

STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS  
BEFORE THE STATE ENGINEER AND  
CHIEF OF THE DIVISION OF WATER RESOURCES

oOo

In the Matter of Application 13280 by Frank M. Ringer and M. Edward Ringer to Appropriate Water from Jackson Creek Tributary via Dry Creek to Mokelumne River in Amador County for Irrigation Purposes.

oOo

Decision A. 13280 D. 685

Decided November 27, 1950

oOo

IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON JUNE 8, 1950:

Frank M. Ringer	Applicant
M. Edward Ringer	Applicant
Joseph W. Gross	Applicant's Engineer
John Strieff	Protestant
William Hyde	"
Sam W. Kidd	"
F. J. Touhey	"
J. E. Touhey	"
William Sculley	"
J. M. Fancher	"
A. J. Ringer	"
Alma V. Hart	"
Glen T. O'Brien	"
Norman C. Sullivan	Protestants' Attorney

L. C. Jopson

Supervising Hydraulic Engineer,  
Division of Water Resources,  
Department of Public Works,  
Representing the State Engineer.

Note: S. Skeehan, Associate Hydraulic Engineer, Division of Water Resources also participated in the investigation. Protestant O'Brien also represented Protestants John Orr, Loren C. Bamert, W. G. Woolford, Leo F. Kidd and J. M. Wakefield, who were not themselves in attendance.

oOo

#### OPINION

##### General Description of the Project

The application contemplates the appropriation of 3 cubic feet per second, from March 1 to October 1 of each season from Jackson Creek, tributary via Dry Creek to Mokelumne River, for irrigation purposes. It is proposed to divert by means of a 2,000 gallons-per-minute pumping plant, located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 18, T 5 N, R 10 E, M.D.B.&M. The conduit is to be a 12 inch pipe, 4,500 feet long. The place of use is a 240 acre tract, located within Sections 7, 18 and 19 of the same township. 120 acres of the tract are to be in alfalfa, 80 acres in general crops and the remainder in pasture.

##### Protests

Leo F. Kidd and Joseph Kidd protest that the proposed diversion will shorten the season during which Jackson Creek is a live stream, deprive them of water for livestock and adversely affect ground water levels.

S. W. Kidd, Wm. Scully, John Strieff, Loren Bamert, J. M. Fancher, J. M. Wakefield, W. G. Woolford, W. T. Hyde, Vincent J. Touhey and John E. Touhey unite in a joint protest to the effect that the proposed appropriation will shorten the season during which water flows in Jackson Creek and lessen the supply for stockwatering and for the

subirrigation of bottom lands. They assert riparian rights and rights established prior to December 19, 1914.

John Orr protests that the applicants' project will cause the creek to stop flowing and water tables to drop. He states that he depends upon the creek for a supply for subirrigating and for stock watering.

Glen T. O'Brien protests on the same grounds as those above mentioned. He states that he pumps from shallow wells, for stock watering, domestic use and irrigation; that his pumping in recent years has been continuous from about March 15 to November 15.

Alma V. Hart protests on the same general grounds; asserts riparian and early appropriative rights; asserts use for stock watering "as long as the creek runs" and subirrigation of bottom lands.

A. J. Ringer protests also that the proposed appropriation will lower ground water levels, to the detriment of subirrigation and will lessen or destroy his supply for stockwatering. He claims a riparian right and use since 1930. He argues that the proposed appropriation will be an invasion of his riparian right, contending that in summer time there is no excess water in the stream over stock watering requirements. He asserts that subirrigation makes his bottom land productive and that recession of ground water levels resulting from upstream diversion as proposed would stop subirrigation, thereby decreasing the value of his property.

The applicants' answer to the protests argues that approval of the application cannot impair the protestants' rights, as all permits issued are expressly made subject to existing rights; and that the protestants' representation that the applicants' projected diversion

will shorten the season of flow in Jackson Creek is at variance with experience in like situations elsewhere. It suggests that the supply for stock watering will be more plentiful after the proposed diversion than before. It asserts that the applicants cannot operate a pump successfully when the flow of the creek is so low that there would be no water available for livestock at points downstream. It asserts also that none of the protestants divert or pump water from Jackson Creek, although four of them currently pump from nearby pumps and wells. It maintains that there is surplus water in Jackson Creek that is subject to appropriation.

#### Field Investigation

The parties having stipulated to an informal hearing as provided for in Section 733(b) of the California Administration Code, a field investigation was conducted at the site of the proposed development by engineers of the Division. The applicants and the protestants were all present or represented at the investigation.

#### Discussion

Jackson Creek rises in the foothills east of Jackson, Amador County. Elevations of Jackson Creek watershed range from some 200 feet on the land of the lower protestants to slightly over 3000 feet at Mt. Zion. That stream flow at Jackson Valley is responsive to rainfall in the upper part of the watershed may be seen from the following tabulation of data extracted from records of the current year.

Day :	Rainfall at Electra Power House :			Runoff at State Gage :		
	on Jackson Creek :			(Cubic Feet Per Second) :		
Month :	March :	April :	May :	March :	April :	May :
1			.42	11.1	31.2	2.1
2			.22	9.5	22.2	2.5
3			.24	7.2	48.0	10.3
4				6.4	22.2	13.4
5	.12			6.0	12.7	10.3
6		.49		5.2	13.4	7.2
7		.52		4.4	18.6	6.0
8		1.96		3.2	115.8	4.0
9		.32		3.2	168.0	2.8
10				3.0	117.6	2.4
11	.75			5.2	80.8	0.8
12				11.1	64.2	0.4
13		.13		4.0	56.4	0.3
14				5.6	50.0	0.2
15				4.4	43.0	0.1
16				4.4	35.5	0.1
17	.55			8.0	24.0	0.1
18	.02			18.6	18.6	0.1
19	.82			20.4	13.4	0
20				64.2	11.9	0
21	T			35.5	2.3	0
22	.40			48.0	6.8	0
23				49.0	5.6	0
24	1.99			278.0	5.2	0
25	.18			201.0	4.4	0
26	.21			119.4	4.0	0
27	.04			92.2	4.0	0
28				72.6	3.0	0
29				58.6	2.4	0
30				51.0	1.9	0
31				43.0		
Total	5.08	3.42	.88	1,253.4	1,006.9	63.4
Normal	5.13	2.42	1.13	---	---	---
Average	---	---	---	4.04	33.6	2.0

Inasmuch as the station to which the tabulated streamflow figures apply is located below most of the protestants it is apparent that the flow of Jackson Creek is ordinarily enough through/and for a few days in early March and April May, to furnish the 3 cubic feet per second applied for.

The protestants' lands extend along a 6 mile reach of Jackson Creek immediately downstream from the applicants' property. Toward the lower end of that reach is located the State operated gaging station mentioned in the preceding paragraph. Flow at that station has been recorded during 1950 only. For a few earlier years, flow was recorded by the Bureau of Reclamation at a point a short distance upstream from the applicants' proposed intake. It is reported that flow at that station ceased in 1942 on July 1 and in 1943 and 1944 on June 1.

At the field investigation of June 8, 1950 the spokesman for the protestants stated that after May 1 the flow usually is no more than enough to satisfy the protestants' minimum requirements; he also stated that if sufficient water were let by to maintain a live stream through the protestants' properties there would be no objection to pumping by the applicants during the period of ample flow, i.e. through April. The applicants' engineer outlined the nature of the proposed project. He stated that it would be impractical to pump during the season of extremely low flow, that a sump rather than a high dam was intended and that the applicant would respect vested rights. He was however disinclined to reduce the season of use set forth in the application. The field investigation ended with a recommendation by the parties that the Division decide the matter in the light of the available information, including in particular the records of stream flow.

In view of the location of the project and the use to which the water is to be applied (irrigation of alfalfa, general crops and alfalfa) a water supply limited to the months of March and April is manifestly inadequate. Such a supply would require supplementation from another source. Water is even more necessary during May, June, July, August and September than it is in March and April. The application makes

no mention of a supplementary source of supply nor did the applicants or their representative, at the field investigation, mention any source of supply other than Jackson Creek.

Inasmuch as unappropriated water appears to be non-existent in approximately 5 of the 7 irrigation months it is the opinion of this office that the approval of Application 13280 is unjustified and that the application should therefore be denied.

oOo

ORDER

Application 13280 having been filed with the Division of Water Resources as above stated, protests having been filed, a stipulated hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13280 be rejected 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 27th day of November, 1950.



*A. D. Edmonston*  
A. D. Edmonston, State Engineer.