

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 13917 by Walter W. Robinson Jr. and  
Barbara B. Robinson to appropriate Water from Seiad Creek in  
Siskiyou County for Irrigation Purposes.

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Decision A. 13917 D. 748

Decided July 21, 1952

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In Attendance at Investigation Conducted by the Division of Water  
Resources at Seiad Valley on May 17, 1951:

Barbara B. Robinson	Applicant
Walter W. Robinson, Sr.	Applicants' representative
W. R. Shadburns	Protestant
John T. Blair	Junior Civil Engineer Division of Water Resources
William B. Shaw	Assistant Hydraulic Engineer, Division of Water Resources
P. E. Stephenson	Senior Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer

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OPINION

General Description of the Project

The applicants seek to appropriate 0.30 cubic foot per second from Seiad Creek from July 31 to October 31 for the irrigation of a 13.8 acre planting of alfalfa located within the  $SE\frac{1}{4}$  of Section 32, T47N R11W and the  $NE\frac{1}{4}$  of Section 5, T46N R11W, MDR&M. The proposed diversion is to head within the  $NE\frac{1}{4}SE\frac{1}{4}$  of the Section 32 just mentioned. Diversion

is to be by gravity and conveyance by means of an open ditch, 3000 feet long. No mention is made in the application of any water right or source of water supply other than the one therein applied for, yet the application states that irrigation is to extend from about April 1 to about October 31. Records of the Division disclose in this connection that the same applicants hold Application 10630, Permit 6139 License 3038 covering the appropriation of the same amount at the same point for the irrigation of what appears to be the same land from about April 1 to about July 31 of each year. It is evidently the applicants' purpose in filing Application 13917 to extend their rights under the earlier application to enable them to irrigate through October.

#### Protest

W. R. Shadburne states that he diverts at a point within Tract 45, Section 7, T46N R11W and at a point within Tract 56, Section 12, T46N R12W, MDB&M. He protests that the proposed appropriation will injure him by lessening the flow of Seiad Creek, all of which, he asserts, has been heretofore appropriated or fully used. He claims a right to the use of water from the source in question by virtue of prior appropriation, judicial decree and riparian ownership. As to the extent of his present and past use of water he refers to Seiad Creek Adjudication Order of Determination entered October 31, 1949. He argues that any interference with Seiad Creek such as by additional appropriation would tend to lessen the flow of that stream and thereby adversely affect users whose rights have been determined by legal process. He contends that there is no water subject to appropriation within the Seiad Creek stream system.

ANSWER

The applicants intimate, in reply to the protest, that the protestant uses water wastefully, allowing it to stand 3 to 4 inches deep on his lands and using it for purposes other than those for which it was appropriated.

Field Investigation

The applicants and the protestant having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code, Title 23, Waters, a field investigation was conducted in the vicinity of the proposed appropriation on May 17, 1951, by engineers of the Division. The applicants and the protestant were present or represented during that investigation.

Records Relied Upon

Application 19917 and all data and information on file therewith.

Discussion

In the report of the field investigation of May 17, 1951 the following statement appears:

"In the decree entered in the Seiad Adjudication Proceeding on April 3, 1950 by the Superior Court, Siskiyou County, a total of 5.86 cubic feet per second was allocated to the various users from Seiad Creek.

"Measurements and observations made by John Blair, Watermaster for the Seiad Creek Watermaster Service Area during the 1951 irrigation season indicated an average available supply of about 3.5 cubic feet per second from Seiad Creek, which amount is less than the total water rights set forth in the decree."

The decree above mentioned is the decree in the matter of the determination of the rights of the various claimants to the waters of the Seiad stream system. The action number is 13744, Superior Court in and for the County of Siskiyou, California. The decree was rendered April 3, 1950 and is entered in Volume 19 of the Judgment Book of that Court at page 462. It is set forth in Schedule 3 on page 18 of the Decree that the allocations to various claimants of waters of Seiad Creek total 5.86 cubic feet per second.

The measurements and observations mentioned in the quoted extract from the report of field investigation are measurements and observations of the flow of Seiad Creek and its tributaries, during July, August and September, 1951. According to Division records of watermaster activities an automatic water stage recorder was installed on Seiad Creek, above all diversions, on July 3, 1951 and a continuous record of discharge at that point was maintained through the remainder of July, through August and through September. According to the record so obtained, monthly averages and monthly ranges of daily averages in cubic feet per second were as follows:

<u>Period</u>	<u>Minimum daily mean</u>	<u>Maximum daily mean</u>	<u>Monthly mean</u>
July 3 to 31	4.2	6.3	5.12
August	3.3	4.2	3.56
September	3.1	3.5	3.34
3 month average			4.01

Watermaster activities in 1951 included random measurements of flow of Canyon Creek and Darky Creek, both of which are tributary to Seiad Creek, and of Seiad Creek below all diversions. These measurements are set forth in the following table, to which have been added the flows of Seiad Creek above all diversions, on the same dates and the corresponding (calculated)

values of total water supply, i.e. the summation of the flows of Seiad Creek above all diversions, Canyon Creek, and Darky Creek.

<u>Date</u>	<u>Seiad Creek above all diversions</u>	<u>Canyon Creek</u>	<u>Darky Creek</u>	<u>Total Water Supply</u>	<u>Seiad Creek below all diversions</u>
7/3	6.3	1.3	0.2	7.8	1.6
7/10	5.9	1.2	0.1	7.2	1.1
7/18	4.8	1.1	0	5.9	1.1
7/24	4.6	0.4	0	5.0	0.9
8/1	4.2	0.3	0	4.5	0.9
8/7	3.7	0.2	0	3.9	0.9
8/14	3.5	0.1	0	3.6	0.9
8/21	3.4	0.1	0	3.5	1.3
8/28	3.5	0.1	0	3.6	1.4
9/10	3.3	0.1	0	3.4	1.2
9/24	3.4	0.1	0	3.5	1.3

According to the random measurements tabulated in the preceding paragraph the total flow of Seiad Creek and tributaries exceeded the 5.86 cubic feet per second allocated by the Court until a few days after mid-July but was less than that amount thereafter. Notwithstanding that fact however the same tabulation indicates that water was flowing in Seiad Creek below all diversions on every date shown in the date column. In this connection the report on watermaster service during 1951 states as follows:

"Close regulation of diversions was necessary after the first week in July. During the first week in August the stream dropped to its dry season flow. Thereafter the available supply was only sufficient for the first and second priorities and about 25 percent of the third priority rights. However, the owners of the lowermost diversion on the stream (Diversion 12) to which first, second and third priority rights attach, were unable to divert more than a small portion of the water to which they were entitled because of excessive seepage through the diversion dam. As a result, the owners of junior priority rights were enabled to divert full allotments. An average flow of about 1.1 cubic feet per second was passing Diversion 12 at all times."

In similar vein the following passage occurs in the report of field investigation:

"Although an average of about 0.90 cubic foot per second of water which represented about one-third of Mr. Jenson's decreed right was passing the lowermost diversion of the stream throughout August and September, an attempt was being made at all times to divert said water - - - -. Provisions will be made by Mr. Jenson prior to the 1952 irrigation season to provide a more reasonable means of diversion.

"Diversion by Mr. Jenson through Diversion 10 averaged about 0.30 cubic foot per second during August and September which also represented about one-third of his decreed right through this diversion. Reseeding of the lands served by this diversion will undoubtedly increase the requirements thereof to the full decreed right in the near future."

According to U. S. Weather Bureau records, precipitation at Happy Camp, during the 12 months ending June 30, 1951, was 67.64 inches. Happy Camp is on Klamath River, some 10 air miles below the mouth of Seiad Creek. Since the precipitation recorded is 48.2% in excess of the 35 year mean it is probable that the flow of Seiad Creek as observed by the watermaster during 1951 was in excess of the normal flow of that stream.

From the information that has been adduced it is apparent that the summer flow of Seiad Creek is less than the amounts that have been allocated to individuals by Court decree but that under operating conditions as of 1951 the decreed rights were not exercised in full and as a result amounts passed the lowermost water user on Seiad Creek in excess of the amount sought by Applicant Robinson. However, since 1951 appears to have been a year of above normal runoff and the decreed rights, according to the report of field investigation will probably

be exercised more fully in future it is to be doubted that water during irrigation months will again pass the lowermost user on Seiad Creek frequently if at all.

Supplementing the tabulation of random measurements set forth in an earlier paragraph the following tabulation arrays the "Total Water Supply" figures, in cubic feet per second, for August and September of all of the seasons during which such measurements have been made. Seasonal rainfall at Happy Camp, expressed as a percentage of the normal for that station is also shown in the tabulation, in the second line thereof.

<u>1947</u>		<u>1948</u>		<u>1949</u>		<u>1950</u>		<u>1951</u>	
91%		10%		8%		110%		148%	
<u>Date</u>	<u>Flow</u>	<u>Date</u>	<u>Flow</u>	<u>Date</u>	<u>Flow</u>	<u>Date</u>	<u>Flow</u>	<u>Date</u>	<u>Flow</u>
8/7	3.00	8/3	5.1	8/1	2.4	8/1	4.0	8/1	4.5
8/14	2.60	8/13	3.1	8/15	1.2	8/7	3.9	8/7	3.9
8/21	1.90	8/22	2.8	8/25	1.2	8/15	3.6	8/14	3.6
8/28	1.60					8/21	3.0	8/21	3.5
						8/30	3.0	8/28	3.6
9/4	1.20	9/1	2.2	9/5	.9	9/7	2.6	9/10	3.4
9/11	1.20	9/9	1.2	9/12	.9	9/13	2.6	9/24	3.5
9/18	1.20	9/16	1.2	9/19	.9	9/20	2.6		
9/25	1.20	9/23	2.7			9/26	2.6		
		9/30	3.8						

It is significant that on every date upon which "Total Water Supply" was ascertained, that total was less than the aggregate of adjudicated

rights on Seiad Creek. It is noteworthy also that during the 5 years considered annual rainfall (at Harry Camp) ranged from 83% of normal to 148% of normal.

The flow of Seiad Creek was not observed during October. All allotments under the Court order to claimants from Seiad Creek, (aggregating 5.86 cubic feet per second) run from April 1 to September 30. Watermaster activities end on or about the latter date. The only allotments effective after September 30, under the Court order, are for domestic and stockwatering purposes. Water during October may be presumed to be in relatively plentiful supply, but the need thereof, for irrigation, non-existent.

#### Summary and Conclusion

Extended observation indicates that the flow of Seiad Creek during August and September is usually insufficient to satisfy the allocations to water users under the Court decree of April 3, 1950 in the Seiad Creek adjudication proceeding. The evidence indicates that rights under said allocations are being and will be used practically in their entirety. Information as to the flow of Seiad Creek during October is not of record. Irrigation appears not to be practiced in the locality during that month and its value is not apparent.

It is the opinion of this office that unappropriated water does not ordinarily exist during August and September in the source from which appropriation is sought under Application 13917, that the approval of an application to appropriate water from that source, for irrigation purposes during October only, would serve no useful purpose, and that the application should therefore be denied.

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ORDER

Application 13917 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13917 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 21st day of July 1952.

Original signed by A. D. Edmonston

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A. D. Edmonston  
State Engineer

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