

Before the Division of Water Resources
Department of Public Works
State of California

c0c

In the Matter of Application 7012 of East Side Canal and Irrigation Company to appropriate from McCoy Spillway, Arena Spillway, South Branch of Livingston Drain, Bear Creek, Owens Creek, Duck Creek and Deadman Creek, tributaries of San Joaquin River in Merced County for irrigation purposes.

c0c

Decision A. 7012 D 457

Decided *April 23, 1940*

c0c

Appearances at Hearing held at Sacramento, California, December 19, 1938.

For Applicants

East Side Canal and Irrigation Company

(George J. Hatfield
(Fred Wood
(W. B. Mead
(Milton C. Gordon

For Protestants

No appearances

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

O P I N I O N

General Description of Application 7012

Application 7012 was filed by the East Side Canal and Irrigation Company on July 20, 1931. It proposes appropriations as follows:

<u>Source</u>	<u>Point of diversion within</u>	<u>Amount</u>
McCoy Spillway	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 20 T7S R11E	10 c.f.s.
Arena Spillway	NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20 T7S R11E	15 "
S.Br. Livingston Drain	NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33, T7S R11E) SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 27 T7S R11E)	15 "
Bear Creek	SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 12 T8S R11E	60 "
Owens Creek	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19 T8S R12E	40 "
Duck Creek	NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30 T8S R 12E	10 "
Deadman Creek	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30 T8S R12E	10 "
	Total	180 c.f.s.

It is proposed to use the water for the irrigation of 46,087.70 acres of general crops on lands located as follows:

Parcel A	Within T _{s.} 6 and 7 S, R _{s.} 9 and 10 E	2,356.56 acres
Parcel B	Within T _{s.} 7 S, R _{s.} 9 and 10 E	3,091.15 "
Parcel C	Within T _{s.} 7 and 8 S, R _{s.} 9 and 10 E	12,909.49 "
Parcel D	Within T _{s.} 7,8,9 S, R _{s.} 11 and 12 E	<u>29,740.70 "</u>
	Total	46,087.70 "

Applicant specifically states that it seeks to appropriate waters of every kind flowing in the channels of these sources, including waters of the natural flow thereof and waters originating in other streams.

Protestants

- (1) Modesto Properties Company
- (2) Joe Steiner, et al
- (3) A. A. Anderson, et al
- (4) Mamie F. Rahilly
- (5) Charles S. Howard Company
- (6) C. L. Best
- (7) George S. Bloss, Jr. and 4 others

Hearing Set in Accordance With
Section 1a of the Water Commission Act

Application 7012 was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources and being protested was set for public hearing in accordance with Section 1a of the Water Commission Act on Monday, December 19, 1938 at 10:00 o'clock a.m. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestants were duly notified.

With the hearing notice a letter was sent to the record protestants stating that all data, briefs and other showing of whatever nature presented in connection with the protests against Applications 5724, 5725, 6069, 6111, 6114, 6160, and 6807 might be deemed in evidence in connection with the protests against the approval of Application 7012 and that if the parties to this proceeding were disposed to rest their cases upon the

showing made in connection with the earlier proceedings there would be no need for their appearance at the hearing scheduled for December 19, 1938.

The Division was definitely advised by the attorneys representing applicant and protestants that they were willing to comply with this suggestion which explains the non-appearance of the protestants at the hearing.

General Discussion

After due consideration of the testimony presented at the hearing, the briefs filed subsequent to the hearing and the decisions of the Court involving the water rights on Bear, Owens, Duck and Deadmans Creeks it is the opinion of the Division that there is unappropriated water in the several sources from which the applicant proposes to appropriate under Application 7012 to justify the approval of this application.

Under Application 7012 it is proposed to irrigate 48,087.30 acres of general crops. Included within this area are 17,826.97 acres which it is proposed to serve under Applications 5724 and 6111 of the Stevinson Water District and included within the 17,826.97 acres are 4,151.81 acres which James J. Stevinson, a corporation, may irrigate under Application 1885, Permit 895. However, as the total amount of water which may be diverted under these filings is less than the customary allowance for the irrigation of general crops within the 48,087.30 acres, it is the opinion of the Division that Application 7012 should be approved subject only to the usual terms and conditions as may be appropriate.

ORDER

Application 7012 for a permit 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 Application 7012 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this *23rd* day of *April* 1940.

EDWARD HYATT, State Engineer

By HAROLD CONKLING
Deputy

(Seal)

WES:m