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

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In the Matter of Application 6634 of William B. Parker  
and Application 6680 of H. V. Madden to Appropriate  
from Emigrant Ravine in El Dorado County for  
Irrigation Purposes

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DECISION A. 6634, 6680 D 284

Decided *April 4, 1931*

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APPEARANCES AT HEARING HELD IN SACRAMENTO, MARCH 12, 1931

For Applicants

William B. Parker  
H. V. Madden

In propria persona  
" " "

For Protestants

L. T. Butts  
William B. Parker  
Frank Bisagno  
  
F. J. Raffetto

In propria persona  
" " "  
(In propria persona  
(Pete Bisagno, substitute  
Henry S. Lyon

**EXAMINER:** Everett N. Bryan, Hydraulic Engineer, Division of Water Resources,  
Department of Public Works, State of California

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O P I N I O N

GENERAL FEATURES OF THE APPLICATIONS

Application 6634 was filed on April 14, 1930, by William B. Parker. It proposes an appropriation of 0.27 cubic foot per second from Emigrant Ravine, tributary to Hangtown Creek and South Fork of American River to be diverted from about April 1st to about October 15th for irrigation purposes on 22 acres of land within SE $\frac{1}{4}$  SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 32, T 11 N, R 11 E, M.D.B. & M. and Lots 3 and 4 of Section 4, T 10 N, R 11 E, M.D.B.&M.

The point of diversion and alternate point of diversion are both located within the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 4, T 10 N, R 11 E, M.D.B. & M. The application was protested by L. T. Butts.

Application 6680 was filed on May 17, 1930, by H. V. Madden. It proposes an appropriation of 0.25 cubic foot per second by direct diversion and 2.00 acre feet per annum by storage from Emigrant Ravine, tributary to Hangtown Creek and South Fork of American River. The season of direct diversion is from about May 1st to about November 1st and water is to be collected to storage throughout the entire year. The point of diversion is within Lot 2 Section 4, T 10 N, R 11 E, M.D.B. & M. The water is to be used for irrigation purposes on 35 acres within SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 32, T 11 N, R 11 E, Lot 1 and 2 and NW $\frac{1}{4}$  SE $\frac{1}{4}$  and NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 4, T 10 N, R 11 E, M.D.B. & M. The application was protested by L. T. Butts, William B. Parker, Frank Bisagno and F. J. Raffetto.

#### PROTESTS

L. T. Butts alleges in effect that there is not enough water in Emigrant Ravine during the irrigation season for his requirements as set forth in Application 6549, Permit 3477. Under Application 6549, Permit 3477 Mr. Butts was granted the privilege of appropriating 0.12 c.f.s. from Emigrant Ravine from about May 15th to about November 1st of each season for irrigation and domestic purposes on 10 acres of land.

William B. Parker objects to the approval of Application 6680 on the grounds that it will deprive him of the water to which he has initiated a right under prior Application 6634.

Frank Bisagno claims a right to  $1\frac{1}{2}$  miners inches of water from Emigrant Ravine which right was initiated prior to the effective date of the Water Commission Act. He alleges in effect that if Application 6680 is approved it will not only deprive him of the natural water to which he is entitled but that applicant's dam will cut off the ditch through which he obtains water by purchase from the El Dorado Irrigation District.

F. J. Raffetto objects to the approval of Application 6680 on the grounds that all of the water in Emigrant Ravine is used on his premises during the irrigation season.

HEARING SET IN ACCORDANCE WITH SECTION 1a  
OF THE WATER COMMISSION ACT

Applications 6634 and 6680 were completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested were set for a public hearing in accordance with Section 1a of the Water Commission Act on March 12, 1931, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing, applicants and protestants were duly notified.

DISCUSSION

Source of Appropriation

Emigrant Ravine, the source of the proposed appropriation is a small tributary of Hangtown Creek which creek flows through the town of Placerville to its junction with Webber Creek which in turn is tributary to the South Fork of the American River.

The drainage area of the watershed tributary to Emigrant Ravine is very small and during the summer months the stream bed is practically dry with the exception of some water which enters it from the Ohio mine at a point above the proposed dam site of H. V. Madden and some return

water from a foreign supply brought into the watershed through the El Dorado Canal.

Use of Water by Frank Bisagno

Frank Bisagno claims a right to the use of 1.5 miners inches from the Ohio mine and 6.0 miners inches of water imported into the Emigrant Ravine watershed through the El Dorado Canal. Both these quantities of water enter Emigrant Ravine above the proposed dam site of H. V. Madden and are diverted by Mr. Bisagno at a point on the property of H. V. Madden. It appears also that a certain amount of water returns to the stream from 20.0 inches of water purchased from the El Dorado Irrigation District by H. V. Madden and this water is diverted by Frank Bisagno at a point on the lands of William B. Parker, under a "dollar a year" agreement with Mr. Parker whose property adjoins that of H. V. Madden.

Use of Water by William B. Parker

Apparently little or no use of water has been made by Mr. Parker but he has entered into an agreement with Frank Bisagno allowing him to take the water at a point on his property with the understanding that such agreement will terminate as soon as he should require the supply for his own use. Mr. Parker admitted at the hearing that this water was return water from the foreign supply used by Mr. Madden and that Mr. Bisagno had been using the entire amount except a small "trickle" which passed down the stream to other users. There was no evidence presented at the hearing which would indicate that Mr. Parker had a right to the use of this foreign water and the agreement appears to be in effect nothing more than a privilege granted to Mr. Bisagno for right of access to the point of diversion.

Use of Water by L. T. Butts

Mr. Butts under Application 6549, Permit 3477 has acquired the privilege of appropriating 0.12 cubic foot per second from Emigrant Ravine from about May 15th to about November 1st for irrigation and domestic purposes. He has not commenced construction work pending the outcome of these proceedings as he is concerned lest the applications be approved and his project be endangered thereby. He is apparently dependent entirely upon the amount of water returned to the stream bed after the use of foreign waters by H. V. Madden and Frank Bisagno. As the construction of Madden's dam will enable Mr. Madden to store and reuse a certain amount of water purchased by him from the El Dorado District without permit from this office it appears that the supply upon which Mr. Butts depends will not be reliable.

Use of Water by F. J. Raffetto.

F. J. Raffetto is the last user of water on the stream. He and his predecessors in interest have been using the waters of Emigrant Ravine since about 1858 under an old appropriative right, for the irrigation of about 12 acres of land. Testimony presented at the hearing indicated that during his irrigation season which extends from about April 15th to about November 1st all the available water in Emigrant Ravine at his point of diversion had been applied to beneficial use with the exception of occasional freshets. The ditches had been kept in good condition and continuous use of the water had been made.

CONCLUSION

From the testimony presented at the hearing it appears entirely clear that with the exception of occasional freshets there is no unappro-

priated water in Emigrant Ravine during the period from about April 1st to about November 1st of each season and therefore Application 6634 of William B. Parker should be denied. For the same reason the direct diversion feature of Application 6680 of H. V. Madden should also be denied.

During the winter and early spring months it appears that attimes there is considerable water which passes the diversion point of the lowest appropriator on the stream and it is our opinion that Application 6680 should be approved for an amount of 2.00 acre feet to be collected to storage from about November 1st to about April 1st of each season. The burden will be upon the applicant to allow such water as Mr. Bisagno and other appropriators may have acquired a right to divert, to pass by or through his dam during the irrigation season and also not to interfere with any easement or right of way which may have been acquired by Mr. Bisagno through his property. Mr. Madden states that the dam is to be located upon his property and that the project will be feasible even though the summer appropriation be denied.

O R D E R

Applications 6634 and 6680 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application 6634 be rejected and cancelled upon the records of the Division of Water Resources, and

IT IS FURTHER ORDERED that said Application 6680 be approved only for an amount of 2.00 acre feet per annum by storage to be collected from about November 1st to about April 1st of each season, and that a permit be

granted to the applicant subject to such of the usual terms and conditions as may be appropriate, and that the direct diversion feature and the collection of storage between April 1st and November 1st be denied.

WITNESS my hand and the seal of the Department of Public Works of the State of California this *4<sup>th</sup>* day of *April*, 1931.

EDWARD HYATT, State Engineer

BY *Harold Conkling*  
Deputy

