

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20253
of National Youth Foundation to
Appropriate from Indian Creek,
Spanish Creek, and East Branch
North Fork Feather River in
Plumas County

Decision D 1140

ADOPTED JUL 15 1963

DECISION DENYING APPLICATION

The National Youth Foundation having filed Application 20253 to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Rights Board in Sacramento, California, on August 8, 1962, before Kent Silverthorne, Chairman, and William A. Alexander and Ralph J. McGill, Members; the applicant and protestants having been duly notified of said hearing; applicant and certain of protestants having appeared; all evidence received at said hearing having been duly considered; the Board finds as follows:

1. Application 20253 is for a permit to appropriate 1,850 cubic feet per second (cfs) by direct diversion, year-round, and 17,120 acre-feet per annum by storage from November 1 of each year to July 1 of the succeeding year for power and recreational purposes from Indian Creek, Spanish Creek, and East Branch North Fork Feather River in Plumas County.

At the time of the hearing, the applicant moved for a continuance and requested an extension of time in which to

make additional studies in regard to the developments on Spanish Creek and East Branch North Fork Feather River proposed by Application 20253, and no evidence was presented in regard to those portions of its project. Evidence was presented in support of the Indian Creek Unit of applicant's project, and this phase was submitted to the Board for decision. The motion for continuance of hearing the remainder of the application was granted subject to the filing by applicant on or before February 8, 1963, of a feasibility report. Applicant failed to file said report and therefore the application pertaining to all but the Indian Creek Unit will be denied for failure to present any evidence in support thereof, as well as for the reasons hereinafter set forth pertaining to the Indian Creek development.

2. The applicant proposes to construct a diversion dam on Indian Creek near the outlet of Indian Valley and divert through a power tunnel 27,700 feet in length to a 900-foot penstock which will convey the water to a powerplant to be located near the junction of Indian Creek and Spanish Creek. There will also be 520 acre-feet stored behind the diversion dam on Indian Creek to provide a forebay to the powerplant and for recreational purposes. The point of diversion will be located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 34, T26N, R9E, MDB&M. Transmission lines will take the power developed at the powerhouse to a plant which will be constructed for the reduction of copper-, iron-, silver-, and gold-bearing ores to be obtained from local deposits.

3. The applicant's project on Indian Creek described in Application 20253 is substantially the same as that covered by Application 13694, also filed by the National Youth Foundation, which was denied by the Board's Decision D 984 adopted November 22, 1960. The Board concluded in that decision that the applicant had no present market for the power to be developed by the proposed project nor contracts or agreements to deliver power in the future and that the use of power depended on indefinite future industrial development. It further found that the applicant had failed to present evidence demonstrating that its project could be operated so as to protect downstream rights, provide necessary flows for the maintenance of fishlife and be feasible, that it had not shown that it had reasonable assurance of obtaining necessary finances to construct the project, that it had not obtained access to property necessary for the project or had been able to show that it could obtain access within a reasonable period of time and that it had not shown that it could proceed with due diligence to complete construction of the project and beneficial use of the water. The applicant is in no better position to proceed now under Application 20253 than it was on November 22, 1960, under Application 13694, and the foregoing impediments to approval of the original project persist.

4. The Federal Power Commission has denied an application by the applicant for licensing of its Project 2126, the designation given by the Commission to the project contemplated on Indian Creek by the present application and for which the applicant had previously obtained a preliminary permit.

5. The evidence presented by the applicant at the hearing, apart from the testimony of Mr. Wilson, a lay witness, consisted of the testimony of and studies by Glenn F. Sudman, a consulting engineer, whose professional services to the applicant were limited to preparing for the Federal Power Commission hearings and the hearing before the Board (RT 121). He testified that the hydro-electric development contemplated by the applicant on Indian Creek would be a "run-of-the-stream" plant and that the power produced would be on an irregular schedule with no dependable or marketable capacity. The power produced could only be used at a "hypothetical industrial facility" and in critical water years such a plant could operate only during one-half of the year. The applicant presented no evidence as to the economic feasibility of its project, the availability of minerals, plans for the necessary relocation of Highway 89, and proof of access to necessary properties involved in the project, nor did it have any definite plans to supply power to the ore milling operation, which requires a firm supply.

Upon the basis of the record, the Board finds that approval of Application 20253 would not best conserve the public interest and that the application should be denied.

ORDER

IT IS HEREBY ORDERED that Application 20253 be, and the same is hereby, denied.

Adopted as the decision and order of the State Water
Rights Board at a meeting duly called and held at
California, on the day of , 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member