

TMP

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 16618)	Source: Grouse Creek
by W. E. Wilson)	County: Placer

Decision No. D 895

Decided: April 16, 1958

In attendance at Investigation conducted by the staff of
the State Water Rights Board on August 30, 1957:

W. E. Wilson	Applicant
L. K. Jordan	Representing Protestant San Juan Suburban Water District
Glen E. Sindel U. S. District Forest Ranger	Representing U. S. Tahoe National Forest
S. L. Andrews Associate Hydraulic Engineer	Representing State Water Rights Board

DECISION

Substance of the Application

Application 16618 is for a permit to appropriate 40 cubic feet per second, year-round, for mining and domestic purposes. The source is Grouse Creek, tributary to North Fork of Middle Fork American River. Water is to be diverted at a point within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 35, T15N, R12E, MDB&M, at an existing masonry arch-gravity

type dam (USGS Greek Store Quadrangle Sheet, 7.5' series, indicates the old dam is within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 35). The dam is described as 40 feet long on top and 20 feet high. From the dam the water will be conveyed through about four miles of earth ditch to the place of use. The water is to be used for hydraulic mining at the Pacific Slab, Bob Lewis, Ohio and New York mining properties within Sections 27, 33 and 34, T15N, R12E, MDB&M. According to the applicant the water will be applied by means of a hydraulic giant and returned, unpolluted, to the North Fork of Middle Fork American River about 30 miles above Folsom Dam. Domestic use includes the requirements for one cabin and 6 persons.

Protest

San Juan Suburban Water District filed a written protest upon the grounds that diversions under the application will constitute an infringement upon existing rights of protestant, that such diversion will decrease the low flow of water of American River which is already less than protestant's diversion rights, and will injure orchards and other lands of the protestant. Protestant claims a right based upon use since 1854, first for mining and subsequently for the irrigation of 12,000 acres of orchard and other crops within the boundaries of the San Juan Suburban Water District. The protestant also claims a right under Permit 4009 (Application 5830) and a right to the use of 33,000 acre-feet of water from the American River under and by virtue of a certain contract entered into between North Fork Ditch Company, predecessor of the San Juan Suburban Water District, and United States of America for water stored behind Folsom Dam. The protestant alleges that it serves an area of some 27,000 acres

(presumably gross acreage) of land in Sacramento and Placer Counties, having a gross population of some 18,000 persons, that the district comprises the communities of Fair Oaks, Citrus Heights, Orangevale, and surrounding territories including numerous subdivisions, and that the application, if granted, will decrease the low flow of the American River and will constitute an infringement of the district's existing rights. The service area of the San Juan Suburban Water District lies within T9N, R6E; T9N, R7E; T10N, R6E; T10N, R7E; T10N, R8E; and T11N, R7E; all within MDB&M.

Answer

In answer to the protest the applicant claims that his heaviest use of water will be in the winter and early spring when the streams are "at flood," that his point of diversion is 35 miles more or less above the diversion of the protestant and that the water will be returned to the stream within 5 miles of his point of diversion and some 30 miles above the point of diversion of the protestant.

Field Investigation

The applicant and the protestant, with the approval of the State Water Rights Board, stipulated to the proceedings in lieu of hearing as provided for by Section 737 of the Board's rules, and a field investigation was conducted on August 30, 1957, by an engineer of the Board. The applicant was present, and the protestant was represented by Mr. L. K. Jordan, manager of the San Juan Suburban Water District. The United States Tahoe National Forest, an interested party, was represented by the district forest ranger.

Records Relied Upon

Applications 5830 and 16618 and all relevant information on file therewith with particular reference to "Report of Field Investigation of August 30, 1957, on Application 16618"; United States Geological Survey Water Supply Papers, Part 11, "Pacific Slope Basins in California," covering the years 1941 through 1954; Bulletin No. 1, State Water Resources Board, "Water Resources of California," 1951; and United States Geological Survey Quadrangles, Michigan Bluff and Greek Store, 7.5 minute series, dated 1952.

Source

According to the report of field investigation of Application 16618, Grouse Creek originates in Placer County near the northeast corner of Section 6, T14N, R13E, MDB&M, at an elevation of about 5,600 feet. The creek flows in a westerly direction a distance of about 1.25 miles to its confluence with Frazier Creek, continues in a northwesterly direction a distance of about 2 miles and then turns in a southwesterly direction for a distance of about 2.5 miles to its confluence with North Fork of Middle Fork American River. The aforementioned quadrangle maps indicate that the mining claims within the stated place of use are on a ridge extending northeasterly to southwesterly from the SW $\frac{1}{4}$ of Section 27, through the NW $\frac{1}{4}$ of Section 34 into the S $\frac{1}{2}$ of NE $\frac{1}{4}$ and N $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 33; that all water used along the southeasterly slope of the ridge and not consumed or evaporated will return to Spring Canyon which is tributary to Grouse Creek within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 4, T14N, R12E, MDB&M; and that all water used along the northwesterly slopes of the ridge and not consumed or evaporated will return to the North Fork of Middle Fork.

American River within Sections 27, 28 and 32, T15N, R12E, above the mouth of Grouse Creek.

Protestant's Project

Permit 4009 (Application 5830) authorizes San Juan Suburban Water District to divert 35 cubic feet per second from North Fork American River from about April 1 to about November 1 for irrigation purposes and for domestic purposes throughout the year as required. Prior to the construction of Folsom Dam diversion was by gravity at a point within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 23, T12N, R8E, MDB&M, but the reservoir flooded the upper portion of the ditch so diversion now, under contract with United States Government, is at Folsom Dam within Section 24, T10N, R8E, MDB&M.

The channel distance downstream from the applicant's proposed point of diversion to the protestant's point of diversion under Permit 4009 scales roughly 32 miles.

Water Supply

The North Fork and the Middle Fork of American River join about 3.8 miles upstream from the protestant's original point of diversion. The United States Geological Survey maintains gaging stations, "North Fork American River at North Fork Dam" and "Middle Fork American River near Auburn," at points 2.0 and 1.9 miles respectively above the junction of the two forks, and the drainage areas above the two stations are given as 343 square miles and 619 square miles, respectively. The sum of the flows passing those stations which have a total catchment area of 962 square miles,

appears to represent approximately the flow reaching the original intake of the protestant. Monthly mean flows calculated in that manner from data published in water supply papers from water years 1942-43 to 1953-54 have been as follows:

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

Runoff Season	Station	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.
1942-43	NF	58.1	500	986	2708	1526	3042	1984	1201	590	160	71.5	54.1
	MF	98.6	1076	1851	4205	2539	5375	4066	2687	1572	446	152	93.7
	Total	156.7	1576	2837	6913	4065	8417	6050	3888	2162	606	223.5	147.8
1943-44	NF	53.7	63.9	89.4	198	523	976	908	1603	583	111	54.3	23.2
	MF	96.1	121	155	292	579	1272	1589	3290	1321	265	86.7	58.5
	Total	149.8	184.9	244.4	490	1102	2148	2497	4893	1904	376	141.0	81.7
1944-45	NF	38.4	389	491	345	2403	943	1436	1714	706	138	58.1	37.9
	MF	59.1	756	828	357	3851	1488	3025	3771	1767	379	104	70.9
	Total	97.5	1145	1319	702	6254	2431	4461	3885	2473	517	162.1	108.8
1945-46	NF	115	476	2099	1083	564	1206	1893	1740	546	119	55.4	48.1
	MF	251	848	3071	1723	875	2137	3710	3668	1321	287	97.2	80.5
	Total	366	1324	5170	2806	1439	3343	5603	5408	1867	406	152.6	128.6
1946-47	NF	53.1	327	320	164	822	1165	1028	678	272	62.8	33.2	27.2
	MF	103	634	593	295	1306	1965	2029	1595	605	120	58.3	43.5
	Total	156.1	961	913	459	2128	3130	3057	2273	877	182.8	91.5	70.7
1947-48	NF	131	136	89.9	715	269	569	2370	2116	1254	216	62.0	37.8
	MF	296	239	154	1194	451	801	3667	4214	2861	522	122	71.5
	Total	427	375	243.9	1909	720	1370	6037	6330	4115	738	184	109.3
1948-49	NF	38.6	89.1	184	152	344	1314	1967	1699	445	76.0	42.5	34.0
	MF	70.2	211	255	227	417	1432	3733	3734	1056	186	81.0	56.0
	Total	108.8	300.1	439	379	761	2746	5700	5433	1501	262	123.5	90.0
1949-50	NF	32.0	77.7	84.0	1165	1562	1247	2150	1935	863	160	48.5	34.7
	MF	55.2	130	126	1811	2177	2232	4277	4096	2125	499	103	71.2
	Total	87.2	207.7	210	2976	3739	3479	6427	6031	2988	659	151.5	105.9
1950-51	NF	139	3307	3709	2156	1717	1498	1484	1402	381	119	62.9	52.4
	MF	285	6013	5863	3459	2560	2509	2813	2952	951	290	112	76.7
	Total	424	9320	9572	5615	4277	4007	4297	4353	1332	409	174.9	129.1

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

(Continued)

Runoff Season	Station	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.
1951-52	NF	88.2	385	1406	1942	2541	1929	3238	3688	2112	678	131	66.3
	MF	180	578	1766	2418	3406	2721	6103	7746	4658	1615	308	141
	Total	268.2	963	3172	4360	5947	4650	9341	11,434	6770	2293	439	207.3
1952-53	NF	55.5	84.6	429	2123	615	883	1832	1763	1682	443	102	67.5
	MF	101	146	626	2884	1046	1415	3401	3260	3160	1059	195	117
	Total	156.5	230.6	1055	5007	1661	2298	5233	5023	4742	1502	297	184.5
1953-54	NF	67.8	172	189	529	1032	1816	2077	1149	295	85.6	50.5	41.9
	MF	112	268	297	666	1359	2909	3738	2286	713	213	90.0	66.1
	Total	179.8	440	486	1195	2391	4725	5815	3435	1008	298.6	140.5	107.0

The South Fork American River enters Folsom Reservoir below the protestant's original point of diversion and although the flow of that stream was not formerly available for diversion by the protestant, it currently contributes to the supply from which the protestant obtains its water.

According to the aforementioned report of field investigation the flow of Grouse Creek at the applicant's point of diversion on August 30, 1957, was about 1.5 cubic feet per second. The records of USGS recorder station, "Middle Fork American River near Auburn," indicates that mean daily flow at that station on August 30 and 31, 1957, was 90 cubic feet per second.

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 will be returned to Grouse Creek or North Fork of Middle Fork American River above its junction with Grouse Creek, it is evident that neither the protestant nor any downstream users would be materially affected by the appropriation that the applicant seeks. Such losses as might result from the applicant's mining project would be primarily limited to the additional evaporation losses with the project in operation over those losses that would occur in a state of nature. It may be assumed that such losses would be relatively small in any event, and that they would be least during periods of water scarcity. In fact, some accretion to the flow downstream might conceivably occur because of the time and nature of use.

The rights claimed by San Juan Suburban Water District to divert on a continuous flow basis from North Fork American River amount to 95 cubic feet per second, i.e., 60 cubic feet per second under the ancient appropriation and 35 cubic feet per second under Permit 4009. The tabulation of monthly mean flows (on pages 6 and 7 supra) indicates that the flows at the San Juan Suburban District's old intake have exceeded 95 cubic feet per second within the 12-year period considered in all but 5 months, 1 month of August, 3 months of September, and 1 month of October.

The watershed area above gaging station "Middle Fork American River near Auburn" is about 619 square miles and that above the proposed point of diversion is about 3.5 square miles, or about 0.56% of the entire watershed. USGS records show that mean daily flow at the gaging station on the date of the field investigation was 90 cubic feet per second and the report of field investigation indicates the estimated flow at the point of diversion was about 1.5 cubic feet per second or 1.67% of the recorded flow. The report of field investigation indicates that minimum mining use will require 2.5 cubic feet per second. The above data indicates that when there is sufficient water in Grouse Creek for mining operations, flow in Middle Fork American River near Auburn would approximate 150 cubic feet per second, or more than the full amount of the protestant's claimed rights.

According to the report of field investigation it is understood that the California Debris Commission has issued to the applicant a permit to conduct the proposed mining operations. Presumably the so-called RUCK-A-CHUCKY dam, located on the Middle Fork American River near the southeast corner of Section 24, T13N, R9E, MDB&M, will

retain the silt and debris originating upstream therefrom.

Summary and Conclusion

The information indicates, and the Board finds, that there is unappropriated water in the source designated in Application 16618 available to supply applicant, which water may be appropriated to a substantial extent in the manner proposed in the application without substantial injury to any other lawful user of water, that the intended uses are beneficial, and that said application should be approved subject to the usual terms and conditions.

Order

Application 16618 for a permit to appropriate unappropriated water having been filed with the former Division of Water Resources, a protest having been filed, jurisdiction of the administration of water rights including the subject application having been subsequently transferred to the State Water Rights Board and investigation having been made by the Board and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 16618 be, and the same is, hereby approved, and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions, to wit:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 40 cubic feet per second for mining and domestic purposes, which amount may be diverted from January 1 to December 31 of each year, provided however that use of water for domestic purposes shall be

limited to those uses incidental to mining purposes.

2. The maximum amount herein stated may be reduced in the license if investigation so warrants.

3. Actual construction work shall begin on or before September 1, 1958, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1960.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1961.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Fresno, California, on this 16th day of April, 1958.

/s/ Henry Holsinger

Henry Holsinger, Chairman

/s/ W. P. Rowe

W. P. Rowe, Member

/s/ Ralph J. McGill

Ralph J. McGill, Member