

BEFORE THE DIVISION OF WATER RESOURCES

DEPARTMENT OF PUBLIC WORKS

STATE OF CALIFORNIA

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In the Matter of Application 11977 of Paul L. or Viola A. Stabell to Appropriate Water from Mokelumne River, Tributary to San Joaquin River, in San Joaquin County, for Irrigation Purposes.

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Decision A. 11977 D. No. 587

Decided August 25, 1948

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APPEARANCES AT HEARING HELD AT STOCKTON, APRIL 6, 1948

For the Applicants

Paul L. Stabell - In propria persona

For the Protestant

Woodbridge Irrigation District - (Gilbert L. Jones
(Sherwood Beckman

EXAMINER - GORDON ZANDER, Principal Hydraulic Engineer, Division of Water Resources, Department of Public Works, for EDWARD HYATT, State Engineer.

Also Present: William Gianelli, Assistant Hydraulic Engineer, Division of Water Resources, Department of Public Works.

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O P I N I O N

GENERAL DESCRIPTION OF THE PROPOSED DEVELOPMENT

Application 11977 was filed by Paul L. Stabell in the names of Paul L. Stabell or Viola A. Stabell, on July 9, 1947. It contemplates a

diversion of 1.2 cubic feet per second, from May 15 to October 15 of each season, for the purpose of irrigation. The proposed point of diversion is within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, T 4 N, R 8 E, M.D.B. & M. and the proposed place of use is an area of 90 acres, distributed among subdivisions of the same township, as follows:

6	acres	within	the	SW $\frac{1}{4}$	SW $\frac{1}{4}$	of	Section	16
6	"	"	"	SE $\frac{1}{4}$	SW $\frac{1}{4}$	"	"	16
40	"	"	"	NW $\frac{1}{4}$	NW $\frac{1}{4}$	"	"	21
15	"	"	"	NE $\frac{1}{4}$	NW $\frac{1}{4}$	"	"	21
8	"	"	"	SW $\frac{1}{4}$	NW $\frac{1}{4}$	"	"	21
15	"	"	"	SE $\frac{1}{4}$	NW $\frac{1}{4}$	"	"	21

Diversion is proposed by pumping directly from the river by a plant of 4000 gallons per minute capacity, delivering into an earth canal, 3500 feet long. The crops to be irrigated are general crops and riparian right is also claimed, applicable to the same project. The applicant asserts that he owns both the site of the proposed diversion and the place of proposed use.

P R O T E S T

The Woodbridge Irrigation District protests on the ground that no unappropriated water exists in Mokelumne River during the irrigation season of normal years. The protestant District claims to divert the entire flow of the Mokelumne River at Woodbridge at such times, for its own purposes, and argues that any diversion such as proposed under Application 11977 would deprive it of water to which it has a prior right. The protestant asserts a right based upon a prior appropriation and upon diversion and actual use for over 30 years in the irrigation of 14,000 acres; claiming that in excess of 400 cubic feet per second are diverted currently and that both the amount diverted and the area irrigated will increase apace with future increase in demand.

The applicants in answer imply that they possess riparian rights and deny that the protestant District uses all the water flowing in Mokelumne River.

HEARING HELD IN ACCORDANCE WITH THE WATER CODE

Application 11977 was completed in accordance with the Water Code and the Rules and Regulations of the Division of Water Resources and being protested was set for public hearing under the provisions of Article 13, Section 733(a) of the California Administrative Code on Tuesday, April 6, 1948, in the Supervisors' Room, County Court House, Stockton, California. Of this hearing the applicants and protestant were duly notified.

GENERAL DISCUSSION

The Mokelumne River originates at the Sierra summit, and carries certain drainage therefrom, as well as that derived from its lower tributaries, into San Joaquin River, near Walnut Grove. Despite partial regulation of flow at Pardee Dam and elsewhere, the fluctuations of this stream are considerable. Diversions are numerous and some of them, large. However, only two protests were filed against Application 11977 and one of these - a protest by Woodbridge Water Users Association - was withdrawn prior to the hearing.

Almost immediately below the protestant's intake, the U. S. Geological Survey maintains a gaging station (Mokelumne River at Woodbridge); and about a mile upstream from the applicants' proposed point of diversion the same agency maintains another gaging station (Mokelumne River near Clements). The areas tributary to these two gaging stations are 644 square miles and 630 square miles, respectively, and discharges according to the published record are, on average, of the order of 698 second-feet at Woodbridge and 855 second-feet near Clements. The record shows

that the summer flow near Clements has been greater than that at Woodbridge, a circumstance possibly due to sizable diversions from Mokelumne River between these locations.

Discharges during the summer months naturally are much less than the all-year averages, and the record shows an all-time low of 0.9 second-foot at Woodbridge. Ordinarily, however, quantities passing Woodbridge, even during the "dry" months, have been substantial; they have averaged well beyond the amount asked for in Application 11977, and they occurred downstream from the Protestant's intake. During the season ending September 30, 1947, the most recent season of record and a relatively "dry" one, an unpublished U.S. Geological Survey record indicates that quantities passing the Woodbridge gage during the irrigating months, were as follows:

<u>Month</u>	<u>Monthly Average</u>	<u>Least Daily Average</u>
May	24.3 second-feet	10 second-feet
June	13.1 " "	11 " "
July	21.4 " "	13 " "
August	56.3 " "	23 " "
September	138.0 " "	34 " "

So far as information has been adduced to the contrary, the applicant could have diverted the amount which he applied for, during this recent dry season, without injury to the protestant.

The protest sets forth that "throughout the irrigation season probably both the diversion and the lands irrigated will become greater as the economic demand for water increases . . .". In this connection it is highly probable that latent rights exist along Mokelumne River, as on many other streams, which, if exercised in fuller degree, may well absorb the apparent surpluses reflected by the Woodbridge gagings. Admittedly, Application 11977 is relatively low in

priority and there is no assurance that use based on approval thereof will be uninterrupted if or when the latent rights mentioned are asserted. Again, there is uncertainty as to vested rights on Mokelumne River on the reach below Woodbridge, along which considerable irrigation is known to be practiced. However, no user along this reach has protested Application 11977 and the data are altogether too meager to establish that the diversion of 1.2 cubic feet per second proposed under that application at a point some 12 miles above Woodbridge will ordinarily affect diversions under established rights along the Mokelumne below Woodbridge. It is concluded therefore, in the light of such information as can be adduced, that surpluses of the order sought in this instance commonly, although probably not constantly, exist at the location at which the applicants in the case at issue propose to divert.

SUMMARY AND CONCLUSIONS

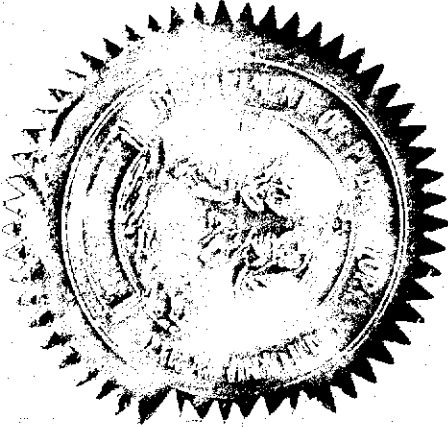
There are at times unappropriated waters in Mokelumne River at the location at which the applicant proposes to appropriate, which may be taken and used without injury to the protestant or to other vested rights. The application should be approved, subject to the usual terms and conditions.

ORDER

Application 11977 for a permit 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 State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 11977 be approved and that a permit be issued to the applicants, 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 25th day of August, 1948.




Edward Hyatt, State Engineer