

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

Decision

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IN THE MATTER OF REVOCATION OF PERMIT NUMBER 1700 GRANTED
UNDER APPLICATION NUMBER 3312 OF MODESTO IRRIGATION DIS-
TRICT TO APPROPRIATE WATER FROM TUOLUMNE RIVER IN STANIS-
LAUS COUNTY FOR POWER PURPOSES

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DECISION NO. 3312 - P. 1700 - D 82

Decided November 12, 1925.

APPEARANCES AT HEARING HELD October 19, 1925

For the Permittee: L. J. Maddux, Attorney
Messrs. J. C. Garrison, Norman S. West,
E. H. Sturgill and Frank Kiernan, Directors.
R. D. O'Connell, Electrical Engineer.

Examiner: Edward Hyatt, Jr., Chief of the Division of Water Rights.
R. V. Meikle, Engineer for Turlock Irrigation District
also present but entered no formal appearance.

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O P I N I O N

On March 21, 1923, Modesto Irrigation District filed its applica-
tion Number 3312 to appropriate 1500 second feet of the flow of Tuolumne
River as regulated by storage in Don Pedro Reservoir, the application specify-
ing the storage therein of 150,000 acre feet for power purposes. This water
would be diverted from the main canal some 340 feet below La Grange Dam and
after transit through applicant's La Grange power plant returned to Tuolumne
River.

On April 26, 1924, the Division of Water Rights approved the appli-
cation and issued permit Number 1700 which permit, in accordance with appli-
cants indicated intentions, allowed until October 1st, 1924, October 1st, 1927
and November 1st, 1927 for beginning and completion of construction and appli-
cation of the water to beneficial use respectively. It appearing to the

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Division of Water Rights that applicant was not complying with the terms of the permit in this regard a hearing was set at Room 707 Forum Building on October 19, 1925, at 10:00 o'clock a.m. for the purpose of allowing permittee to show cause, if any existed, wherefore this permit should not be revoked. Of this hearing permittee was duly advised and appearances were made thereat on behalf of permittee.

It appears the purpose of the appropriation was to develop additional power with the same water which had previously passed through the Don Pedro power plant above. In 1924, however, when additional power was required the permittee constructed a steam stand-by plant in Modesto instead of proceeding with the development proposed under this application and permit. The president of the Board of Directors of the permittee testified at the time of the hearing that this steam plant would for the present, and possibly for some time to come, serve in place of the proposed development under this permit. The electrical engineer of permittee testified it would be "pretty hard to say" when the District might be ready to proceed with this work.

It therefore appears that now two and a half years after the application was filed and one and a half years after permit was issued the permittee has no definite plans when it may proceed with this development and that there is even uncertainty as to whether permittee will ever proceed. Should the decision be made to proceed bonds must be voted and in all probability more than one year would elapse before a beginning could be made upon the actual construction.

We are convinced that there has not been shown such diligence as is customary in similar projects and as is required under the doctrine of appropriation and feel that permittee has failed to show such good cause

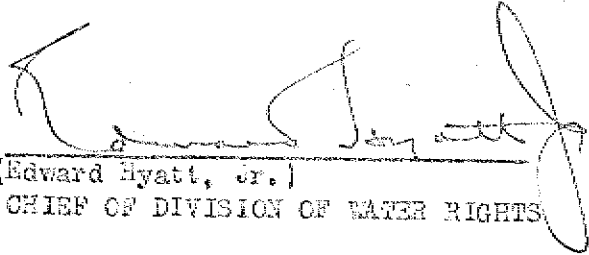
as would justify a further extension of time within which to begin construction. If no subsequent appropriator intervenes the permittee may proceed at its pleasure under a new application and should a subsequent appropriator intervene we feel the way should be open for such appropriator to proceed without the doubt and uncertainty which is attached to the development proposed under this permit.

O R D E R

Application Number 3312 having been filed and approved, permit Number 1700 having been granted the applicant as above stated, permittee having failed to comply with the terms of the permit, 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 permit Number 1700 be revoked and cancelled upon the records of the Division of Water Rights.

Dated at Sacramento this 12th day of November, 1925.


(Edward Hyatt, Jr.)
CHIEF OF DIVISION OF WATER RIGHTS

JCF:MP

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
SACRAMENTODIVISION OF WATER RIGHTS
707 FORUM BUILDING

A. 3405

*Brief Statement of Water Rights of the
Pacific Gas and Electric Co.**From Exhibit A.
Applic. 3405.*

*First right to the first 1,000 c.f.s. of the
natural flow of American River for
diversion at Folsom Dam located in the
NW $\frac{1}{4}$ of Sec. 25, T. 10 N. R. 7 E., M. D. B. M.
to use for elec. power generation at Folsom
Plant in NE $\frac{1}{4}$ of Sec. 35, T. 10 N. R. 7 E.
M. D. B. M. and return to stream below the
plant.*

*This right is based on legal appropriations
made by predecessors in estate in 1872, and
on continuous beneficial use of all the water
flowing in American River at Folsom Dam
up to 1000 c.f.s. since July 1895 for the
generation of electric power at Folsom Plant.*