

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

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In the Matter of Revocation of Permits 2543, 2544, 2545 and 2546
Heretofore issued in Approval of Applications 2665, 2666,
2667 and 2678 of Humboldt Placer Mining Company to
Appropriate from Stuarts Fork of Trinity River
and Certain Tributaries Thereof in Trinity
County for Mining Purposes.

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DECISION A. 2665, 2666, 2667, 2678 D-327

Decided - *September 1, 1932*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, JUNE 7, 1930, and
CONTINUED TO AUGUST 11, 1930.

For Permittee

Humboldt Placer Mining Company

John Hancock

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

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O P I N I O N

GENERAL DISCUSSION

Applications 2665, 2666, 2667 and 2678 to appropriate for mining
purposes from Stuarts Fork, Owens Creek, Van Matre Creek and Slate Creek,
respectively, the last three streams being tributary to Stuarts Fork of the
Trinity River, were approved on June 22, 1926, by the issuance of Permits
2543, 2544, 2545 and 2546. The amount of water allowed under each permit
was as follows:

<u>Application</u>	<u>Permit</u>	<u>Source</u>	<u>Amount</u>	<u>Season</u>
2665	2543	Stuarts Fork	75 c.f.s.	Jan. 1 - Dec. 31
2666	2544	Owens Creek and Tributaries	25 c.f.s.	Jan. 1 - Dec. 31
2667	2545	Van Matre Creek	25 c.f.s.	Jan. 1 - Dec. 31
2678	2546	Slate Creek	25 c.f.s.	Jan. 1 - Dec. 31

Under the terms of the several permits actual construction work was to begin on or before October 1, 1926, to be completed on or before June 1, 1928, and the water applied to complete beneficial use on or before June 1, 1929. The estimated cost of the entire project was approximately \$263,000.

At the close of the year 1929 the progress reports submitted indicated that only about one-tenth of the original estimated cost had been expended on the project, and as it appeared that the amount expended and labor performed were not commensurate with the magnitude of the project, the matter was set for a public hearing in accordance with Section 20 of the Water Commission Act on May 6, 1930, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California; was adjourned, and reconvened at the same place and hour on August 11, 1930, for the purpose of affording permittee an opportunity to show cause why the several permits should not be revoked for failure to comply with the terms and conditions thereof. Of this hearing, permittee was duly notified.

The testimony presented at the hearing disclosed the following facts:

- (1) Total expenditure on project for years 1927 to 1929 inclusive was \$27,686.87.
- (2) The work done in connection with the project included surveying, clearing titles to land, cleaning out the old Buckeye ditch of timber and debris and the commencement of the driving of a tunnel.

- (3) No application had been filed with the Forest Service for right of way through its lands although the Company had been assured that such right of way would be forthcoming when proper application was made and the Company ready to commence actual construction work.
- (4) Efforts on the part of the Company to finance the project had met with little success.
- (5) Negotiations were being carried on with the Majestic Mines Company, a Maine Corporation with headquarters in Boston, which had agreed to raise sufficient funds to put the first unit in operation which would involve the use of water from Rush, Owens and Van Matre Creeks and if that proved feasible, would then raise additional funds to complete the project and use of water from Stuarts Fork itself.

Upon the showing made at the hearing the permittee was informed that action in the matter would be postponed for a period of 90 days at the expiration of which time if it could be shown that the Company was actually financed under a firm agreement and had actually commenced construction work, an extension would be granted at its request but it was recommended that instead of requesting an extension under the permits, a new application be filed with authorization to cancel the permits if and when the new application was approved.

On November 7, 1930, Application 6827 was filed by the Humboldt Flacer Mining Company to take the place of the several permits with the understanding that the permits on the older applications would be allowed to remain in force pending action on the new application. On the same date this office was advised that the project was fully financed and construction work would commence as soon as practicable.

On March 5, 1931, this office was advised that the Company was proceeding with the financing and had succeeded in raising \$500,000 and also that it was prepared to proceed with the first unit of the development.

On August 8, 1931, the Humboldt Placer Mining Company was advised that Application 6827 was ready for action and this office requested that the Company authorize the revocation of Permits 2543, 2544, 2545 and 2546 when permit is issued on Application 6827.

The Company however in view of the fact that the Department of Finance had filed Applications 5627 and 5628 to appropriate from the Trinity River which applications were of earlier priority than those of Humboldt Placer Mining Company objected and an informal conference was held in this office on August 31st at which representatives of the Humboldt Placer Mining Company, the Department of Finance and the Division of Water Resources were present.

As a result of the conference it was agreed that action upon the applications would be suspended for a period of one year, at the expiration of which time, unless reasonable progress had been made in the way of construction on the permits and the project was proceeding actively, the existing permits would be revoked and action would proceed on Application 6827, and that if construction work in the meantime had proceeded with reasonable showing of progress and was actively under way a reasonable extension of time would be allowed within which to complete construction under the existing permits and Application 6827 might be dismissed. This procedure was agreed upon without reference to arrangements which might be made with the Department of Finance in the way of waiver of priority under its applications to appropriate from Trinity River. This agreement was confirmed by the Humboldt Placer Mining Company.

On August 10, 1932, the Humboldt Placer Mining Company advised this office that owing to the unfavorable business conditions during the

past year it has not been possible to do any more actual construction work and requested a further extension of time to enable the company to complete negotiations then under way for the raising of funds for the completion of the construction work.

More than ten years after these applications were filed and more than six years after they were approved it appears that not only has the applicant made no substantial progress toward consummation of the appropriations covered thereby but that the project is not financed and further development must wait upon financing. We are of the opinion that progress commensurate with the size of the project has not been made and that diligence has been lacking. In view of the agreement of August 31, 1931, this office cannot consistently grant further extension and it is the opinion of this office that Permits 2543, 2544, 2545 and 2546 should be revoked.

O R D E R

Permits 2543, 2544, 2545 and 2546 having heretofore been issued in approval of Applications 2665, 2666, 2667 and 2678; it appearing to the Division of Water Resources that permittee had failed to comply with the terms and conditions of the permits; a hearing having been held at which permittee was afforded an opportunity to appear and show cause why the permits should not be revoked for failure to comply with the terms and conditions thereof, and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Permits 2543, 2544, 2545 and 2546 be revoked and cancelled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this first day of September, 1932.

EDWARD HYATT, State Engineer

By

Harold Conkling
Deputy