

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

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In the Matter of Application 6505 of Preston School of Industry  
to appropriate from Sutter Creek a Tributary  
of Mokelumne River via Dry Creek in Amador County  
for Power Purposes  
and in the Matter of Application 6506 of the Preston School of Industry  
to appropriate from the same source  
for Domestic and Irrigation Purposes

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DECISION A 6505, 6506 D- 311

Decided *April 4, 1932*

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APPEARANCE AT HEARING HELD at Sacramento, February 24, 1932

For Applicant

Preston School of Industry

O. H. Close

For Protestant

Staten Island Land Company

No appearance

EXAMINER: Everett N. Bryan, Hydraulic Engineer for Harold Conkling,  
Deputy in Charge of Water Rights, Division of Water Resources,  
Department of Public Works, State of California.

O P I N I O N

GENERAL FEATURES OF THE APPLICATION

Application 6505 proposes an appropriation of ten cubic feet per second from Sutter Creek by direct diversion throughout the entire year and 2500 acre feet per annum from the same source to be collected to storage in the Henderson reservoir (capacity 500 acre feet) and in the Sutter Creek Reservoir (capacity 1700 acre feet) from about January 1 to about May 1 of each season. Direct diversion and diversion to storage in the Henderson

Reservoir and rediversion of stored water from Sutter Creek Reservoir to be made at a point within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 1, T. 6 N., R. 10 E., M. D. B. & M. Diversion to storage in Sutter Creek Reservoir is to be made at a point within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 4, T. 6 N., R. 11 E., M. D. B. & M. The maximum rate of diversion to storage from Sutter Creek to Henderson Reservoir will be 20 cubic feet per second. The water is to be used for the generation of electrical energy at a power house located within SW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 24, T. 6 N., R. 9 E., M.D.B. & M., after which it is to be returned to Mule Creek a tributary of Dry Creek at a point within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 23, T. 6 N., R. 9 E., M. D. B. & M.

Application 6506 proposes an appropriation of 8.3 cubic feet per second from Sutter Creek by direct diversion from about April 1 to about November 1 of each season and 2500 acre feet per annum from the same source to be collected to storage in the Henderson Reservoir (capacity 500 acre feet) and in the Sutter Creek Reservoir (capacity 1700 acre feet) from about January 1 to about May 1 of each season. Direct diversion and diversion to storage in the Henderson Reservoir and point of rediversion of stored water from Sutter Creek Reservoir are to be made at a point within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 1, T. 6 N., R. 10 E., M. D.B. & M. Diversion to storage in Sutter Creek Reservoir is to be made at a point within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 4, T. 6 N., R. 11 E., M.D.B. & M. The maximum rate of diversion to storage from Sutter Creek to Henderson Reservoir will be 20 cubic feet per second. The water is to be used for domestic and irrigation purposes on 967.67 acres of land within Sections 13, 14, 23, 24, 25 and 26, T. 6 N., R. 9 E., M.D.B. & M.

Both applications 6505 and 6506 were protested by Staten Island Land Company.

PROTEST

The Staten Island Land Company claims the ownership of Staten Island which is entirely surrounded by the North and South Forks of the Mokelumne River from which it obtains its water supply under rights based upon riparian ownership and use began prior to the effective date of the Water Commission Act. Protestant claims that approximately 20,000 to 30,000 acre feet of water is now being diverted at a maximum rate of 150 cubic feet per second for the irrigation of approximately 9,000 acres of land on Staten Island and such water as is necessary for domestic use for about 400 persons. It also claims that the land is benefited by large amounts of water which flow under and into its lands the exact amount being indeterminable. Protestant alleges in effect that the proposed appropriations would result in so reducing the flow of the Mokelumne River that it would become polluted with salt water from the ocean and render it insufficient in quantity to permit the use thereof for domestic and irrigation purposes to which protestant is entitled under prior vested rights.

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

Applications 6505 and 6506 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 February 15, 1932 at 10:00 o'clock A.M. in Room 401, Public Works Building, Sacramento, California. Of this hearing applicant and protestant were duly notified. No appearance was made at the hearing by either applicant or protestant but upon request of applicant the hearing was continued to February 24, 1932 at 3:00 o'clock P. M. at the same place.

### GENERAL DISCUSSION

No appearance was made at the hearing on behalf of the protestant, Staten Island Land Company, and no evidence was introduced in support of its contentions, presumably for the reason that this office has on file the evidence submitted at the hearing held September 11, 1925, et seq. in connection with application 1462 etc., which included Applications to appropriate from the Mokolume River and tributaries, and protestant had nothing new to offer.

The position of the Division of Water Resources was fully set forth in its Decision A1462 etc. D. 103 rendered April 17, 1926 to which reference is made. We shall not repeat here the considerations which prompted us to overrule the protest of Staten Island Land Company in the case of Application 4228 of the East Bay Municipal Utility District as set forth in that opinion. Suffice it to say that these same considerations prevail in the matter of the applications here under consideration and that in our judgment the objections of the Staten Island Land Company do not justify the denial of these applications. There has at no time in the past been any encroachment of salinity in the Delta channels during the period from about January 1 to about May 1 when applicant would fill its reservoirs under these applications and during the remaining portion of the year applicant has for many years been accustomed to take and use for beneficial irrigation, domestic and hydro-electric purposes all of the normal flow of the source named in these applications under color of right purchased in 1893. Superintendent C. H. Close of Preston School of Industry testified that Sutter Creek seldom except immediately following a storm, flowed into Mokolume River prior to January 1st and that the flow seldom continued after May 20th.

### CONCLUSION

The uses to which applicant proposes to put the water are beneficial and it appears that unappropriated water is available and that Applications

6505 and 6506 should be approved.

The combined capacity of the two reservoirs described in the applications is 2200 acre feet and under each application it is proposed to store 2500 acre feet therein, allowing 500 acre feet per annum of replenishment. Inasmuch as the water stored is common to both applications it being used for power purposes enroute to the place of use for domestic and irrigation purposes it is believed advisable to incorporate in the permits issued in approval of these applications special clauses to the effect that the total amount of water stored under both applications shall not exceed 2500 acre feet per annum.

ORDER

Applications 6505 and 6506 for permits to appropriate water having been filed with the Division of Water Resources as above stated, a protest 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 Applications 6505 and 6506 be approved and that permits be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject to a special term or condition to the effect that the amount of water stored under both permits shall not exceed a total amount of 2,500 acre feet per annum.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 4th day of April, 1932.

Edward Hyatt, State Engineer

By: Harold Conkling  
Deputy.

TES:MT  
April 1, 1932

