

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 15438 by Marie Martin to
Appropriate Water from Screwauger Creek, Tributary to
North Fork of Middle Fork American River, in Placer County,
for Mining purposes.

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Decision A 15438 D 848

Decided February 15, 1956

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In Attendance at Investigation Conducted by the Division of
Water Resources on September 22, 1955:

H. T. Martin, Applicant's husband)	
Chas. Scott Haley, Mining Engineer)	Representing the applicant
Jos. C. and J. P. Warren, In charge of construction for applicant)	
Wm. B. Hargraves, Civil Engineer)	Representing the Corps of Engineers, United States Army
J. Victor Scammon Associate Hydrographer Division of Water Resources Department of Public Works)	Representing the State Engineer

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DECISION

Substance of the Application

The applicant seeks to appropriate 30.0 cubic feet per second, year-round, from Screwauger Creek, a tributary of North Fork of Middle Fork American River, in Placer County. The proposed diversion is to head at a point within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, T15N R13E, MDB&M. The project includes an earth dam 22 feet high by 349 feet long which is to create a regulatory reservoir 3 acres in surface area and 22 acre-feet in capacity; it also includes 1,200 lineal feet of open ditch and 900 lineal feet of welded steel pipe. The water is to be used in placer mining on "Black Bear", "Chalys" and "Ethel" mining claims, located within the same Section 10. According to the application the water will be applied by means of a hydraulic giant and returned, unpolluted, to Screwauger Creek. The applicant claims to own both the land at the proposed point of diversion and the land upon which the water is to be used.

Protest

A protest in the name of North Fork Ditch Company stands against the application. The protestant contends that diversions under the application will constitute an infringement upon existing rights, that such diversions will decrease

the low water flow of American River and injure the orchards and other lands that protestant serves. Protestant claims a right to divert 60 cubic feet per second, from American River, at a point within Section 23, T12N R8E, MDB&M, based upon continuous use since 1854, as well as a right to divert under Division Permit 4009. It states that it supplies water for the irrigation of 12,000 acres, located chiefly within Fair Oaks and Citrus Heights Irrigation Districts and within Orangevale, Cardwell, Ashland, San Juanita, Inwood and Rosedale Colonies. It states that its protest may be disregarded and dismissed if diversion under the application is permitted only during January, February, March, April and November.

Answer

The applicant answers the protest by stating that protestant's diversion heads far downstream from applicant's proposed place of use, that an intervening, natural debris trap provides ample catchment for debris resulting from hydraulic mining, that all water sought to be appropriated will be returned to the source, that no water will be withheld in storage under the application, that operations under the application therefore cannot impair the protestant's water supply, either in quality or in quantity.

Field Investigation

The applicant and the protestant with the approval of the Division having stipulated to the submittal of the application and protest upon the official records, a field investigation was conducted on September 22, 1955, by an engineer of the Division. The applicant was represented during the investigation; the protestant was unrepresented.

Records Relied Upon

Applications 5830 and 15438 and all data and information on file therewith; pertinent topographic quadrangles and Water Supply Papers, United States Geological Survey.

Information Secured by Field Investigation

Extracts from "Report of Division of Water Resources on Application 15438", dated November 16, 1955 and filed with the application, are as follows:

"The investigation included a field inspection of the applicant's proposed project and observation of the flow of Screwauger Creek"

"The proposed point of diversion and place of use were visited and the proposed mining operation was outlined by Mr. Martin. The diversion dam and ditch had been partially constructed this season."

"The contributing drainage area above the point of diversion ... is less than one square mile in surface area and is about 6,500 feet in elevation. At the time of the investigation there was practically no flow in Screwauger Creek. A few springs

in the area were producing sufficient water to keep the channel of the creek wet. The amount requested ... appears to be more than the source will produce during the major part of the year; however the total flow available can be used for the proposed mining use. The season during which mining operations could be carried on ... is limited because of snow during the early spring and ... lack of water during the summer."

"Applicant proposes to divert all the water available ... for hydraulic placer mining purposes and return all the water directly back to the stream. No chemicals will be used"

"The proposed use will be nonconsumptive."

"Protestant North Fork Ditch Company, now San Juan Suburban Water District, has a contract and agreement with the Bureau of Reclamation to supply their water needs from Folsom Reservoir. Water was pumped from the reservoir this year to supply the needs of the District."

"According to Mr. Hargraves, the debris control dam would prevent the passage of sediment from the proposed hydraulic operations to the protestant's diversion point or to Folsom Reservoir. There appears to be no use of water between applicant and Folsom Reservoir."

"It appears ... that water would be available to protestant and others downstream during times when no water would be available to applicant"

"Application 9340 covering approximately the same project was revoked because of nonuse and no subsequent appropriations have been made from the source since that time."

Information from Other Sources

Permit 4009, referred to in the protest, was issued in approval of Application 5830. It authorizes North Fork Ditch Company to divert 35 cubic feet per second from North

Fork American River, at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T12N R8E, MDB&M, from April 1 to November 1, for irrigation purposes and for domestic purposes, throughout the year as required.

The channel distance downstream from the applicant's proposed point of diversion to the protestant's point of diversion under Application 5830 Permit 4009, on maps of the region, scales roughly 46.8 miles.

The North Fork and the Middle Fork of American River unite about 3.8 miles up-river from the North Fork Ditch Company intake. The United States Geological Survey maintains gaging stations "North Fork American River at North Fork Dam" and "Middle Fork American River near Auburn", those stations being located 2.0 and 1.9 miles respectively above the junction of the two forks. The sum of the flows passing those stations appears to represent approximately the flows reaching the North Fork Ditch Company intake. Monthly mean flows calculated in that manner from data published in Water Supply Papers have been as follows:

SUMMATION: MEAN DISCHARGES OF NORTH FORK AMERICAN RIVER AT NORTH FORK
 DAM AND MIDDLE FORK AMERICAN RIVER NEAR AUBURN IN CUBIC FEET PER SECOND

Water- year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Water- year
1941-42	164.5	452	3571	5871	6000	2984	6506	7081	5123	1216	279	178.9	3266
42-43	156.7	1576	2797	6913	4065	8417	6050	3888	2162	606	223.5	147.8	3083
43-44	149.8	184.9	244.4	490	1102	2248	2597	4893	1904	376	141.0	81.7	1193
44-45	97.5	1145	1319	902	6254	2431	4461	5485	2473	517	162.1	108.9	2080
45-46	366	1324	5170	2806	1439	3343	5603	5408	1867	406	152.6	128.6	2343
46-47	156.1	961	913	459	2128	3130	3057	2273	877	182.8	91.5	70.7	1183
47-48	427	375	243.9	1909	720	1370	6037	6330	4115	738	184	109.3	1878
48-49	108.8	300.1	439	379	761	2746	5700	5433	1501	262	123.5	90	1489
49-50	186.2	521	576	5252	6415	5986	10846	10173	5138	1114	245	285.2	3870
50-51	424	9320	9572	5615	4277	4007	4297	4354	1332	409	174.9	129.1	3653
1951-52	268.2	963	3172	4360	5947	4650	9341	11434	6770	2293	439	207.3	4142

Discussion

Inasmuch as the applicant's proposed use of water is primarily nonconsumptive and there appear to be no diversions by other users between the applicant's proposed point of diversion and the point or points at which the diverted water would be returned to Screwauger Creek, it is evident that neither the protestant, the protestant's successor in interest, nor any downstream user would be materially affected by the appropriation that the applicant seeks. Such losses as might result from the applicant's mining project would be limited to the excess of evapo-transpiration losses with the project in operation over evapo-transpiration losses that would occur in a state of nature. It may be supposed that they would be relatively small in any event; and that they would be least when water scarcity is greatest.

The rights of North Fork Ditch Company to divert from North Fork American River between April 1 and November 1 presumably do not exceed the rights alleged in its protest, i.e. rights to divert 60 cubic feet per second under an ancient appropriation and 35 cubic feet per second under Division Permit 4009, or 95 cubic feet per second in all. The tabulation of monthly mean flows (on page 7 supra) indicates that flows at the North Fork Ditch Company intake have usually exceeded 95 cubic feet

per second greatly and that within the 11-year period considered have averaged less than that amount in but 4 months -- in one month of July and in three months of August.

Conclusion

The information indicates that the use to which the water sought under Application 15438 is to be applied is primarily nonconsumptive and that that water ordinarily may be taken and used in the manner proposed by the applicant without injury to the protestant, to the protestant's successor in interest, or to any other downstream user. It is the opinion of this office therefore that Application 15438 should be approved and permit issued, subject to the usual terms and conditions.

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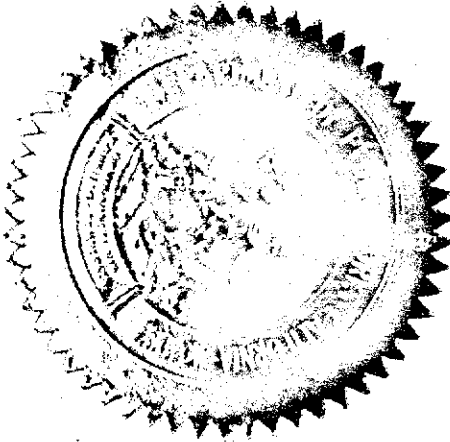
ORDER

Application 15438 having been filed with the Division of Water Resources as above stated, a protest having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 15438 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 15th day of February, 1956

HARVEY O. BANKS, STATE ENGINEER



By *L. C. Jopson*
L. C. Jopson
Assistant State Engineer