1 to about May 31 of each season.

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ORDER

Application 12546 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12546 be approved and that a permit be issued to the applicant subject to such of the usual terms and conditions as may be appropriate and with the season of diversion limited to the period from about November 1 to about May 31 of each season.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 29th day of December, 1949.



EDWARD HYATT, STATE ENGINEER

By A. D. Edmonston  
A. D. Edmonston  
Assistant State Engineer.