

BEFORE THE DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

Division file

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IN THE MATTER OF APPLICATION NUMBER 2878 by W. W. BROWN
FOR A PERMIT TO APPROPRIATE UNAPPROPRIATED WATER FROM HAT
CREEK, IN SHASTA COUNTY, FOR AGRICULTURAL PURPOSES

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DECISION NO. 2878 D 41
Decided February 19, , 1925

APPEARANCES AT HEARING HELD OCTOBER 15, 1924:

For Applicant, W.W.Brown - W. D. Tillotson, Attorney at Law,
Redding, California
For Protestant, Mt. Shasta
Power Corporation - P. M. Downing, Vice President, Pacific
Gas & Electric Company, San Francisco,
California.
T. J. Straub, Attorney at Law,
San Francisco, California.
Examiner: Edward Hyatt, Jr., Chief of Division of
Water Rights.
In Attendance - Gordon Zander, Hydraulic Engineer,
Division of Water Rights.

NO APPEARANCE FOR:

Otto Glessner, Protestant
David Doyel, Protestant
Pitt River Power Company,
Protestant

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O P I N I O N

On June 12, 1922, W. W. Brown filed Application Number 2878 for a
permit to appropriate unappropriated water from Hat Creek, in Shasta County,

a tributary of Pitt River, the waters sought to be appropriated to be conveyed through an existing ditch known as the "Ellen Brown - W. W. Brown Ditch" and utilized for the irrigation of 17 acres of new land owned by the applicant and lying under said ditch.

Maps prepared by the Division of Water Rights in connection with its investigation as referee in the case of David Doyel, et al, vs. Harvie Massie, et al, show that the existing ditch extends along the south and west boundaries of the land which it is proposed to irrigate, and measurements made during the same investigation show that the existing ditch is of ample capacity to carry the additional amount of water sought to be appropriated.

The application was duly advertised, and protests against the same were filed by Otto Giessner, David Doyel, the Mt. Shasta Power Corporation, and the Pitt River Power Company.

Protestants Otto Giessner and David Doyel are riparian owners whose lands are situated below the proposed point of diversion of the application, and both have been using waters of Hat Creek for many years. For more detailed information relative to the use of water by these protestants, reference is made to the report of the Division of Water Rights to the Superior Court of Shasta County covering its investigation, as referee, in the case of David Doyel, et al, vs. Harvie Massie, et al.

Protestant Mt. Shasta Power Corporation owns riparian lands on Hat Creek below its confluence with Rising River; also riparian lands on Pitt River below the point where Hat Creek enters. This protestant has constructed, and is operating, two power plants on Hat Creek situated below the proposed point of diversion of the application, for the location of which see Protestant's Exhibit No. I, submitted at the hearing held October 15, 1924.

Protestant proposes to construct various power plants on its riparian lands on Pitt River below the point where Hat Creek enters.

Protestant Pitt River Power Company owns riparian lands on Pitt River below the point where Hat Creek enters, upon which it proposes to use waters of Pitt River for the purpose of developing power.

The application was set for public hearing in the Supervisors' Room in the County Hall of Records at Redding, California, at 2:00 P. M. on October 15, 1924. Applicant and protestants were all duly notified of the hearing.

The hearing was held at the time and place specified in the notices, Chief of Division Edward Hyatt, Jr., presiding. Hydraulic Engineer, Gordon Zander attended as a representative of the Division of Water Rights, W. D. Tillotson, attorney at law, appeared for the applicant, and P. M. Downing, Vice President of the Pacific Gas & Electric Company and T. J. Straub, attorney at law, appeared for the protestant Mt. Shasta Power Corporation. No appearances were made at the hearing on behalf of protestants Otto Giessner, David Doyel, or the Pitt River Power Company.

At the hearing a detailed description of the proposed project was given by attorney Tillotson, with the assistance of the applicant, who was called as a witness. It was agreed by representatives of both applicant and protestant that the Division of Water Rights should take judicial notice of the referee's report to the court in the case of David Doyel et al, vs. Harvie Massie, et al, and consider as evidence all data contained therein pertaining to conditions on Hat Creek. The applicant testified that the lands proposed to be irrigated are similar in character and condition to adjacent irrigated lands which were included in the

Superior Court decree in the case of David Doyel, et al, vs. Harvie Massie, et al.

P. M. Downing, representing the Mt. Shasta Power Corporation opened that protestant's case with a statement that they did not propose to urge their protest very strongly, but desired merely to explain the existing conditions on Hat Creek pertaining to their interests. He explained that the amount of water applied for under the application was so small that they did not deem it necessary to press the protest, but desired it understood that their attitude in this case should not be considered as establishing a precedent that they would follow in similar cases which might arise in the future.

The protestant submitted as an exhibit a document consisting of a map showing the relative location of its power plants on Hat Creek, and of a record of the daily discharge of Hat Creek at a gaging station maintained at a point about 1 1/4 miles above its confluence with Rising River, such record extending from March 16, 1921 to July 31, 1924. Mr. Downing testified that all water passing this station, together with that entering from Rising River, is utilized at the protestant's power plants at all times, except during periods of severe storms.

Relative to the protest of the Mt. Shasta Power Corporation it is found that while the diversion by the applicant will probably slightly reduce the amount of water available for the protestant's power plants, in this particular case the amount of water applied for is so small that the injury to said protestant will probably be negligible.

Relative to the protest of the Pitt River Power Company, the riparian lands of that protestant are so remote from the proposed point of

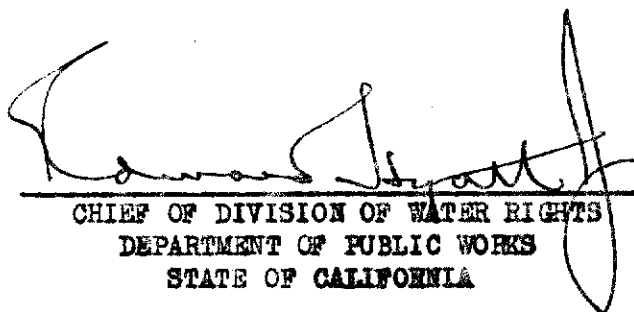
Applicant has applied for one cubic foot per second continuous flow for use for the irrigation of 17 acres of land, which is an amount of water far in excess of that ordinarily approved by the Division of Water Rights, for the irrigation of such an area. It must be recognized, however, that conditions in Hat Creek Valley are unusual. The soil is very sandy and porous lava beds underly the soil; consequently, in irrigating a large percentage of the water used is lost by deep percolation. Many out-croppings of the lava formation occur, making it impractical to level the lands to the same extent that would otherwise be possible. Furthermore, the valley is an isolated territory cut off from markets, all produce raised being consumed within the valley, and extensive expenditures for the improvement of the irrigation systems or for the better preparation of the lands to receive water, are not economically justified.

During the summer of 1921, a careful study of the duty of water on the 2,450 acres of land irrigated from Hat Creek above its confluence with Rising River was made by the Division of Water Rights. This investigation showed an average use of 5.9 acre feet per acre during a 45 day period of observation, or an average gross duty of one second foot to approximately 15 acres of land. Allowing for some instances in which more water was diverted onto the lands than was actually beneficially used, it was estimated that the amount of water required for the irrigation of lands in Hat Creek Valley, under existing conditions and prevailing practice, was one second foot to 20 acres of irrigated land. This amount of water was recommended by the Division of Water Rights to the Superior Court as a basis for the settlement of the water rights in the case of David Doyel, et al, vs. Harvie Massie, et al, and such recommendation was followed by the court in entering the decree.

the same having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application Number 2878 be approved, and that a permit be granted to the applicant for a maximum amount of water of 0.85 cubic foot per second, said permit to be subject to a special clause to the effect that the rights therein granted are subject to all of the rights established by the decree entered by the Superior Court of the State of California, in and for the County of Shasta, on May 14, 1924, in the case of David Doyel, et al, vs. Harvie Massie, et al, and also subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this 19th day of February, 1925.



CHIEF OF DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

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