

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

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In the Matter of Application 13731 by Frank J. Alberti to appropriate Water from Outlet Creek in Mendocino County for Irrigation and Stockwatering Purposes, Application 13736 by Geo. W. Sondag to appropriate Water from an unnamed stream tributary to Blue Rock Creek in Mendocino County for Irrigation Purposes, and Application 13912 by Roy Valaron to appropriate Water from Hill Creek in Mendocino County for Irrigation Purposes.

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Decision A. 13731, 13736 and 13912 D. 703

Decided April 30, 1951

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O P I N I O N

General Description of the Projects

Application 13731 contemplates an appropriation of 0.125 cubic foot per second, year-round, from Outlet Creek, tributary to South Eel River, for irrigation and stockwatering purposes, the point of diversion to be located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T 20 N, R 14 W, M.D.B. & M. Diversion is to be effected by means of a 200 gallons-per-minute pumping plant. The conduit is to be a 4 inch steel pipe line 300 feet long. The place of use includes 6 acres within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 4 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of the same Section 23. This land which is a pasture is to be irrigated from April 1 until November 1 and 50 head of cattle are to be watered thereon. No other water right or source of water supply is claimed.

Application 13736 contemplates an appropriation of 0.20 cubic foot per second from May 1 until December 31 of each season from an unnamed stream tributary via Blue Rock Creek to the Middle Fork of Eel River. The water is to be pumped by means of a 100 gallons-per-minute plant located within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 32, T 24 N, R 15 W, M.D.B.&M. Conveyance and distribution are to be effected by means of some 1000 lineal feet of 4 inch to 6 inch portable steel surface pipe. The water is to be used for the irrigation of 30 acres of pasture located within the same Section 32. No other water right or other source of water supply is claimed.

Application 13912 contemplates an appropriation of 0.25 cubic foot per second from April 1 to November 1 of each season from Mill Creek, tributary via Ten Mile Creek to the South Fork of Eel River, for irrigation purposes. The water is to be diverted by means of a 225 gallons per minute pumping plant located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T 21N, R 15 W, M.D.B.&M. The conduit is to be a 4 inch steel pipe line, 550 feet long. The place of use, a 20 acre pasture, lies within the SE $\frac{1}{4}$ of the same Section 11. No other water right or source of water supply is claimed.

Protests

The County of Humboldt protests all three applications, alleging that the proposed diversions tend "to reduce the flow of water in the Eel River which at this time and for some time past has been dangerously low and is seriously injurious to fish and wild life within the Eel River and its tributaries and tends to lower the water level in Humboldt County to the detriment of its citizens." It asserts that the water filed upon "is part of the drainage and natural river system in

the County of Humboldt which supplies water to the residents thereof and maintains the water table in the County of Humboldt."

Answers

Applicant Alberti answers that the small amount of water applied for, used sparingly, will not affect the water level of Bol River through Humboldt County.

Applicant Sondag in his answer denies that any injuries will result to the County of Humboldt or to anyone else, from the granting of the permit sought. He explains that the water in question has been in use for irrigation and stockwatering for over 50 years, on riparian land, that heretofore diversion has been by gravity, that it is now proposed to substitute a pump and pipeline for the gravity system, and that the net result, by reduction of transmission losses, will be a more conservative use of water than before. He asserts that a water right has been established by long continued use and that he desires a permit in order that the use alleged may be of record.

Applicant Waldron answers the protest against his application by stating:

"I feel that my need of the water to further my agricultural work will be far more important to my country and county than the use of the water by Humboldt County to further their interest in wild fowl and fish. I do not see how the small amount requested will affect them in any way."

Records Relied Upon

Applications 12923, 13731, 13736 and 13912 and all data and information on file therewith.

Discussion

The applicants and the protestant stipulated, respectively, that the applications and the protests be submitted upon the official

records of the Department in accordance with the provisions of Section 733(b) of the California Administrative Code.

The situation presented by the applications under consideration is essentially the same as in the matter of Applications 12923, 13086 and 13240 which matter was the subject of a conference in Eureka on August 8, 1950 and field investigations at the sites of the then proposed appropriations, on August 8 and 9, 1950. In view of the information gained through the conference and field investigations mentioned the Department is sufficiently informed to act in the matter of Applications 13731, 13736 and 13912 without further conference or investigation which accordingly have been adjudged unnecessary and have been dispensed with.

Applications 12923, 13086 and 13240 initiated appropriations of 0.40, 0.30 and approximately 0.014 cubic foot per second from Eel River drainage at points respectively 105, 6, and 75 miles, roughly, upstream from the U.S.G.S. gage on Eel River at Scotia. In the current matter, Applications 13731, 13736 and 13912 seek to appropriate 0.125, 0.20 and 0.25 cubic foot per second from Eel River drainage at points respectively 90, 70, and 82 miles, roughly, upstream from the Scotia gage. The County of Humboldt protested Applications 12923, 13086 and 13240 for substantially the same reasons that are the basis of its protest now against Applications 13731, 13736 and 13912. No showing was made during the conference or during the investigations in connection with Applications 12923, 13086 and 13240 to support the objections set forth in the protests, i.e. that the depletion of the flow of Eel River resulting from the proposed appropriations would be detrimental to fish and wild life and would cause a lowering of ground water levels. In the absence of such showing and in the absence of any information derived by

field investigation or office study that would support the protestant's objections it was concluded that any effect that the proposed appropriations would have upon fish and wild life or upon ground water levels would be too slight to justify consideration as the basis of a protest. The protests against Applications 12923, 13086 and 13240 were accordingly adjudged insufficient and the applications were approved.

The flow of Eel River at Scotia since 1910, as recorded in the Water Supply Papers of the U. S. Geological Survey, has ranged from a maximum of 345,000 to a minimum of 10 second feet and has averaged 6,235 second feet. During September, 1939 when monthly mean discharge was the lowest of any of the summer months of the last 10 years of published record, daily mean discharges at Scotia ranged between 63 second feet and 42 second feet. It is apparent from these data that the aggregate of the amounts applied for in the applications now at issue (0.575 second feet) is small in comparison with the flow of the river, even during low stages, as was the aggregate (0.714 second feet) of the amounts applied for in Applications 12923, 13086 and 13240, investigated last year.

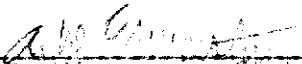
In view of the very close similarity in the situations presented by the two sets of applications, and the absence of any indication that the general situation has changed since the conference and investigations of August, 1950, it is the opinion of this office that the same reasoning applies to the handling of both sets of applications. This office concludes therefore that the protests by the County of Humboldt against Applications 13731, 13736 and 13912 are insufficient. It further concludes that in view of the absence of other protests and of the known flow characteristics of Eel River as reflected by the U.S.G.S. record of discharges at Scotia Applications 13731, 13736 and 13912 should be approved, subject to the usual terms and conditions.

O R D E R

Applications 13731, 13736 and 13912 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 13731, 13736 and 13912 be approved and that permits 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 30th day of April, 1951.



A. D. Edmonston, State Engineer

