

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 5193)
15525, 20017, and 20072 of Nevada)
Irrigation District to Appropriate)
from Middle Yuba River and South)
Yuba River in Nevada County)

Decision D 1095

ADOPTED JUL 27 '62

DECISION APPROVING APPLICATIONS

Subject applications all relate to a major project of the Nevada Irrigation District which involves the expansion of existing facilities and the construction of new storage, power, and distribution facilities.

Substance of the Applications*

Application 5193 was filed on September 8, 1926, for a permit to appropriate 50,000 acre-feet per annum (afa) by storage from Middle Yuba River between January 1 and December 1 of each year for irrigation and incidental domestic purposes. The points of diversion are to be located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 18, T19N, R13E, MDB&M** (Jackson Meadows), and the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 12, T19N, R12E (Milton). On-stream storage of water is to be

*Applications 5193 and 15525, as hereinafter summarized, reflect the changes of points of diversion, place of use, and purpose of use as proposed by pending petitions. Said petitions are later discussed in more detail.

**All township references herein are from Mount Diablo Base and Meridian (MDB&M).

at Jackson Meadows with off-stream storage (at a maximum rate of 500 cubic feet per second (cfs) to Bowman Reservoir) or regulation of previously stored water at Bowman, Rollins, Combie, and Scott's Flat Reservoirs. Releases of water from the upper reservoirs will be passed through Spaulding Reservoir (of Pacific Gas and Electric Company) to either the Deer Creek or Bear River watersheds for rediversion through many of the District's ditches and canals. Use of the water is to be made within the boundaries of the Nevada Irrigation District, having a gross area of 268,500 acres and a net irrigable area of 167,789 acres.

Application 15525 was filed on September 3, 1953, for a permit to appropriate 200 cfs by direct diversion from South Yuba River, year-round, for power purposes. The point of diversion is located at Spaulding Dam within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20, T17N, R12E. Use of the water is to be made through the following powerhouses for production of hydroelectric energy:

1. Spaulding No. 1 within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 20, T17N, R12E
2. Drum within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 17, T16N, R11E
3. Dutch Flat No. 2 within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 27, T16N, R10E
4. Chicago Park within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 6, T15N, R10E
5. Halsey within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 25, T13N, R8E
6. Wise within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 16, T12N, R8E

Application 20017 was filed on March 6, 1961, for a permit to appropriate 200 cfs by direct diversion, year-round, and 18,000 afa by storage (at a maximum rate of diversion to off-stream storage of 200 cfs) between November 1 of each year and July 1 of the succeeding year from South Yuba River for irrigation and incidental domestic purposes. The point of direct diversion and diversion to off-stream storage is located within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20, T17N, R12E (Spaulding Dam). The storage of water will be at either Rollins or Scott's Flat Reservoirs. Stored water and direct diversion will be rediverted into numerous ditches and canals serving the same place of use as described for Application 5193.

Application 20072 was filed on April 6, 1961, for a permit to appropriate 50,000 afa by storage from Middle Yuba River, year-round, for power purposes. The water is to be diverted at points within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 18, T19N, R13E (Jackson Meadows), and the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 12, T19N, R12E (Milton), for storage at Jackson Meadows and Bowman Reservoirs. Use of the water will be made for generating hydroelectric energy at powerhouses located as follows:

1. Spaulding No. 3 within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 16, T17N, R12E
2. Spaulding No. 1 within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 20, T17N, R12E
3. Drum within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 17, T16N, R11E
4. Dutch Flat No. 2 within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 27, T16N, R10E

5. Chicago Park within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 6, T15N, R10E
6. Spaulding No. 2 within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 20, T17N, R12E
7. Deer Creek within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 34, T17N, R10E
8. Halsey within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 25, T13N, R8E
9. Wise within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 16, T12N, R8E

Protests and Hearing

Notice of Application 5193 was published on July 18, 1930. Several protests against its approval were received. All these protests were dismissed by Decision D 474* of the former Division of Water Resources, issued on March 10, 1941. Notices of Applications 15525, 20017, and 20072 were duly given, the latter two being combined with notice of the pendency of petitions requesting change in points of diversion, places of use and character of use, in connection with Applications 5193 and 15525. Protests having been received, public hearings were held in Sacramento, California, on March 13 and April 10, 1962. Kent Silverthorne, Chairman of the State Water Rights Board, and Ralph J. McGill, Member, conducted the hearing.

*A hearing involving Application 5193 and other applications was held on April 21, 22, 1931. The decision rendered pursuant to the hearing ordered that "action on Application 5193 be withheld until further order is entered."

Description of Watershed and Water Supply

Both South Yuba River and Middle Yuba River originate near the crest of the Sierra Nevada and flow in general south-westerly directions approximately 45 miles to a confluence at Englebright Reservoir. The confluence is about 6 miles upstream from Englebright Dam. North Yuba River joins Middle Yuba River at a point about 12 miles upstream from Englebright Dam. The main stem of the Yuba River continues below Englebright Dam in a south-westerly direction for approximately 20 miles to a confluence with the Feather River at Marysville. The watershed ranges in elevation from a maximum of 9,103 feet at Castle Peak to between 5000 and 6000 feet at the proposed points of diversion.

A study introduced by the applicant (N.I.D. Exh. 1, Appendix O, Table E) indicates and the Board finds that operation of the project pursuant to the subject applications will result in an increase in the flow of Yuba River at Englebright Dam during the summer months. Diversions by users along the Yuba River downstream from Englebright Dam are made mainly during the summer months when water is taken by direct diversion for irrigation or other purposes. Consequently, it is logical to conclude that there would be no injury to users along the Yuba River if operations by the applicant are carried on as described.

The gaging stations on Yuba River "at Englebright Dam" and "near Marysville" are situated where they gage the flow available to protestants and flow passing protestants' lowermost

point of diversion (Staff Exh. 4). Flow passing the lower gage empties into the Feather River, a distance approximately 6 miles downstream from the gaging station. The historical records of flow at the lower gaging station indicate that there is hydrologic continuity of the Yuba River with the Feather River and thence the Sacramento River and Delta during all months of the year.

Certain exhibits were introduced into evidence relative to the availability of unappropriated water for the reach of the Sacramento River to which the Yuba River is tributary via Feather River. These are Staff Exhibit 6 ("Central Valley Project Operations Study, Shasta Reservoir Operation for Hydrologic Period 1921-22 to 1953-54," with source of data and column explanation) and Staff Exhibit 7 ("Report on 1956 Cooperative Study Program," Volumes 1 and 2, together with supplements). An analysis of these exhibits indicates and the Board finds that the subject applications should be denied for the months of July and August of each year to protect existing downstream rights.

Petitions

On July 17, 1961, petitions were received from Nevada Irrigation District to change the points of diversion under Application 5193 and to add incidental domestic as a purpose of use. The proposed change in points of diversion eliminates storage at Milton Reservoir and requests that storage of water allowed under the application be made in Jackson Meadows, Bowman, Scott's Flat, Rollins, and Combie Reservoirs. The stored water

is to be rediverted to and from numerous points on Deer Creek, Rock Creek, Rattlesnake Creek, Squirrel Creek, Dry Creek, Wolf Creek, Bear River, Auburn Ravine, Doty Ravine, and Coon Creek (Staff Exh. 1).

Petitions dated March 2, 1961, from applicant Nevada Irrigation District were received on Application 15525, proposing changes in point of diversion and place of use. The petitions request that the point of diversion under Application 15525 be moved upstream to the existing Spaulding Dam on South Yuba River. The water diverted is to be used through Spaulding No. 1, Drum, Dutch Flat No. 2, Chicago Park, Halsey, and Wise Powerhouses for the generation of hydroelectric power. Notices of Applications 5193 and 15525 reflecting the changes requested by the petitions were given on October 5, 1961 (Staff Exhibit 1).

All of the protests filed against the approval of Applications 5193 and 15525 have been satisfied, and it is found that no legal user of the water would be injured by the proposed changes. Accordingly, an order will be made approving said petitions.

Applicant's Proposed Project

The Nevada Irrigation District's 268,500 acres in Nevada and Placer Counties includes about 167,789 irrigable acres. Because of the natural regimen of rapid spring runoff at the time of snow melt, water from the Middle and South Yuba River is available within the District during the irrigation

season for only a small fraction of said irrigable acres. Applicant's project will partially but not fully meet the supplementary water requirements for ultimate irrigation and municipal development within the District boundaries (RT pp. 27-29; N.I.D. Exhs. 1 and 3).

Protests

All protests have been disposed of by stipulation. The protest by the California Department of Fish and Game resulted in an agreement with a wide range of provisions. To the extent that such agreement relates to releases of water from reservoirs, rates of release of water, and minimum pool elevations and capacities, the Board finds such portions of the agreement to be both in the public interest and appropriate for inclusion as a permit condition.

The protest of Hallwood Irrigation Company was settled by a written stipulation dated July 17, 1962, wherein Nevada Irrigation District agreed to reduce the storage season under Applications 5193, 15525, 20017 and 20072 to October 1 of each year to July 15 of the succeeding year. However, no storage is proposed under Application 15525 and the storage season specified under Application 20017, as filed, is in conformity with the stipulation. Consequently, only Applications 5193 and 20072 are affected by the stipulation.

Special Storage Limitation

Storage of water in the reservoirs named in the subject applications (Jackson Meadows, Bowman, Scott's Flat, Rollins, and Combie Reservoirs), is covered by earlier permits and licenses held by the applicant. In some cases, the proposed capacity of said reservoirs is completely covered or more than covered by these existing rights. In order to avoid the duplication of existing rights for storage, a seasonal storage limit should be placed on the subject applications with respect to said reservoirs. Such a limitation will not apply to Application 15525, since that application covers only direct diversion. The special permit limitation with respect to the other applications will limit storage in the reservoirs to the actual physical capacity (RT 120-127).

Conclusions

The evidence indicates and the Board finds that unappropriated water exists in the Middle and South Yuba Rivers with sufficient frequency between September 1 and June 30 of each season to justify approval of the applications and that subject to suitable limitations and conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water. Lack of unappropriated water and protection of downstream vested rights require denial of the subject applications for the period from July 1 through

August 31 of each year. The agreement between the applicant and Hallwood Irrigation District requires that the month of September be eliminated from the storage season under Applications 5193 and 20072. The intended uses are beneficial.

From the foregoing findings the Board concludes that Applications 5193, 15525, 20017 and 20072 should be approved excepting insofar as they relate to the appropriation of water during the months of July and August for direct diversion and insofar as Applications 5193, 20017 and 20072 relate to the appropriation of water by storage during the months of July, August, and September, and that permits should be issued to the applicant subject to limitations and conditions of general or specific applicability as indicated.

ORDER

IT IS HEREBY ORDERED that the petitions filed on July 17, 1961, for permission to change the points of diversion and to add incidental domestic as a purpose of use under Application 5193 be, and they are, granted; and that the petitions filed March 6, 1961, for permission to change the points of diversion and the places of use under Application 15525 be, and they are, granted.

ORDER

IT IS HEREBY ORDERED that Applications 5193, 15525, 20017, and 20072 be approved for the seasons hereinafter set

forth, subject to vested rights and to the limitations and conditions of special applicability as set forth in the following Orders, and to the limitations and conditions of general applicability to be included in each permit as follows:

1. The maximum amount herein stated may be reduced in the license if investigation warrants.

2. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

3. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

4. Permittee shall allow representatives of the State Water Rights Board and other parties as may be authorized from time to time by said Board reasonable access to project works to determine compliance with the terms of this permit.

5. Actual construction work shall begin on or before September 1, 1963, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

6. Construction work shall be completed on or before December 1, 1968.

7. Complete application of the water to the proposed use shall be made on or before December 1, 1971.

8. This permit is subject to those terms of that certain agreement entered into between Nevada Irrigation District and California Department of Fish and Game dated March 13, 1962 (Fish and Game Exh. 3), which relate to releases of water, rates of release, and minimum pool elevations and capacities under the project outlined in this permit.

9. Permittee shall file with the State Water Rights Board, prior to the commencement of construction, a monthly operation study showing present use of water from Yuba River watershed and a monthly operation study showing use of water from Yuba River watershed when project is in full operation.

ORDER

IT IS HEREBY ORDERED that:

1. The amount of water to be appropriated under Application 5193 shall be limited to the amount which can be beneficially used and shall not exceed 50,000 acre-feet per annum by storage to be collected from about October 1 to December 1 of each year and from January 1 to about June 30 of the succeeding year. Diversion to off-stream storage in Bowman Reservoir shall be at a maximum rate of 500 cubic feet per second.

2. This permit does not authorize collection of water to storage during the period from about July 1 to about September 30 and from December 1 through December 31 of each season to offset evaporation and seepage losses or for any other purpose.

3. The quantity of water appropriated by diversion to storage under the permit to be issued on Application 5193, or under said permit and any combination of permits issued on the following applications which cover the same storage reservoirs, shall not exceed reservoir seasonal storage limits applicable to each of said reservoirs, as follows:

<u>Name of Reservoir</u>	<u>Reservoir Seasonal Storage Limit in Acre-Feet</u>	<u>Application No.</u>
Jackson Meadows	68,000	2275 2276 5193 20072
Bowman	72,000	1270 2275 2276 2372 5193 8177 8179 20072
Scott's Flat	52,000	1614 5193 8177 20017
Rollins	90,000 (or reservoir capacity, if less)	2652 5193 8177 20017
Combie	7,500	2652 5193

4. Permittee shall install and maintain suitable measuring devices or provide other means acceptable to the Board for measuring inflow to and outflow from Jackson Meadows, Rollins, and Scott's Flat Reservoirs and such other reservoirs as the Board may determine in order that accurate measurements can be made of the quantity of water stored under this permit.

5. In accordance with the requirements of Water Code Section 1393 permittee shall clear the sites of the proposed Jackson Meadows, Rollins, and Scott's Flat Reservoirs of all structures, trees, and other vegetation which would interfere with the use of the reservoirs for water storage and recreational purposes.

6. A separate application for approval of plans and specifications for construction of Jackson Meadows, Rollins, and Scott's Flat Dams described in this approved water right application shall be filed with and approved by the Department of Water Resources prior to commencement of construction of said dams.

ORDER

IT IS HEREBY ORDERED that:

1. The amount of water to be appropriated under Application 15525 shall be limited to the amount which can be beneficially used and shall not exceed 200 cubic feet per second to be diverted from about September 1 of each year to about June 30 of the succeeding year.

ORDER

IT IS HEREBY ORDERED that:

1. The amount of water to be appropriated under Application 20017 shall be limited to the amount which can be beneficially used and shall not exceed 200 cubic feet per second by direct diversion to be diverted from about September 1 of each year to about June 30 of the succeeding year and 18,000 acre-feet per annum by storage (diversion to storage to be at a maximum rate of 200 cubic feet per second) to be collected from about November 1 of each year to about June 30 of the succeeding year.

2. This permit does not authorize collection of water to storage during the period from about July 1 to about October 31 of each season to offset evaporation and seepage losses or for any other purpose.

3. The quantity of water appropriated by diversion to storage under the permit to be issued on Application 20017, or under said permit and any combination of permits issued on the following applications which cover the same storage reservoirs, shall not exceed reservoir seasonal storage limits applicable to each of said reservoirs, as follows:

<u>Name of Reservoir</u>	<u>Reservoir Seasonal Storage Limit in Acre-Feet</u>	<u>Application No.</u>
Rollins	90,000 (or reservoir capacity, if less)	2652 5193 8177 20017
Scott's Flat	52,000	1614 5193 8177 20017

4. Permittee shall install and maintain suitable measuring devices or provide other means acceptable to the Board for measuring inflow to and outflow from Rollins and Scott's Flat Reservoirs and such other reservoirs as the Board may determine in order that accurate measurement can be made of the quantity of water stored under this permit.

5. In accordance with the requirements of Water Code Section 1393 permittee shall clear the sites of the proposed Scott's Flat and Rollins Reservoirs of all structures, trees, and other vegetation which would interfere with the use of the reservoirs for water storage and recreational purposes.

6. A separate application for approval of plans and specifications for construction of Scott's Flat and Rollins Dams described in this approved water right application shall be filed with and approved by the Department of Water Resources prior to commencement of construction of said dams.

ORDER

IT IS HEREBY ORDERED that:

1. The amount of water to be appropriated under Application 20072 shall be limited to the amount of water which

can be beneficially used and shall not exceed 50,000 acre-feet per annum by storage to be collected from about October 1 of each year to about June 30 of the succeeding year.

2. This permit does not authorize collection of water to storage during the period from about July 1 to about September 30 of each season to offset evaporation and seepage losses or for any other purpose.

3. The quantity of water appropriated by diversion to storage under the permit to be issued on Application 20072, or under said permit and any combination of permits issued on the following applications which cover the same storage reservoirs, shall not exceed reservoir seasonal storage limits applicable to each of said reservoirs, as follows:

<u>Name of Reservoir</u>	<u>Reservoir Seasonal Storage Limit in Acre-Feet</u>	<u>Application No.</u>
Jackson Meadows	68,000	2275 2276 5193 20072
Bowman	72,000	1270 2275 2276 2372 5193 8177 8179 20072

4. Permittee shall install and maintain suitable measuring devices or provide other means acceptable to the Board for measuring inflow to and outflow from Jackson Meadows Reservoir and such other reservoirs as the Board may determine in order that accurate measurements can be made of the quantity of water stored under this permit.

5. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed Jackson Meadows Reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

6. A separate application for approval of plans and specifications for construction of Jackson Meadows Dam described in this approved water right application shall be filed with and approved by the Department of Water Resources prior to commencement of construction of the dam.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, this day of , 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member