

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 15684 by Harry A. Phillips to  
Appropriate Water from an Unnamed Tributary of Wyman Ravine  
and from Wyman Ravine and Application 15746 by Robert M.  
Daley, Warren C. Daley, Garrett C. Daley and Roger R. Daley  
to Appropriate water from Wyman Ravine, in Butte County,  
for Irrigation Purposes.

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Decision A 15684, 15746 D 837  
Decided October 11, 1955

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In Attendance at Investigation Conducted by the Division  
of Water Resources on April 20, 1955:

Harry A. Phillips	Applicant
Robert M. Daley	Applicant
Roger R. Daley	Applicant
Clarence Daley	Brother of the applicants Daley
K. L. Woodward Associate Hydraulic Engineer Division of Water Resources Department of Public Works	Representing the State Engineer

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DECISION

Substance of the Applications

Application 15684 by Harry A. Phillips initiates an appropriation of 3 cubic feet per second from May 1 to November 1 of each year from an unnamed tributary of Wyman Ravine and from

Wyman Ravine at two points in the vicinity of the southwest corner of Section 8, T18N R4E, MDB&M, Wyman Ravine being tributary via Honcut Creek to Feather River. The water is wanted for the irrigation of 158 acres of rice. Diversion is to be effected by pumping, conveyance by means of 5,500 lineal feet of earth ditch.

Application 15746 by Robert M., Warren C., Garrett C. and Roger R. Daley initiates an appropriation of 3 cubic feet per second from March 1 to November 1 from Wyman Ravine, the water to be pumped at various points along that stream in Sections 23 and 26, T18N R3E, MDB&M, and used for the irrigation of 200 acres of rice and 85 acres of pasture. The water is to be pumped with the aid of sandbag dams and applied either by flooding or by a portable sprinkler system.

The applicants assert ownership of points of diversion and places of use and are silent as to possession of other water rights or sources of water supply.

#### Protests

The Sutter Extension Water District filed identical protests against the two applications. Each protest contains the following statement:

"Sutter Extension Water District supplies water to 18,728 acres of land within its boundaries. During the past six years the average acreage supplied with water has been approximately 5,650 acres of

rice, and 4,200 acres of other irrigated crops. To supply these crops, its water rights are fully used and additional water is purchased.

"The water for this district is diverted from the Feather River through the Sutter Butte Canal system. Its gravity water rights were adjudicated as against the Great Western Power Company in 1924 in action 2360, Butte County Superior Court. The Sutter Butte Canal system supplies protestant, the Richvale Irrigation District, the Biggs-West Gridley Water District, and lands within the service area of the Sutter Butte Canal Company. Each district has a percentage interest in the gravity water rights of the Canal Company and during the summer season there is a shortage of water for all concerned. In addition the Sutter Extension Water District has a right which it exercises each year to pump up to 234 C.F.S. from the Feather River at the said Sunset Pumping Plant.

"Protestant's interest is 19% of the Sutter Butte Canal Company gravity rights which yield when water is available in the Feather River, approximately 380 C.F.S. and in addition protestant has said Sunset pumping rights. This flow is not adequate to meet the district's requirements and in each year when the flow of the Feather River at the Sutter Butte Canal Co. dam drops below 2,000 C.F.S. the entire flow of the river is and has been for many years used to supply the needs of the users from the Sutter Butte Canal Co. system. This occurs in most years between June 1st and July 15th and in dry years as early as May 1st. Thus there is no unappropriated water in the Feather River after the dates mentioned and any appropriation by applicant during that period would deprive protestant of water to which it is entitled."

#### Answers

In answer to the protest against Application 15684

Applicant Phillips asserts:

"1 : The water covered by application 15684 is water that has been used on the property of the applicant by means of two pumps and direct diversion of the creek thus have never been available to the protestant.

"2 : In checking the amounts of water entering the property during the irrigating season and the amount leaving the property indicates that from one-half to two-thirds of the water entering dissipates itself through seepage and evaporation.

"3 : In the 15 miles from the creek outlet from the ranch to the Feather River, from which the protestant diverts water there are several places in the creek which dry up during the summer season and were the application denied and even were the applicant enjoined from the diversion of waters from the creek, as has been done continuously in the past, none of the waters leaving the property would be available to the protestant as it would have been dissipated through seepage and evaporation before it reached the Feather River."

In answer to the protest against Application 15746 the applicants Daley state, in part:

"We believe that the water that we are filing an application for is unappropriated water because up until the present, the portion of Wymans Ravine that we have filed an application on has been a dry stream through the irrigation season. The only water that will flow by our proposed point of diversion will be drainage water from up stream irrigation.

"When we were in the office and filed our application, we were told that if we were granted a permit and did not exercise our right within three years we would lose our rights. Therefore, it is our belief that Permit 6242 issued to the protestants in 1944 is not in effect on the portion of Wymans Ravine that we have filed an application for.

"We are pointing out that Permit 6242 is the only right that we could damage the protestants, by diverting water from Wymans Ravine, as all of the other rights pointed out to us are on the Feather River, where their diversion point is up stream from the junction of Wymans Ravine and the Feather River."

### Field Investigation

The applicants and the protestant with the approval of the Division, having stipulated to the submittal of the applications and protests upon the official records of the Division, a field investigation was conducted on April 20, 1955, by an engineer of the Division. The applicants and the protestant were present or represented during the investigation.

### Records Relied upon

Applications 10529, 15684 and 15746 and all information on file therewith; Palermo, Honcut, Gridley and Biggs quadrangles and Water Supply Papers, Part 11, "Pacific Slope Basins in California," United States Geological Survey; reports of Sacramento-San Joaquin Water Supervision, Division of Water Resources.

### Information Secured by Field Investigation

Extracts from the report covering the field investigation of April 20, 1955, are as follows:

"Wyman Ravine heads at an elevation of about 1,000 feet ... in the southeast portion of T19N, R4E, MDB&M, and flows in a general southwesterly direction approximately 18 miles to a confluence with North Honcut Creek at a point about three miles upstream from Feather River. The watershed area above the project covered under Application 15746 scales approximately 32 square miles. The upper portion of the watershed is typical of the

Sierra Nevada foothill area, i.e., rolling and moderately wooded terrain. Approximately at the town of Palermo the stream debouches out into a relatively flat farming area and from there to Feather River is a rather wide, sluggish water-course with numerous deep pools and considerable reaches where movement of water cannot be detected merely by observation."

"The unnamed stream covered under Application 15684 heads in the low foothill area about two miles due east of the town of Palermo, follows an easterly direction for a distance of about three miles to a junction of Wyman Ravine near the southwest corner of Section 8, T18N, R4E, MDB&M."

"At the time of investigation an estimated 15 cfs was flowing through the Daley property. An estimated 5 cfs was flowing in the unnamed stream entering the Phillips property. The area had experienced an unusually severe rainstorm about 12 hours prior to the investigation and undoubtedly this flow can be largely attributed to the storm."

"From the statements of the numerous parties contacted during the course of the investigation it appears that little or no natural flow occurs in the sources possibly after the first of June. Runoff of any consequence after that date was believed by those parties to be either waste or spill water from the ditch system of Oroville-Wyandotte Irrigation District or spillage from the numerous rice and clover fields in the vicinity."

"Mr. Wilton Kister, a property owner along Wyman Ravine about one mile upstream from the applicants Daley, stated that he was 59 and had lived in the immediate vicinity for his entire life. He stated that prior to the commencement of operations of Oroville-Wyandotte Irrigation District or of production of rice of any quantity in the area the creek normally dried up early in the season. He stated that summer flow has increased particularly during recent years as rice production became more extensive."

"Mr. Ed Passmore, now residing on Cox Road below the Daley ranch ... stated that he had been

acquainted with conditions in the area since 1913 and in fact had worked for 16 years on the Daley holdings. Mr. Passmore contended that prior to the last three years Wyman Ravine always dried up at the Daley ranch between the first of June and the first of July. He cited the year of 1913 with 15 inches of rain the ravine was dry at Cox Avenue by June 1. In 1915 with 40 inches of rain the ravine failed by July 1. He attributed maintenance of summer flow during the past three years primarily to runoff from the rice fields of Mr. Kister mentioned above. (Mr. Passmore claimed that the first rice in the entire area was grown by him in 1916.)"

"J. B. Epting, a property owner along Wyman Ravine ... also supported the contention of the individuals mentioned above. Mr. Epting claimed to have been acquainted with Wyman Ravine for the past 10 years and that prior to planting of rice of any extent upstream from him no flow usually occurred at his place after the first of July. He cited the fact that it was very common to be able to walk across the creek at his place after that date some 10 years ago whereas it would be impossible to do so under present conditions. Mr. Epting believed that the flow at his place was mainly spill and waste water from a well operated by a Mr. Briggs in the SE $\frac{1}{4}$  of Section 2, T17N, R18E."

"In view of the apparent origin of the water under controversy, the quantity and period of occurrence, particularly in the lower reach, would appear to vary considerably depending on the crop pattern upstream. Mr. Phillips stated however that at his place the flow is fairly constant, that 3 cfs was not unusual, that from 25 to possibly 90 acres had been previously irrigated each year on his place and that the former owners had never been able to pump the ravine dry."

"Robert Daley estimated that immediately prior to the recent storm a flow was passing through their property of possibly 1,000 gpm. Oroville-Wyandotte Irrigation District may have been spilling upstream at that time but rice irrigation had not been commenced for the season."

"The place of use covered under Application 15684 has recently been leveled for crop production

and the entire acreage covered may be served during the coming season. At point of diversion No. 1 an 8-inch Cascade ditch pump had been installed and is now ready for operation. A meter box was in place at proposed point of diversion No. 2 and the pump will be installed shortly. A supplemental supply can be obtained from an 8-inch deep well a few feet from point of diversion No. 1."

"A 5-inch centrifugal pump was in place on Wyman Ravine near the upstream edge of the proposed place of use under Application 15746 and has been used in previous years. In 1954 the ravine had been used as a supplemental water supply for the irrigation of 88 acres of rice; 213 acres has been checked prior to the seeding of rice for the coming season. The applicants have two deep wells on the property as a principal source of supply. It is anticipated that water from the ravine will be used primarily for supplemental supply."

"A rather close inspection of the stream system between Feather River and the uppermost applicant revealed three permanent pumping installations. It was understood from Mr. Passmore that others divert occasionally by portable systems. Progressing upstream a pump is located on the right bank of the ravine in the SE $\frac{1}{4}$  of Section 11, T17N, R3E, MDB&M, and is owned by Mr. Epting mentioned above. Mr. Epting stated that the pump has been used only during the past three years for the irrigation of 8 acres of alfalfa which is irrigated twice per month during the irrigation season. Mr. W. Barnett has a pumping installation near the center of Section 35, T18N, R3E, MDB&M. Although Mr. Barnett was not contacted, Mr. Passmore stated that the Barnett pump was first installed in 1954 and is used as a supplemental supply for the irrigation of rice. Mr. Passmore claimed that Mr. Barnett justifies such a diversion as being merely a reclamation of waste water from 60 acres of rice owned by Mr. Barnett some three miles upstream."

"Mr. Wilton Kister claimed to have a pumping installation on the ravine near the SW $\frac{1}{4}$  of Section 13, T18N, R3E. Mr. Kister stated that he



diverts from the creek only during the spring for the first filling of the rice checks, that he has been diverting from the creek for such use for the past six years and that in his opinion the water cannot be appropriated by one or two parties through the filing of application but that each owner along the creek should have an equal right thereto."

"The protest of Sutter Extension Water District is based upon an alleged possible interference with its water supply at the Sunset pumping plant located in the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 9, T16N, R3E, MDB&M."

"During the course of the investigation Mr. J. A. Morgan, present operator of the Sunset pumping plant, was interviewed. Mr. Morgan, although he had been associated with Sutter-Butte Canal Company system for nine years including five years directly with Sutter Extension Water District had only recently been assigned to the Sunset pumping plant and therefore was not too conversant with past operations or deficiencies of supply. Mr. Morgan stated, however, that he had understood that the pumping plant had been forced to restrict its diversions at times during the past years. From an inspection of the plant it appears that one of the problems of the plant is caused by the pump intakes having not been placed sufficiently low in the river. Mr. Morgan mentioned that even under the high stage of the river on April 20 he was unable to operate the 26-inch pump because the intake had not been placed sufficiently low. While the intakes of the larger pumps can apparently operate at a stage possibly two feet below the level at which the smaller pump must be turned off, they too apparently have an inadequate intake depth."

#### Information from Division Files

Under Application 10529 Permit 6242 Sutter Extension Water District may appropriate up to 234 cubic feet per second from about April 1 to about October 31 of each season, from

Feather River, at a point within Section 9, T16N R3E, MDB&M, for irrigation purposes. The application was in the amount of 500 cubic feet per second; it was approved in the amount of 234 cubic feet per second only, the permit providing that action on the remaining 266 cubic feet per second of the amount originally sought be withheld pending entry of further order. The permit is under current extension until December 1, 1955.

River distances upstream along Feather River from its junction with Sacramento River, according to reports of Sacramento-San Joaquin Water Supervision, are as follows:

To gaging station - "Feather River below Shanghai Bend"	23.0 miles
To gaging station - "Feather River at Yuba City"	28.0
To point of diversion under Application 10529 Permit 6242 (Sunset Pumping Plant)	38.1
To mouth of Honcut Slough	43.7
To gaging station - "Feather River near Gridley"	49.7
To Sutter-Butte Canal Company (Haselbusch) Dam	57.9

Monthly mean flows passing "Feather River near Gridley", "Feather River at Yuba City" and "Feather River below Shanghai Bend", in cubic feet per second, during the months of May through October of the 10 most recent years of published record, are reported to have been as follows:

Feather River near Gridley

<u>Year</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>	<u>Oct.</u>
1944	5382	5644	4849	917	102	56	351	740
45	4336	5784	4819	1235	126	81	450	1091
46	6305	8085	4752	762	129	232	593	1055
47	7790	5780	643	465	175	278	510	1550
48	3562	13295	9641	4575	437	61.7	455	1707
49	6438	8129	4071	352	38.4	61.2	281	346
50	7948	11180	7081	1975	127	57.2	855	2479
51	8647	6800	5360	738	53.3	47.6	948	1909
52	11710	29620	21820	8675	2087	837	1248	2046
1953	6237	8950	8284	5767	1075	703	1447	1835
<b>Average</b>	<u>6836</u>	<u>10327</u>	<u>7132</u>	<u>2546</u>	<u>435</u>	<u>241</u>	<u>714</u>	<u>1476</u>

Feather River at Yuba City

Year	March	April	May	June	July	Aug.	Sept.	Oct.
1944	*	*	*	*	384	132	487	1058
45	*	*	*	*	325	166	645	1351
46	6320	9120	5410	1250	254	278	771	1180
47	6280	6460	1200	772	258	388	628	1660
48	4305	14080	10770	5427	566	190	639	1917
49	7918	8701	4639	475	192	161	488	639
50	8057	11230	7419	2455	280	217	1018	2590
51	9204	7006	5541	1070	253	222	1321	2186
52	12460	32810	25570	9352	2796	1063	1844	2562
1953	<u>6783</u>	<u>9654</u>	<u>9823</u>	<u>7318</u>	<u>1618</u>	<u>738</u>	<u>1578</u>	<u>2615</u>
Average					693	356	942	1776

\* no record

Feather River below Shanghai Bend

Year	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.
1944	*	*	*	*	620	259	536	1397
45	*	*	*	*	730	477	988	2212
46	10110	14460	10960	2800	797	576	991	1430
47	11920	9630	2200	1160	229	435	708	2110
48	5977	21500	16740	9365	1112	371	1003	2394
49	12110	13570	9233	1797	345	263	547	654
50	12950	17700	13780	5660	827	361	1258	2779
51	13620	11700	10560	2289	567	389	1583	2654
52	19160	43220	39330	18060	5464	1575	2302	3038
1953	<u>10140</u>	<u>15060</u>	<u>15500</u>	<u>13210</u>	<u>2803</u>	<u>630</u>	<u>1621</u>	<u>2681</u>
Average					1349	534	1154	2135

\* no record

Aggregate diversions from Feather River between "Feather River near Gridley" and "Sunset Pumping Plant", according to reports of Sacramento-San Joaquin Water Supervision, by months, in acre-feet have been as follows:

Year	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.
1944	156	40	79	720	482	292	28	0
45	0	72	101	846	406	364	229	5
46	47	157	247	266	334	353	320	3
47	23	41	323	552	560	662	375	38
48	185	17	92	523	2303	1433	202	82
49	0	181	734	2000	2526	1208	642	49
50	53	75	318	968	2899	1713	470	217
51	0	384	165	1428	2902	1530	850	198
52	0	0	434	928	1809	2406	578	256
1953	<u>232</u>	<u>334</u>	<u>1214</u>	<u>1571</u>	<u>3466</u>	<u>2497</u>	<u>1311</u>	<u>269</u>
Average	69.6	130.1	370.7	980.2	1769	1246	501	111.7

Amounts diverted by the protestant Sutter Extension Water District from Feather River at Sunset Pumping Plant, according to the same reference, in acre-feet, have been:

Year:	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.
1944			1216	2660	3753	3000	2268	2000
45			886	4100	4761	5915	2696	
46		800	3743	802	3675	5206	1828	
47		541	5387	1007	2976	2857	1479	
48			17	2002	2198	1740	1486	
49		1514	277	822	2056	2205	173	
50					1424	981	716	
51		417		197	1509	2282		
52			1380	212	395	3285	1962	
1953		<u>        </u>	<u>200</u>	<u>106</u>	<u>995</u>	<u>3742</u>	<u>1540</u>	
Average		818	1638	1323	2374	3121	1572	

Total diversions from Feather River at points downstream from "Feather River below Shanghai Bend", also in acre-feet and according to the Sacramento-San Joaquin Water Supervision data, have been:

Year	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.
1944	49	1348	8545	8615	10217	9461	6380	752
45	-	289	5131	5376	6279	6438	4715	844
46	-	1622	7476	8138	8216	7050	4885	631
47	-	1597	5775	8064	8221	6112	3521	444
48	968	-	2040	3449	5084	4722	4014	471
49	-	1537	5715	7989	6550	6724	4001	1678
50	63	1307	5149	4988	8051	3594	2634	1601
51	-	2515	5478	5917	6805	5436	4709	1226
52	-	48	5297	5555	6420	6737	4709	1806
1953	<u>402</u>	<u>3040</u>	<u>4960</u>	<u>6432</u>	<u>8195</u>	<u>7047</u>	<u>4568</u>	<u>646</u>
Average			5557	6452	7404	6332	4414	1010

### Discussion

From the information secured by field investigation it appears that natural flow in Wyman Ravine ends about June 1, that there is a meager and intermittent flow thereafter, made up mainly of wastage from a nearby ditch system and return flow from irrigated lands, and that some water has been diverted from Wyman Ravine both by the applicants Daley and by others located farther downstream.



In the absence of any discernible right to divert from Wyman Ravine present diversions therefrom do not appear to bar the approval of Applications 15684 and 15746.

It is not apparent that the appropriations sought under Applications 15684 and 15746 will adversely affect diversions from Honcut Creek below Wyman Ravine or from Feather River below Honcut Creek. Diversions from Honcut Creek below Wyman Ravine appear to be supplied by backwater from Feather River.

In the reach of Feather River between gaging stations "Feather River near Gridley" and "Feather River at Yuba City", 26.7 channel-miles in length, there is large lateral accretion, as is apparent by comparison of the tabulations of flows (supra) passing those stations. Total lateral accretion within the reach is the aggregate of numerous small accretions, information as to the exact location of which is lacking. In this connection the report of Sacramento-San Joaquin Water Supervision for 1953 states:

"(These accretions) are made up of measured flows from surface drains and of many other flows, not susceptible to direct measurement, from minor ephemeral streams, from scores of small surface drains, from seepage and return of percolated irrigation water and from escaping ground water ...."

Inflow into the reach under consideration via "Feather River near Gridley" has evidently been enough in itself during the 10 years of record to supply all diverters from Feather

River from "Feather River near Gridley" to Sunset Pumping Plant inclusive except in August, 1945, July, 1949, July, 1951 and August, 1951. In those 4 months however the record indicates that Sutter Extension Water District pumped at rates approaching or exceeding its average pumping rates for those months, that circumstance evidencing substantial augmentation of flows passing "Feather River near Gridley" by lateral accretions above Sunset Pumping Plant.

The records of flows passing "Feather River below Shanghai Bend" indicate that no dearth of supply has occurred within the 10 years considered between that gaging station and "Feather River at Yuba City"; they further indicate that flows passing "Feather River below Shanghai Bend" have substantially exceeded the apparent requirements of diverters from Feather River below that point.

If the diversion of 6 cubic feet per second, altogether, which the applicants seek to appropriate from Wyman Ravine and an unnamed tributary thereto would result in a diminution, in that amount, of flows reaching Sunset Pumping Plant, supply at that plant, neglecting augmentation by lateral accretions, might have been deficient in 6 months out of the 10-year period considered, instead of 4. However, lateral accretions, while not known exactly as to location and amount, are by no means insignificant and may well have offset the shortages just mentioned, that were estimated

without taking those accretions into account. Even without the benefit of lateral accretions unappropriated water appears to have occurred in every month of the 10-year period considered except July and August and to have occurred in most of the months of July and August. The report of field investigation indicates that any flow that Wyman Ravine may contribute to Feather River during July and August is probably too small to appreciably affect supply at Sunset Pumping Plant.

#### Conclusion

The circumstances point to the conclusion that unappropriated water exists at times in the sources from which appropriation is sought under Applications 15684 and 15746 and that such water may be taken and used beneficially in the manner proposed in those applications without infringement upon the rights of downstream users. In view of those circumstances it is the opinion of this office that Applications 15684 and 15746 should be approved and permits issued, subject to the usual terms and conditions.

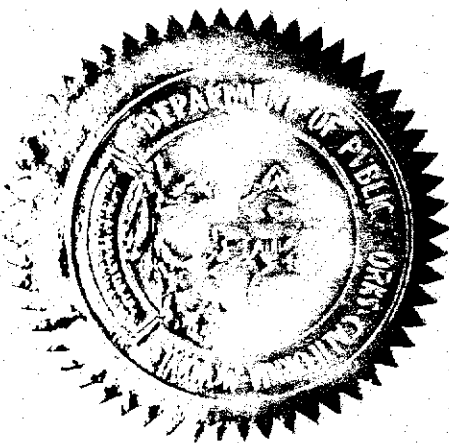
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ORDER

Applications 15684 and 15746 having been filed with the Division of Water Resources as above stated, protests having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 15684 and 15746 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 11th day of October 1955.



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