

BEFORE THE DIVISION OF WATER RIGHTS  
DEPARTMENT OF PUBLIC WORKS  
STATE OF CALIFORNIA

*Decision file*

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IN THE MATTER OF APPLICATIONS NUMBER 3475 AND NUMBER 3790 OF THEO H. BISTRUP TO APPROPRIATE FROM AN UNNAMED DRY CREEK, IN MODOC COUNTY, FOR AGRICULTURAL PURPOSES

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DECISION NO. 3475 - 3790 D 34  
Decided December 30, 1924

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APPEARANCES AT HEARING HELD SEPTEMBER 30, 1924

For Applicant - Theo H. Bistrup in Propria Persona  
For Protestant - No Appearance  
Examiner - T. R. Simpson for Edward Hyatt, Jr.,  
Chief of Division of Water Rights.

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O P I N I O N

These two applications are for appropriations of water from an unnamed Dry Creek in Red Rim Rock Canyon in Modoc County for use by Theo. H. Bistrup for agricultural purposes.

Application Number 3475 was filed on June 13, 1923.

It proposes a storage of 10 acre feet and a direct diversion of 0.27 cubic feet per second to irrigate 21.75 acres. It was protested by J. H. Wood, Pitt River Power Company also protested but withdrew prior to the hearing. Application Number 3790 was filed on January 8, 1924. It proposes a storage of 2 acre feet to irrigate 1 acre. This latter application was not protested.

These applications were completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights. Application Number 3475 being protested, a public hearing was set at the Court House, Alturas, at 1:30 P.M., September 30, 1924. A hearing was set on Application Number 3790 at the same time for even though it was not protested, it was a relative project by the same applicant. Of this hearing applicant and protestant were duly notified. No appearance was made on behalf of protestant but applicant appeared and introduced testimony tending to show the need of applicant for the appropriations sought, and the availability of unappropriated water which could be appropriated without injury to protestant.

The Pitt River Power Company withdrew its protest since it appeared that no injury would result to its proposed projects by the use contemplated by applicant.

Mr. J. H. Wood protested application Number 3475 setting up riparian claims, to the entire flow of the source in question. Protestant claims to have used some water in the past but no claim was made of use in recent years.

At the hearing applicant gave testimony that no water had been used by protestant for the past ten years and that protestant had neither a storage nor a diversion system with which any use of water could be made. Applicant also submitted evidence that there was sufficient unappropriated water available for the purposes of these applications even during a dry year like 1924. No refutation was made of the claims of applicant.

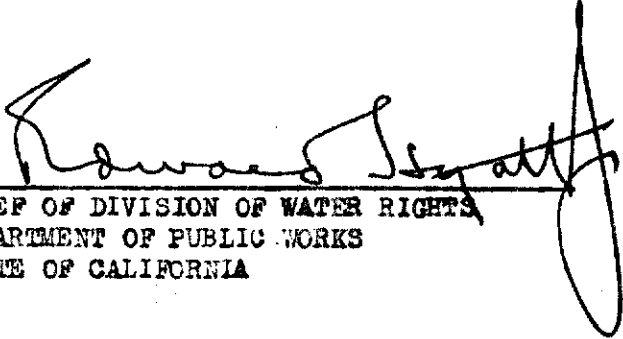
It is therefore concluded that there is unappropriated water available in sufficient quantity to justify issuance of a permit to applicant.

O R D E R

Applications Number 3475 and Number 3790 for permits to appropriate water having been filed with the Division of Water Rights, protests having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Applications Number 3475 and Number 3790 be approved and that permits be granted to applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, this thirtieth day of December, 1924

  
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CHIEF OF DIVISION OF WATER RIGHTS  
DEPARTMENT OF PUBLIC WORKS  
STATE OF CALIFORNIA