

Examiner

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

General Description of Projects

Application 8173

As presented at the hearing Application 8173 proposes an appropriation from the Middle Fork of the Yuba River for mining and domestic purposes of 700 cubic feet per second by direct diversion from January 1 to December 31 of each season and 30,000 acre feet per annum to be collected to storage between November 1 and June 30 of each season in Jackson, Bowman, Scotts Flat, Anthony House and Parker Reservoirs. The point of direct diversion was described as being at the Milton dam within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 12, T 19 N, R 12 E, M.D.B.M. The point of diversion to storage was described as being at the Jackson dam within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 18, T 19 N, R 13 E, M.D.B.M. The place of use was described as being "in that general area west of the Milton-Bowman Conduit, the Bowman-Spaulding Conduit, the Drum Canal, Bear River, Bear River Canal, the Wise Canal and South Canal, north of the line between Townships 11 and 12 North, M.D.B.M., east of the line between Ranges 5 and 6 East, and south of the Yuba and Middle Fork of Yuba Rivers as shown on accompanying maps, or such portions of said area as may be economically reached by diversion of waters herein applied for".

By letter received August 11, 1936, the Division was authorized to amend the description of the place of use so as to exclude lands outside of the boundaries of the Nevada Irrigation District and the application has been so amended.

Under date of April 5, 1941 the District authorized the Division to

amend Application 8173 by striking therefrom all reference to storage in Jackson, Scotts Flat, Anthony House and Parker Reservoirs. The application has therefore been amended to indicate that the 30,000 acre-feet will be stored in Bowman Reservoir only.

Application 8174

Under Application 8174 it is proposed to appropriate water for mining and domestic purposes as follows:

<u>Source</u>	<u>Amount</u>	<u>Point of Diversion</u>
Canyon Creek	250 c.f.s.	At intake of Bowman-Spaulding conduit
Canyon Creek	30,000 A. F.	At Bowman Dam
S. Yuba River	126 c.f.s.	At intake S. Yuba Canal
S. Yuba River	136 c.f.s.	At intake of Drum Canal
S. Yuba River	125 c.f.s.	At intake of Excelsior Ditch

The season of direct diversion is from January 1 to December 31.

The season of diversion to storage in Bowman Reservoir is from November 1 to June 30.

As originally filed it was proposed to use the water on the same place of use as that originally described in Application 8173 but by consent of the District the place of use has been amended to include only lands within the District boundaries.

Application 8175

Under Application 8175 it is proposed to appropriate water for mining and domestic purposes as follows:

<u>Source</u>	<u>Amount</u>	<u>Point of Diversion</u>
Bear River	120 c.f.s.	Intake F.C.W. Bear River Canal
Bear River	8,000 A. F.	Parker Dam
Bear River	60 c.f.s.	Combe dam
Bear River	2,000 A. F.	Combe dam

Storage is proposed in the Parker and Combe Reservoirs.

As originally filed the place of use was the same as that originally described in Applications 8173 and 8174 but by consent of the District the place of use has been amended to include only lands within the District boundaries. As originally filed the season of direct diversion was from January 1 to December 31 and the season of diversion to storage was from November 1 to June 30 but in order that this application may conform to Application 2652, Permit and Application 6229, Permit , the District has consented to amending the season of direct diversion of 120 c.f.s. to the period from April 1 to October 31 and the season of direct diversion of the 60 c.f.s. and the storage of 10,000 A.F. per annum from November 30 to June 30 and the application has been so amended.

Application 8176

Under Application 8176 it is proposed to appropriate for mining and domestic purposes as follows:

<u>Source</u>	<u>Amount</u>	<u>Point of diversion</u>
Deer Creek	225 c.f.s.	(a) Deer Creek diversion dam (b) Intake of China ditch
Deer Creek	20,000 A. F.	(a) Scotts Flat Reservoir dam (b) Anthony House Reservoir dam
Squirrel Creek	100 c.f.s.	Squirrel Creek intake
Squirrel Creek	20,000 A. F.	Squirrel Creek intake

Storage is proposed in Scotts Flat and Anthony House reservoirs. The maximum rate of diversion from Squirrel Creek to storage is 100 c.f.s. The season of direct diversion is from January 1 to December 31. The season of diversion to storage is from November 1 to June 30. As originally filed the place of use was the same as originally described in Applications 8173, 8174 and 8175 but by consent of the District the place of use has been amended to include only lands within the District boundaries.

Application 8177

Under Application 8177 it is proposed to appropriate for irrigation and domestic purposes as follows:

<u>Source</u>	<u>Amount</u>	<u>Point of Diversion</u>
Wilson Creek	25 c.f.s.	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T 19 N, R 12 E
Wilson Creek	3,000 A. F.	" " " " "
Poison Creek	25 c.f.s.	SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 14, T 19 N, R 12 E
Poison Creek	3,000 A. F.	" " " " "

Storage is proposed in Bowman, Scotts Flat, Anthony House and Parker Reservoirs. The season of direct diversion is from January 1 to December 31. The season of diversion to storage is from November 1 to June 30.

As presented at the hearing the place of use included lands outside of the District boundaries as well as lands within the District boundaries. Subsequently the place of use was amended to 167,789 acres within the boundaries of the Nevada Irrigation District.

Application 8178

Under Application 8178 it is proposed to appropriate for power purposes throughout the entire year as follows:

<u>Source</u>	<u>Amount</u>	<u>Point of Diversion</u>
Texas Creek	70 c.f.s.	SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, T 18 N, R 12 E
Clear Creek	30 c.f.s.	NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T 18 N, R 11 E
Fall Creek	85 c.f.s.	NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 6, T 17 N, R 12 E
Trap Creek	15 c.f.s.	NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 6, T 17 N, R 12 E
Rucker Creek	25 c.f.s.	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 7, T 17 N, R 12 E

It is proposed to use the water through the following power plants:

Spaulding Rim	within NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 16, T 17 N, R 12 E
Spaulding No. 1	within NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20, T 17 N, R 12 E
Spaulding No. 2	within SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 20, T 17 N, R 12 E
Deer Creek	within NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T 17 N, R 10 E
Drum	within NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 17, T 16 N, R 11 E
Dutch Flat	within SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 27, T 16 N, R 10 E
Colfax	within SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14, T 15 N, R 9 E
Halsey	within NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 25, T 13 N, R 8 E
Wise	within NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 16, T 12 N, R 8 E

The water will be returned in part to Deer Creek within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, T 17 N, R 10 E and in part to Auburn Ravine within NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16, T 12 N, R 8 E, M.D.B.M.

Application 8179

Under Application 8179 it is proposed to appropriate for power purposes as follows:

<u>Source</u>	<u>Amount</u>	<u>Point of Diversion</u>
Wilson Creek	25 c.f.s.	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T 19 N, R 12 E
Wilson Creek	3,000 A. F.	" " " " " "
Poison Creek	25 c.f.s.	SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 14, T 19 N, R 12 E
Poison Creek	3,000 A. F.	" " " " " "

The season of direct diversion is from January 1 to December 31.

The season of diversion to storage is from November 1 to June 30.

It is proposed to use the water through the following power plants:

Spaulding Rim within NE $\frac{1}{4}$ SW $\frac{1}{4}$,	Sec. 16, T 17 N, R 12 E
Spaulding No. 1 within NE $\frac{1}{4}$ SE $\frac{1}{4}$,	Sec. 20, T 17 N, R 12 E
Spaulding No. 2 within SW $\frac{1}{4}$ NE $\frac{1}{4}$,	Sec. 20, T 17 N, R 12 E
Deer Creek within NW $\frac{1}{4}$ SE $\frac{1}{4}$,	Sec. 34, T 17 N, R 10 E
Drum within NE $\frac{1}{4}$ NW $\frac{1}{4}$,	Sec. 17, T 16 N, R 11 E
Dutch Flat within SE $\frac{1}{4}$ SE $\frac{1}{4}$,	Sec. 27, T 16 N, R 10 E
Colfax within SW $\frac{1}{4}$ SE $\frac{1}{4}$,	Sec. 14, T 15 N, R 9 E
Halsey within NW $\frac{1}{4}$ NW $\frac{1}{4}$,	Sec. 25, T 13 N, R 8 E
Wise within NW $\frac{1}{4}$ SW $\frac{1}{4}$,	Sec. 16, T 12 N, R 8 E

The water will be returned in part to Deer Creek within NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T 17 N, R 10 E and in part to Auburn Ravine within NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 16, T 12 N, R 8 E, M.D.B.M.

Application 8180

Under Application 8180 it is proposed to appropriate for irrigation and domestic purposes as follows:

<u>Source</u>	<u>Amount</u>	<u>Point of Diversion</u>
Clear Creek	30 c.f.s.	NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, T 18 N, R 11 E
Clear Creek	6,000 A. F.	" " " " " "
Texas Creek	70 c.f.s.	SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 19, T 18 N, R 12 E
Texas Creek	14,000 A. F.	" " " " " "
Fall Creek	85 c.f.s.	NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 6, T 17 N, R 12 E
Fall Creek	17,000 A. F.	" " " " " "
Trap Creek	15 c.f.s.	NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 6, T 17 N, R 12 E
Trap Creek	3,000 A. F.	" " " " " "
Rucker Creek	25 c.f.s.	SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 7, T 17 N, R 12 E
Rucker Creek	6,000 A. F.	" " " " " "

The season of direct diversion is from January 1 to December 31; the season of diversion to storage is from November 1 to June 30. Storage is proposed in Scotts Flat, Anthony House and Parker reservoirs.

As presented at the hearing the place of use included lands outside the District boundaries as well as lands within the District boundaries. Subsequently the place of use was amended to 167,789 acres within the boundaries of the Nevada Irrigation District.

Protests

Andy Fitz Mining and Milling Company protested the approval of Applications 8173 and 8177. This Company claims rights by virtue of riparian ownership and use commenced prior to the effective date of the Water Commission Act to the use of water from the Middle Fork of the Yuba River for mining and power purposes. Its points of diversion are described as being within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sections 12 and 14, T 19 N, R 10 E, M.D.S.M. It alleges in effect that the proposed appropriations, if granted, would interfere with the mining and milling operations of the Company.

Pacific Gas and Electric Company protested Application 8174 insofar as it proposes the diversion of 126 c.f.s. from South Yuba River at the intake of the South Yuba Canal and 135 c.f.s. from South Yuba River at the intake of the Drum Canal. Protestant alleges in effect that there is no unappropriated

water in South Yuba River above these intakes available for the use of the applicant, that applicant's rights in respect to the main South Yuba Canal and the Drum Canal are limited to the provisions of an existing contract with the Company and do not include the right to convey therein water originating in the watershed of the South Yuba River above Spaulding dam. Protestant states that the protest may be dismissed provided that the application is so amended as to describe the points of diversion named above as points of re-diversion instead of points of diversion.

The Redstone Mines Corporation protested the approval of Application 8174 insofar as it proposes appropriation of water from Canyon Creek. It claims appropriative rights initiated prior to the effective date of the Water Commission Act but apparently no use has been made since 1918. The

Corporation alleged that it was financing the erection of a 20 stamp mill and power plant and claims that it will have need for the water which applicant seeks to appropriate.

Arctic Trustees and J. Powers Flint, Jr. and Martin Vanberg; also Tollis C. Utter and Marie M. Compton protested Applications 8174, 8178 and 8180. The Arctic Trustees et al claim the ownership of mining claims riparian to Canyon Creek upon which the waters of Canyon Creek are diverted and used for mining purposes. Tollis C. Utter and Marie M. Compton own jointly a 160 acre tract of land, in Section 5, T 17 N, R 11 E, M.D.B.M. which they claim is riparian to the South Yuba River. A house and swimming pool have been constructed on their property and they intend to use water for agricultural purposes. These protestants allege in effect that the approval of Applications 8174, 8178 and 8180 will deprive them of their riparian rights.

Although not record protestants prior to the hearing San Juan Ridge Mutual Water Association and Ridge Mines, Inc. and also Black Rock Placer Mining District, Western Gold, Inc., and W. H. Taylor filed briefs subsequent to the hearing which were in effect protests against the approval of Applications 8173, 8177 and 8179.

The San Juan Ridge Mutual Water Association, a corporation formed for the purpose of supplying water for various uses along the San Juan Ridge in Nevada County and the Ridge Mines, Inc., a mining company which claims to own and control certain hydraulic properties along the San Juan Ridge allege in effect that Applications 8173, 8177 and 8179 were filed as an attempt on the part of a bankrupt organization to "freeze up" vital water resources, for possible future speculation and to approve these applications would result in grave injury to the public welfare in that the imminent resumption of large-scale hydraulic mining operations within the Yuba River watershed would be seriously impeded thereby.

The Black Rock Placer Mining District, Western Gold, Inc. and W. H. Taylor allege in effect that Applications 3173, 3177 and 3179 are closely related to the District Applications 2275 and 2276 in connection with which an application for extension of time is now pending before the Division, which application for extension is vigorously protested by these interests; that all existing undeveloped water of the Middle Yuba River is essential to the mining development on San Juan Ridge, that the rights proposed under Applications 3173, 3177 and 3179 are in direct conflict with Application 3393 of the Black Rock Placer Mining District and that any expansion of the appropriations of the Nevada Irrigation District would result in watershed spoliation and wasteful use contrary to public policy.

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

Applications 3173 to 3180 inclusive were completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and certain of the applications being protested the entire group was set for public hearing on February 15, 1937 at 10:00 o'clock A.M. in Room 401, Public Works Bldg., Sacramento, California. Of this hearing applicant and protestants were duly notified.

General Discussion

No appearances were made at the hearing on behalf of protestants Andy Fitz Mining and Milling Company and Redstone Mines Corporation and no cause was shown for failure to appear. It is our opinion that under the circumstances these protestants have failed to support the burden of proof appropriate to a moving party and the protests may therefore be dismissed without further discussion.

While no appearance was entered at the hearing on behalf of Arctic Trustees and J. Powers Flint, Jr., and Martin Vanberg, Tollis C. Utter and

Marie M. Compton it was agreed that further time would be allowed within which to submit whatever presentation was deemed appropriate in the event that negotiations then pending between these protestants and the District were not satisfactorily consummated. Subsequently Mr. Cowell, attorney for these protestants, informed this office that in view of the agreement which his clients had with the Nevada Irrigation District no further showing would be made. Consequently these protests may be dismissed.

The Ridge Mines, Inc. has Applications 9033 and 9044 pending before this office to appropriate from the Middle Fork of Yuba River and the Black Rock Placer Mining District has Application 8893 pending before the Division to appropriate from the Middle Fork of Yuba River. These applications are for mining purposes and have later priorities than those of applications 8173, 8177 and 8179 which were protested. Apparently the interest of the San Juan Ridge Mutual Water Association is common with that of the Ridge Mines, Inc. and the interests of Western Gold, Inc. and W. E. Taylor are related to that of Black Rock Placer Mining District as there are no filings in their names to appropriate from the Middle Fork of the Yuba River and no basis of claims of any other water right has been indicated.

These protestants claim no priority of right but are apparently of the opinion that the public interest would be the better served by allowing them to proceed under the applications in which they are interested rather than allowing the District to proceed under the earlier applications. As a matter of fact, the applications of the protestants have not yet been completed and the Division has no more assurance of early action in connection with these applications than it has that the District will proceed under its prior filings. Considering Section 15 of the Water Commission Act in connection with other sections of the Act and also in the light of many Superior Court

decisions which in past years have construed the fundamental principals of the doctrine of appropriation of water, it is our opinion that the Act does not empower the Division to impose any conditions which as a legislature it is not ~~permissible~~ or even to speculate upon what might or might not be in the public welfare and then act according to its best estimate of what the State may prove to be in the

public welfare as to what

decisions which in past years have construed the fundamental principals of the doctrine of appropriation of water, it is our opinion that the Act does not empower the Division to impose any conditions which as a legislature it might consider applicable or even to speculate upon what might or might not prove to be of general public welfare and then act according to its best estimate as to what the future developments of the State may prove to be in the public interest. Outside of a manifest and indisputable certainty as to what is against public welfare we would hesitate to deny any application as not best serving the public interest.

In this instance however it appears that under Application 8173 the District is seeking to use water for mining and domestic purposes which it already may use for power and agricultural purposes under its approved Applications 2275 and 2276 and it is our understanding that a portion of the water is already in use for mining purposes within the District boundaries.

We see no merit in the allegations of these protestants and the protests are dismissed.

The Pacific Gas and Electric Company protests those phases of Application 8174 which propose appropriations of 126 c.f.s. from the South Fork of the Yuba River at the intake of the South Yuba Canal and 135 c.f.s. from this same source at the intake of the Drum Canal. The protest is directed only against the appropriation of water originating in the South Fork of the Yuba River. The Company claims the ownership of the first right to 11,900 miners inches of water flowing in the South Fork of the Yuba River at the Spaulding dam and the first right to store some 150,000 acre-feet of water per annum in some 20 reservoirs above the Spaulding reservoir; also the right to divert approximately 30 c.f.s. from Texas, Trap, Rucker and other small streams intercepted by the Texas and Fall Canal, which together with water collected into

10 reservoirs tributary to the Texas and Fall canal aggregate some 3000 A.F. per annum.

Testimony presented at the hearing indicated that there were many years of record during which there was no spill from Spaulding Reservoir. Whatever spill there was occurred during the months of April, May and June.

The diversion of 135 c.f.s. into Drum Canal and the diversion of 126 c.f.s. into the Main South Yuba Canal of the Pacific Gas and Electric Company are made in accordance with an agreement entered into between the Company and the District which contemplates only diversion of water from the so-called mountain system, i.e., water which is brought in through the Bowman-Spaulding conduit to Lake Spaulding and thence released into the South Fork of the Yuba River and diverted from the South Fork of the Yuba River under Application 4309, Permit 2935 and Application 4310, License 1707. The Pacific Gas and Electric Company has no objection to the addition of mining use after the waters have fulfilled the requirements under the contract but does object to the initiation of any new right for mining purposes to appropriate water from the South Yuba River.

In a letter addressed to this office under date of October 3, 1940 the following statement was made by the manager of the Nevada Irrigation District with respect to Application 8174:

"District does not intend under this application to secure additional natural flow from the South Yuba River. It is simply intended to use for mining and domestic purposes the same foreign water which District has appropriated under Applications 4309 and 4310 for power purposes through Drum and South Yuba Canals. We believe this entirely eliminates the objections of the Pacific Gas and Electric Company to the application."

Furthermore the District on April 4, 1941 consented to the insertion of a special term or condition in any permit which may be issued in approval

of Application 8174 to the effect that the water diverted thereunder shall be limited to such water as may be diverted under approved Applications 1270, 1616, 2372, 4309 and 4310. If such a clause is inserted in the permit, the objections entered by the Pacific Gas and Electric Company would apparently be met and its protest may be dismissed.

State Applications

On July 30, 1927 the State Department of Finance filed Applications 5631 and 5632 to appropriate from the Yuba River for power and agricultural purposes respectively and Applications 5633 and 5634 to appropriate from the Bear River for power and agricultural purposes, respectively. These applications were designed for the purpose of aiding the State Water Plan and to safeguard local interests.

Applications 8173, 8174, 8176, 8177, 8178, 8179 and 8180 of the Nevada Irrigation District are subsequent in priority to Applications 5631 and 5632 of the State Department of Finance to appropriate from Yuba River, and Application 8175 is subsequent in priority to Applications 5633 and 5634 of the State Department of Finance to appropriate from Bear River.

With the exception of Applications 8178 and 8179 the applications of the District propose local uses within the boundaries of the Nevada Irrigation District which will not seriously interfere with the proposed use under the State filings. As to Applications 8178 and 8179 it is proposed to return the water after use for power purposes to Deer Creek and/or Auburn Ravine from which streams it is proposed to redivert the water for agricultural purposes within the District boundaries under Applications 8180 and 8177. Therefore the use of water proposed under Applications 8178 and 8179 can also be deemed as not being in conflict with the State filings.

Recommendations

All protests having been dismissed the following recommendations would apparently be in order.

Application 8173

In its brief filed with the Division on March 24, 1937 the Nevada Irrigation District stated that no new diversion was proposed under Application 8173 but that the District proposed to utilize for mining and domestic purposes water already appropriated under its Application 2275, Permit 2084 for power purposes and under its Application 2276, Permit 2085 for agricultural purposes.

As Applications 2275 and 2276 were approved for an amount of water not to exceed 75,000 acre-feet per annum, a special clause should be incorporated in the terms of any permit which may be issued in approval of Application 8173 to the effect that the total amount of water diverted under approved Application 8173 together with that diverted under approved Applications 2275 and 2276 shall not exceed 75,000 acre-feet per annum. The District under dates of November 3, 1940 and April 5, 1941 consented to such a restrictive clause.

It is recommended that Application 8173 be approved and that a permit be issued to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to a special term or condition as set forth above.

Application 8174

Under Application 8174 it is apparently the intention of the District to appropriate for mining and domestic purposes as follows:

30,000 A.F. per annum of the 65,000 A.F. per annum named in
Appl. 1270, Per. 2082.

250 c.f.s. or the entire 250 c.f.s. named in Appl. 2372, Per. 2087
126 c.f.s. or the entire 126 c.f.s. named in Appl. 4310, Lic. 1707
135 c.f.s. or the entire 135 c.f.s. named in Appl. 4309, Per. 2935
125 c.f.s. or the entire 125 c.f.s. named in Appl. 1616, Per. _____

The District under date of April 5, 1941 consented to the insertion of a special term or condition in any permit which may be issued in approval of Application 8174 to the effect that the water diverted thereunder shall be limited to such water as may be diverted under approved Applications 1270, 1616, 2372, 4309 and 4310. Such a clause will apparently meet any objections which the Pacific Gas and Electric Company may have against the approval of this application and should be inserted.

Application 8174 may be approved and a permit may be issued to the District subject to such of the usual terms and conditions as may be appropriate and subject also to a special term or condition as set forth above.

Application 8175

Under Application 8175 it is apparently the intention of the District to appropriate for mining and domestic purposes as follows:

120 c.f.s. or the entire 120 c.f.s. named in Appl. 6229, Permit
2,000 A.F. of the 12,500 A.F. per annum named in Appl. 2652, Per.
to be stored in Combe Reservoir.
8,000 A.F. of the 87,500 A.F. per annum named in Appl. 2652, Per.
to be stored in Parker Reservoir.
60 c.f.s. of the 12,500 A.F. per annum named in Appl. 2652, Per.
to be stored in Combe Reservoir.

In its brief filed March 24, 1937, the District states that it merely proposes to use for mining and domestic purposes waters already appropriated for agricultural purposes under its Applications 2652, 5103 and 6229, but as Application 5103 has been cancelled at the request of the District the 125,000 A. F. which the District proposed to store in Parker Reservoir under

Application 5103 is not available for use under Application 8175.

While the proposed diversion of 60 c.f.s. at Combe Dam is not comparable to any direct diversion under prior Applications 2652 and 6229 we see no reason why the water may not be obtained from the 12,500 A.F. which the District proposes to store in Combe Reservoir under its Application 2652 should it choose to divert it directly without storage rather than to store it under Application 2652.

The approval of Application 8175 would appear to be in order except as to that phase of the application which proposes the storage of 8000 acre-feet per annum in Parker Reservoir. Action should be withheld on this phase of the development as it appears that the District has no immediate plans for the construction of this reservoir.

The District under date of April 5, 1941 consented to the insertion of a special term or condition in any permit which may be issued in approval of Application 8175 to the effect that the waters diverted thereunder shall be limited to such waters only as the District may appropriate under its Applications 2652 and 6229. This special term or condition should be inserted in the permit.

Application 8176

Under Application 8176, the District proposes to utilize for mining purposes, water which it may appropriate for agricultural purposes under its Applications 1614 and 1615 and in addition thereto to initiate a new right to appropriate from Squirrel Creek. The District has consented under date of April 5, 1941 to the insertion of a special term or condition in any permit which may be issued in approval of Application 8176 to the effect that the waters diverted from Deer Creek under Application 8176 shall be limited to

such waters as may be appropriated under its approved Applications 1614 and 1615.

Application 8176 may be approved and a permit issued to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to a limiting clause as suggested above.

Application 8177
Application 8179

Applications 8177 and 8179 propose appropriations from Wilson and Poison creeks for agricultural and power purposes respectively. They involve new appropriations and may be approved and permits issued subject to such of the usual terms and conditions as may be appropriate.

Application 8178
Application 8180

Applications 8178 and 8180 propose appropriations from Texas, Clear, Fall, Trap and Rucker creeks for power and agricultural purposes respectively. They involve new appropriations and may be approved and permits issued subject to such of the usual terms and conditions as may be appropriate.

O R D E R

Applications 8173, 8174, 8175, 8176, 8177, 8178, 8179 and 8180 for permits 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 8173 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to the following special term or condition to wit:

The total amount of water diverted under this application and permit together with that diverted under Application 2275, Permit 2084 and Application 2276, Permit 2085 shall not exceed 75,000 acre-feet per annum.,

and

IT IS FURTHER ORDERED that Application 8174 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to the following special term or condition to wit:

The waters diverted under this application and permit shall be limited to such waters only as may be diverted under approved Applications 1270, 1616, 2372, 4309 and 4310.,

and

IT IS FURTHER ORDERED that Application 8175 be approved for an amount of water not to exceed 180 cubic feet per second by direct diversion and 2000 acre-feet per annum to be stored in Combe Reservoir and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to the following special term or condition to wit:

The waters diverted under this application and permit shall be limited to such waters only as may be diverted under approved Applications 2652 and 6229.,

and that action be withheld on the remaining 8,000 acre-feet applied for until further order is entered, and

IT IS FURTHER ORDERED that Application 8176 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to the following special term or condition, to wit:

The waters diverted from Deer Creek under this application and permit shall be limited to such waters only as may be diverted under approved Applications 1614 and 1615.

IT IS FURTHER ORDERED that Applications 8177, 8178, 8179 and 8180 be approved and that permits 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 13 day of June 1941.

EDWARD HYATT, State Engineer

By HAROLD CONKLING Deputy

(Seal)

WES:m