

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 13897 by Carolyn E. Flower to Appropriate
Water from Littlejohn Creek in Calaveras County for Irrigation,
Stockwatering and Domestic Purposes.

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Decision A. 13897 D. 743

Decided May 6, 1952

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In Attendance at Conference Conducted by the Division of Water Resources
at Copperopolis on July 20, 1951:

R. M. Flower) Wayne A. Perkins)	Representing the Applicant
L. B. Raab	Representing the Protestant
Frank Davis) W. Siegfried)	Representing Calaveras County Water District*
Voigt R. Fischer) Glenn O. Laurogaard) P. A. Towner) Kent Silverthorne)	Representing the United States Bureau of Reclamation*
A. S. Wheeler	Senior Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer.

*Interested Parties

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OPINION

General Description of the Project

The applicant seeks to appropriate from Littlejohn Creek, at a point within the $SW\frac{1}{4}NE\frac{1}{4}$ of Section 5, T1N R12E, MDB&M, a total of 790 acre-feet per annum, to be collected between November 1 and March 1 of each season and utilized for irrigation, domestic and stockwatering purposes. The water is to be impounded by an earth and rock-fill dam, 35 feet high by 350 feet long, the resultant reservoir having a surface area of 66 acres and a capacity of 790 acre-feet and flooding lands in Sections 5 and 6 of T1N R12E and Sections 31 and 32 of T2N R12E, MDB&M. From the dam to the place of use Littlejohn Creek is to be utilized as a conduit. At the place of use, a 120 acre pasture located within the $W\frac{1}{2}$ of Section 16, T1N R12E, MDB&M, the water filed upon is to be rediverted at various points by means of a portable, tractor-mounted pump. Irrigation is to extend from about May 1 until about November 1. According to the application the land to be irrigated has no other water right or source of water supply.

Protest

The J. F. Goodwin Company protests the application, contending that the diversion therein proposed would prevent or seriously hinder the exercise of its rights under Applications 10864 and 11364 to divert at points within, respectively, Section 35, T1N R7E and Sections 29 and 32, T1N R8E, MDB&M, for the purpose of irrigating a total of about 480 acres. The protestant states that its applications are in the amount of 3 cubic feet per second each, that at times, particularly at the height of the irrigation season, supply has been less than 3 cubic feet per second and that, because of this insufficiency of supply, it has not been justified in proceeding under Application 11364 but has instead asked for authorization to change the point

of diversion and the place of use designated in that application to another location. The protestant argues that there are too many applications on Littlejohn Creek for the amount of water that it will furnish and that the approval of further applications on that stream will only encourage false hopes and lead to confusion and litigation.

Answer

In answer to the protest the applicant states in effect that it is not the applicant's intention to interfere with diversions under prior rights, that all natural flow in the creeks subsequent to the agreed upon terminal date (March 1) will be restored to the stream channel below the applicant's dam and that the storage of flood waters, which now are wasted into the ocean, and their subsequent use by application to the land, will not only increase the value of the land directly benefited but, as a result of the seepage of the applied irrigation water into the ground, will also add to the ground water supply, thereby benefiting parties downstream.

Conference

The applicant and the protestant having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code, Title 23, Waters, a conference was conducted at Copperopolis on July 20, 1951 by an engineer of the Division. The applicant and the protestant were both represented at that conference.

Records Relied Upon

Applications 11642 and 13897 and all data and information on file therewith.

Discussion

At the conference of July 20, 1951, the main concern expressed by Mr. Raab (the protestant's representative) was that storage in the mountains would deprive valley users of their underground supply, making their wells useless. Mr. Raab urged that in any permit issued in approval of the application a special clause be inserted requiring provision of facilities ensuring the passage downstream of the entire flow occurring between March 1 and November 1. He intimated that right of access over the applicant's property for the purpose of verifying the release of such flow may be covered by private agreement. Mr. Davis (representing Calaveras County Water District) stated that Calaveras County Water District is disposed to release to Applicant Flower a portion of the storage proposed under its Application 12536 provided that the District retain the right to later increase the height of its dam.

The watershed tributary to the applicant's proposed dam appears to be roughly 11.2 square miles in extent. The Littlejohn Creek watershed above a point directly northwest of Knights Ferry is reported in Bulletin 5 (Flow in California Streams) to comprise 40.5 square miles. Another agency (Sacramento District, USED) reports it to be 222 square miles in extent above the point at which the stream emerges from foothills to valley, roughly 1 mile east of Farmington. The distance scaled along the creek from the applicant's proposed dam is about 18 miles to Knights Ferry, about 21 miles to Farmington. The protestant's points of diversion under Applications 11364 and 10864 are respectively 8 and 11 miles below Farmington. From Farmington to the junction of Littlejohn Creek (called French Camp Slough in its lowermost reach) with

San Joaquin River is about 22 miles.

Among references bearing upon the stream in question is a report by the Sacramento District, U.S. Engineer Department, entitled "Office Report on Review of Plans for Control of Floods in the Littlejohn Creek Group Area" dated November 29, 1946. According to that report damaging floods sometimes occur as a result of heavy rainfall within the Littlejohn Creek watershed. As to irrigation practice and needs the report states:

"Under present conditions there is no reliable stream flow during the irrigation season and consequently the major source of irrigation supply is ground water. However in recent years the level of the ground water (below the tight surface soils) has lowered to an extent which precludes further large scale irrigation development unless a new water supply is developed."

As to flood damage the report states:

"Under present conditions large rural areas are periodically inundated by flood flows from Littlejohn Creek and tributaries resulting from heavy rainfall. Some damage also occurs from poor surface drainage because of the tight surface soils. Peak flows far exceed the existing channel capacities and moderate flows following the peak discharges utilize available channel capacities and prevent drainage of the lands previously flooded."

As to flood control storage requirements the report states:

"Hydrologic studies - - - indicated that approximately 47000 acre-feet of flood control storage would be necessary in order to control the project flood to non-damaging proportions."

The army engineers (Sacramento District, USFD) have also measured and recorded the flow of Littlejohn Creek at a location approximately 1.5 miles east of Farmington. Their record which dates from June, 1948 indicates monthly mean discharges in cubic feet per second to have been as follows:

	<u>1948</u>	<u>1949</u>	<u>1950</u>	<u>1951</u>	<u>1952</u>
January		5	455	300	602
February		19	210	142	
March		198	44	166	
April		5	13	18	
May		9	5	9	
June	9	9	5	3	
July	10	7	4	3	
August	10	8	4	3	
September	11	5	3	3	
October	6	1	4.1	3	
November	1.2	4	249	2	
December	No record	1	593	998	

Applications 10864 and 11364, both held by the protestant, each provide for the diversion, for irrigation, of 3 cubic feet per second, year round. The points of diversion designated in these applications are located within Section 35, T1N R7E and Section 32, T1N R8E, N1B&M. Both applications were approved by the Division and Application 10864 was licensed. The protestant has reported that construction in connection with Application 11364 has not yet been undertaken because of insufficiency of water supply and it is currently seeking an authorization to change its point of diversion under that application to a location some 8 miles upstream from the point first designated, asserting that there are "too many unauthorized diversions between the old and the new points of diversion."

Recent investigations made in connection with Applications 10864, 11364 and other applications to divert from Littlejohn Creek below Farmington indicate that there is little if any unappropriated water in that reach of the stream except during January, February, March, April and December. Those investigations also disclosed that some of the diverters from Littlejohn Creek pump also from wells and that other irrigators depend upon wells entirely.

The protestant's objection, as expressed in its protest, to the effect that diversions under Application 13897 would prevent or hinder the

exercise of rights under Applications 10864 and 11364 finds support only in the fact that often during November and occasionally in December, January, and February, the flow of Littlejohn Creek falls below 6 cubic feet per second, which is the amount necessary to satisfy the protestant's two prior applications. That objection is insufficient because on days when diversion by the applicant (if granted a permit) would prevent authorized diversion by the protestant, the former would be obliged to refrain from diverting by the wording of the permit which in effect would limit diversions thereunder to diversions not in conflict with prior rights. Obviously this applicant can be authorized to impound only at times when unappropriated water exists, and at other times must allow the flow to pass. In this connection the numbers of days in the months of the proposed collection period when flow at the USED gage averaged 6 cubic feet per second or more, in recent seasons, are reported to have been as follows:

	<u>November</u>	<u>December</u>	<u>January</u>	<u>February</u>
1948-49	0	0	2	13
1949-50	3	0	20	28
1950-51	25	31	31	17
1951-52	0	31	31	No record

The protestant's objection, expressed at the conference of July 20, 1951, to the effect that storage in the mountains would deprive valley users of their underground supply, making their wells useless, is also deemed insufficient. While it is probably true that a substantial part of the water that finds its way into wells on the valley floor drains from the Sierra Nevada foothills, the watershed above the applicant's proposed dam is a very small part, relatively, of the area tributary to the protestant's or other nearby wells. Again, during the winter months, the flow of Littlejohn Creek

may be presumed to often be too voluminous and too rapid for much of it to percolate underground. These circumstances militate against the probability that the diversion proposed by the applicant will materially affect pumping from wells in the vicinity of the protestant.

The anxiety expressed at the conference of July 20, 1951, on behalf of the protestant, for the inclusion in any permit issued of a special provision to ensure the passage down stream of the entire flow of Littlejohn Creek and Clover Creek (its tributary) except during the period when collection of such flow is authorized, appears reasonable and proper. A special clause to that end should be duly employed.

Conclusion

Unappropriated water exists at times in the source from which appropriation is sought under Application 13697. Such water may be taken and used beneficially in the manner proposed in that application without injury to downstream users. The existence of unappropriated water however is sometimes discontinuous, even during fall and winter months, and at times during those months the entire flow of the source is required to supply the holders of existing rights down stream. It is the opinion of this office that the application should be approved and permit issued subject to the usual terms and conditions but subject also to a further special term and condition fixing upon the applicant the responsibility of passing downstream all water which enters the proposed reservoir from March 1 to November 1 and of passing down stream also such water entering that reservoir from November 1 to March 1 as may be required at points downstream for the satisfaction of prior rights.

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ORDER

Application 13897 having been filed with the Division of Water Resources as above stated, a protest having been filed, a stipulated hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13897 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 subject also to the following special term and condition to wit:

Permittee shall install, maintain and operate facilities to ensure that all flow entering her reservoir between March 1 and November 1 and such flow entering her reservoir between November 1 and March 1 as may be required for the satisfaction of prior rights will pass downstream unhindered by any of her works.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 6th day of May 1952.



A. D. Edmonston
State Engineer

