

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 14159 by Clarence A. Tweeten and Hazel
Tweeten to Appropriate Water from Williams Creek in Plumas County
for Irrigation and Stockwatering Purposes and Application 14227 by
Haskell Karl to Appropriate Water from the Same Source for Irriga-
tion, Stockwatering and Fish Culture Purposes.

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Decision A. 14159, 14227 A. 770

Decided January 12, 1953

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In Attendance at Investigation Conducted by the Division of Water
Resources on August 25, 1952:

Clarence A. Tweeten	Applicant
Hazel Tweeten	Applicant
Haskell Karl	Applicant
E. T. Kunzler	Protestant
Delfina Taddei	Protestant
Gordon V. Richards	Representing the Protestant Pacific Gas and Electric Company
Bill R. Baxter)	Successors in interest to E. T. Kunzler
Eugenia Baxter)	
Alex Taddei	Protestant Taddei's son
L. C. Jopson	Supervising Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer.

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OPINION

General Description of the Projects

Application 14159, by Clarence A. Tweeten and Hazel Tweeten, initiated an appropriation of 0.75 cubic foot per second, year-round, from Williams Creek, tributary via Wolf Creek and Indian Creek to East Branch of North Fork Feather River, at a point within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 23, T 27 N, R 9 E, MDB&M, for irrigation and stockwatering purposes. Diversion is to be effected by means of a dam, 1 foot high by 8 feet long, constructed of logs, rock and earth, and the conduit is to be an earth ditch, 13,200 feet in length and 0.75 cubic foot per second in estimated capacity. The water is wanted for the irrigation of 40 acres of general crops within the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 26 of the same township, year-round, and for the watering of approximately 100 head of sheep, cows and calves.

Application 14227, by Haskell Karl, initiated an appropriation of 0.75 cubic foot per second, year-round, for irrigation, stockwatering and fish culture purposes. The source designation, the proposed point of diversion and the proposed diversion works and conduit are identical with those set forth under Application 14159. The water is wanted for the irrigation, year-round, of 40 acres of pasture within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 26, T 27 N, R 9 E, MDB&M, for the watering of 25 head of livestock and for fish culture.

Protests

E. T. Kunzler protests both applications, stating as a reason therefor:

"Any water diverted upstream from my point of diversion will deplete the flow available for diversion under my allocation described in Schedule 3 under Decree 4185 County of Plumas, defining rights to the Indian Creek Stream System. There is little or no unappropriated water in Williams Creek after the first of June of the average year."

Protestant Kunzler claims a right to the use of water, mentioning in that connection a "decreed right of 0.50 c.f.s. First Priority Class and 0.20 c.f.s. Second Priority Class from Williams Creek through Div. 78." He states that he irrigates 125.4 acres from about April 1 to September 30, and that his diversion heads within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, T 26 N, R 9 E, MDB&M. He states that his protests may be disregarded and dismissed if the applicants' appropriations are limited to storage during the non-irrigation season or to diversions only when he (the protestant) is receiving his full decreed allotment.

Pacific Gas and Electric Company protests both applications, stating in that connection:

"a. Protestant is the owner of the Rock Creek power plant and of the right initiated in 1940 to divert in the SW $\frac{1}{4}$ of Section 1, T 26 N, R 5 E, MDB&M, 3000 cubic feet per second of natural and/or regulated flow through said power plant from the North Fork of the Feather River.

"b. Protestant is also owner of the Cresta power plant and of the right initiated in 1940 to divert in the SW $\frac{1}{4}$ of Section 1, T 23 N, R 5 E, MDB&M, 3500 cubic feet per second of natural and/or regulated flow through said power plant from the North Fork of Feather River.

"c. Protestant is also owner of the Las Plumas (Big Bend) power plant and of the right to divert in the SW $\frac{1}{4}$ of Section 31, T 22 N, R 5 E, MDB&M, all the water of the North Fork of the Feather River to the capacity of said power plant and since 1908 has continuously diverted all the low flow of said river through said power plant during periods of from 5 to 7 months of each year.

"d. Protestant is also the owner of a right initiated in 1908 to divert at the head dam of Western Canal in the NE $\frac{1}{4}$ of Section 25, T 19 N, R 3 E, MDB&M, and since 1915 has diverted at said place under said canal all the natural flow of the Feather River available under said right."

This protestant states further in its protest against each application:

"The place of proposed diversion by applicant is above and upstream from said places of diversion of protestant and any diversion therefrom would detract from flows to which protestant is entitled."

Delfina Taddei protests Application 14227, for the following stated reasons:

"(1) There is an insufficient amount of water for my own domestic use during the summer months. I must also supply water for domestic use to two additional dwellings on my property. Williams Creek helps to keep the water level up in my well.

"(2) The basis of my protest is that I have priority over any other water rights.

"(3) Water has been and is used for domestic purposes for three dwellings, 2 vegetable gardens for domestic consumption, livestock (chickens, rabbits, goats and donkey) plus approximately 15 acres under irrigation.

"(4) The location of my land is: SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, T 27 N, R 9 E."

Answers

The Tweetens answer the protests against Application 14159 by stating:

"From February until December there is no water below my ranch in Williams Creek and at my diversion point there is a satisfactory flow of water the year around. This water would be absolutely wasted if no one used water from above our ranch."

No answer to any of the protests against Application 14227 is of record.

Field Investigation

The applicants and the protestants having stipulated to an informal hearing as formerly provided for in Section 733(b) of the California Administrative Code, Title 23, Waters, a field investigation was conducted on August 25, 1952, by an engineer of the Division. The applicants and the protestants were present or represented during the investigation.

Records Relied Upon

Applications 14159 and 14227 and all data and information on file therewith, Division of Water Resources reports entitled "Report on Water Supply and Use of Water on Indian Creek Stream SystemApril, 1946", "Report on Investigation and Watermaster Service on Indian Creek Stream System,1946 Season", "Report on Investigation and Watermaster Service on Indian Creek Stream System,1947 Season", the Indian Creek Decree (Action 4185, Superior Court, Plumas County) and USGS Water Supply Paper 1181.

Discussion

The investigating engineer summarizes the results of his investigation of August 25, 1952, as follows:

- "1. There is a surplus of water in the source prior to about June 1, thereafter a deficiency exists in the amount available for vested rights.
- "2. The source is an influent stream between the proposed point of diversion and the Kunzler and Taddei lands and effluent within those lands.
- "3. The water supply at the proposed point of diversion appears to be the principal source of water in the Williams Creek drainage area.

"4. Due to length of dry stream channel and lack of evidence of contribution of water to Wolf Creek, there appears to be doubt if the summer flow of Williams Creek would affect the summer flow of the North Fork of Feather River as asserted by the Pacific Gas and Electric Company.

"5. Bill R. Baxter has succeeded to the rights and interests of E. T. Kunzler in the water of Williams Creek."

Significant extracts from the body of the report of investigation are as follows:

"The only water supply records available are contained in the Department's 'Report on Water Supply and Use of Water on Indian Creek Stream SystemApril, 1946' and 'Report on Investigation and Watermaster Service on Indian Creek Stream System, 1946 Season' and a report similar to the second one named for the 1947 season. The measurements contained in the reports were all made in the vicinity of protestants Kunzler's and Taddei's diversions. An estimate of the flow available at the proposed point of diversion indicates that one and one-half to two cubic feet per second are available at that point during the dry season, all of which sinks within the approximately three miles of channel above the upper protestant's land.

"The same condition exists on Pecks Valley Creek which joins Williams Creek in the lower one-third of the referred to section of Williams Creek channel.

"Within the Taddei lands the creek has eroded a channel from fifteen to twenty feet deep in which water appears and is available for protestants Taddei and Kunzler. Diversion therefrom is by pumping for use on the Taddei lands and by gravity for use on the Kunzler lands.

"Prior to about June 1, there is usually enough water in the creek to flow through to Wolf Creek and Indian Creek. Subsequent to that date water does not flow through on the surface for use by protestants Taddei and Kunzler, the entire use by said parties being from the rising water. Very little if any Williams Creek water reaches Wolf Creek after the surface flow from the upper portion of the stream ceases to reach the Taddei and Kunzler diversions."

* * * *

"It is Mr. Kunzler's contention that even though the water in the creek sinks some 500 yards above its place of reappearance on the Taddei ranch it is the same water and any use upstream would adversely affect the supply available for him and other vested rights.

"Although Delfina Taddei did not file a protest against Application 14159, she has the same objection thereto as against Application 14227. Her objections to approving the applications are the same as those of E. T. Kunzler. At the present time her diversion is limited to the pumping of water for

domestic purposes from several dug wells about 75 yards from the creek channel. The bottoms of these wells are below the level of the rising water in the creek but during periods of low flow, when little rising water appears, these wells supply insufficient water for the household, yard and garden uses of the protestant."

* * * *

"Between the applicants' lands and the Kunzler and Taddei lands, a varying length of channel up to one-half mile in length depending upon the season, is dry during the summer months. Below the Kunzler lands a similar condition exists over about two miles of channel above the junction with Wolf Creek.

"Williams Creek, in common with other streams in the Indian Valley area, flows in the rocky bottom of its drainage trough in its upper reaches. It is within this section that the proposed point of diversion lies. Downstream the canyon gradient becomes flatter and the canyon bottom is filled to considerable depth with valley fill. During the low flow period of the year the water flowing in the upper section sinks into the ground when it reaches the valley fill and apparently reappears in part in the deep wash on the Taddei lands. The degree to which diversion and spreading by the applicants would affect the rising water is a matter of conjecture. However, it

is the applicants' contention that since the water taken from the stream would be spread and sink into the same drainage basin, there would be little change, if any, in the rising water as the percolated water would feed the same underflow that is now fed by the interrupted stream."

According to the references mentioned in the first extract above quoted from the report of field investigation, the mean flows of Williams Creek at Kunzler dam, in cubic feet per second, during each of the months when it was measured, were as follows:

<u>Year</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>
1945	2.48	1.18	.33	.11	.08
1946	2.00*	.90	.40	.15	.10
1947	.80	.25	.15	.06	.03

* May 20 to 31 only.

Precipitation during the twelve months ending September 30, 1945, at Greenville (3½ miles south of the proposed point of diversion), according to the same references, was approximately 87 per cent of normal; during like periods ending in 1946 and 1947, percentages of normal precipitation were 86 and 75 respectively.

Watershed areas above the applicants' proposed point of diversion and above Kunzler Dam scale respectively about 1.0 square mile and about 8.0 square miles. Roughly therefore the gross yield of the watershed above the applicants may be supposed to be about an eighth of the gross supply, surface and sub-surface, that reaches the Taddei and Kunzler properties. The gross yield, per square mile of watershed may

be supposed very roughly, to be of the same order as the gross yield per square mile from the watershed of North Fork Feather River near Prattville, which according to Water Supply Paper 1181 has averaged, for 44 years, 870/507 or 1.72 cubic feet per second. According to the Indian Creek Decree (Action 4185, Superior Court, Plumas County) Protestant Taddei and Protestant Kunzler are entitled to divert 0.25 and 0.70 cubic foot per second, respectively, from Williams Creek. The gross yield of Williams Creek, assuming the watershed of that stream to be approximately as productive as that of North Fork Feather River, may be supposed to contribute much more than enough to satisfy not only the Taddei and Kunzler rights but also the amounts that the applicants seek to appropriate. The distribution of the runoff is of course unfavorable to irrigators: too little of it occurs when irrigation needs are greatest. It is the misfortune of Protestants Taddei and Kunzler to be located below a reach where the flow is underground; but the data do not indicate that their situation would be worsened by the diversion some 3 miles upstream that the applicants propose. The objections therefore of Protestants Taddei and Kunzler appear an insufficient bar to the approval of the applications.

The Pacific Gas and Electric Company's apprehensions that the applicants' proposed diversions "would detract from flows to which protestant is entitled" is not supported by the data. That protestant's intakes are far downstream from the point at which the applicants seek to appropriate. They are below Indian Valley which itself extends 7

miles or more below Kunzler Dam. As set forth in an earlier paragraph flows at Kunzler Dam are relatively small in May and diminish further in later months. According to the report of field investigation some 2 miles of the channel of Williams Creek between the Kunzler lands and the junction of Williams and Wolf Creeks are dry during the summer months. Plainly the utilization of such flow as may occur at the applicants' point of diversion, which is above the dry reach mentioned, as well as above the dry reach just above Taddei, cannot adversely affect this protestant. Prior to about the beginning of summer the flow of North Fork of Feather River appears from the Water Supply Papers to be more than sufficient in a normal season to satisfy the Pacific Gas and Electric Company's claimed rights. For the reasons stated the protest by that company also appears an insufficient bar to the approval of the applications.

Summary and Conclusion

Unappropriated water usually exists in Williams Creek at the point at which the applicants seek to appropriate. Such water may be taken and used beneficially in the manner proposed in the applications without injury to the protestants or other downstream users. Up until about June 1 supply is ordinarily sufficient to serve all concerned. After that approximate date, reaches of channel between applicants and protestants go dry and the flow still occurring at the applicants' point of diversion goes underground and is so delayed in its progress downstream as to be of no discernable benefit to any protestant.

In view of the circumstances outlined it is the opinion of this office that the protestants' objections are insufficient to warrant disapproval of the applications and that the latter therefore should be approved, subject to the usual terms and conditions.

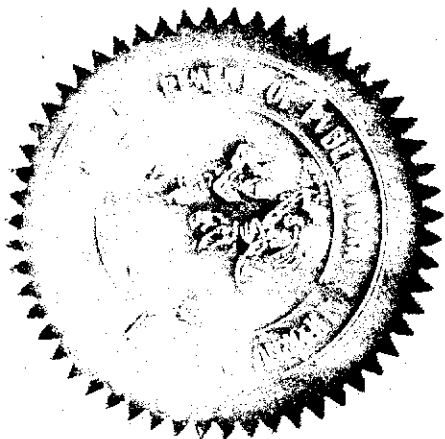
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ORDER

Applications 14159 and 14227 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, stipulations having been submitted by the parties, a field investigation having been conducted and the State Engineer now being fully informed on the premises:

IT IS HEREBY ORDERED that Applications 14159 and 14227 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 12th day of January, 1953.



A. D. Edmonston

A. D. Edmonston
State Engineer