

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

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In the Matter of Applications No. 1081, No. 2460, and No. 3091 of  
Oakdale Irrigation District and South San Joaquin Irrigation  
District to appropriate from Stanislaus River, in Calaveras  
and Tuolumne Counties for Agricultural and Power Purposes

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DECISION NO. 1081-2460-3091. D 56  
Decided May 25, 1925

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APPEARANCES AT HEARING HELD FEBRUARY 13, 1924-

For Applicant: John Hancock, for Nutter, Hancock & Rutherford,  
and P. H. Griffin, Attorneys at Law.  
For Protestants: None  
Examiner: Edward Hyatt, Jr., Acting Chief of Division of  
Water Rights

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O P I N I O N

These three applications are for appropriations of water from Stanislaus River to be used jointly by Oakdale and South San Joaquin Irrigation Districts in connection with the so-called "Melones Project" which proposes storage in Melones Reservoir primarily for agricultural uses within the two districts and the development of hydro-electric power by means of a power plant located below the storage dam.

The main features of the three applications are as follows:

Application No. 1081 was filed September 20, 1918. It proposes an appropriation of 96,195 acre feet per annum for agricultural purposes by means of storage. It was protested by Calaveras Copper Company, Domingo Rolleri and George A. Posey, and Sierra and San Francisco Power Company. Application No. 2460 was filed July 29, 1921. It proposes an appropriation for power purposes of 2,000 cubic feet per second from

natural flow and 150,000 acre feet per annum by means of storage. It was protested by Knightsen Irrigation District and Sierra and San Francisco Power Company. Application No. 3091 was filed October 19, 1922. It proposes an appropriation of 25,704 acre feet per annum for agricultural purposes by means of storage. It was protested by Knightsen Irrigation District and Sierra and San Francisco Power Company.

These several applications were completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights, and being protested were set for a public hearing at 707 Forum Building, Sacramento, at 10:00 o'clock A. M. on February 13, 1924. Of this hearing applicant and protestants were duly notified. No appearances were made on behalf of any of the protestants but applicant appeared and introduced testimony and data tending to show the need of applicants for the appropriations sought, and the availability of unappropriated water which could be appropriated without injury to protestants.

The protest of Domingo Rolleri and George A. Posey was filed July 25, 1919. It is based upon a claim of right to appropriate water from Stanislaus River at a point upstream from applicants' proposed point of diversion and evidently within the proposed reservoir site. However, the order determining and establishing the several rights by appropriation of the waters of Stanislaus River entered by the Division of Water Rights on September 21, 1922, takes no cognizance of the rights claimed by these protestants. Neither have said claimants filed objection to such omission within the time provided by law. Furthermore they have failed to make any showing at the hearing held on the matter. It

therefore appears that protestants' claim of right to appropriate is without basis in fact and can not be urged as cause for denial of Application No. 1081.

The protest of Calaveras Copper Company, filed on June 24, 1919, is based upon claims of ownership of land within the proposed reservoir site, riparian and appropriative rights, and intention to build a power plant, all of which would be interfered with by the proposed appropriation. It appears that applicants at one time held under option ninety-five per cent of the lands to be flooded by the proposed reservoir, and further that said applicants enjoy the right of eminent domain by which it is practicable to obtain any necessary lands or rights which can not be obtained by direct negotiation. The appropriative rights claimed by protestants were not acknowledged in the order of determination heretofore referred to. In the absence of any further showing by the protestant at the hearing held on February 13, 1924, it appears therefore that this protest is without merit and should not stand as a bar to the issuance of permit upon Application No. 1061.

The protest of Sierra and San Francisco Power Company against Application No. 1081 was filed June 25, 1919, and protest of said company against Applications No. 2460 and No. 3091 was filed April 16, 1923. These protests are based upon claims of interference with riparian right to use water at the Knights Ferry Power Plant of protestant and also claim of appropriative rights filed with the State Water Commission on April 1, 1919, in connection with the adjudication proceedings heretofore referred to. Protestant's claim of riparian right was urged only in the original protest against Application No. 1081. It was denied by applicants and not subsequently urged in the protest against Application

No. 2460 and Application No. 3091. The second protest in fact merely protested against the approval of these applications "insofar as the granting \* \* \* will vest in said Oakdale and South San Joaquin Irrigation Districts any rights in and to the water of the Stanislaus River prior or superior to the rights" etc. of Sierra and San Francisco Power Company. The rights of protestant have been defined in the order of determination heretofore referred to, and these applications are to appropriate unappropriated water subject to existing rights. It therefore appears that the objections of protestant will be sufficiently satisfied by the issuance of a permit expressly subject to all vested rights.

The protest of Knightsen Irrigation District was filed February 13, 1923. It is based upon a prior claim of appropriative right and alleges the menace of the encroachment of salinity into protestant's source of water supply if these applications be approved and the appropriations consummated. The facts appear to be that without objection the applicants have for many years last past taken any or all of the water as needed which was found flowing at the Goodwin Dam below present proposed point of diversion and diverted such water for use upon the lands of the two districts which are parties applicant and that the water which it is now proposed to appropriate by storage is the surplus or flood discharge of the river which becomes available at those times when the surplus and flood discharge of other streams feeding the delta channels from which protestant appropriates are sufficient to prevent a dangerous condition of salinity at protestant's point of diversion. The public records of stream flow which are made available by the Water Resources

Branch of the United States Geological Survey indicate that there is normally a very considerable surplus available during the months of January to June, inclusive. Insofar as the direct diversion feature of applicants' project is concerned it relates to power use alone. The water will be diverted from and returned to the stream far above protestant's point of diversion.

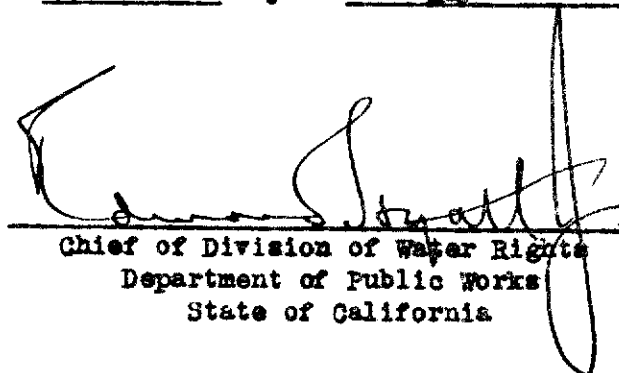
ORDER

Applications No. 1081, No. 2460, and No. 3091 for permits to appropriate water having been filed with the Division of Water Rights as above stated, 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 No. 1081, and No. 3091 be approved and that permits be granted to the applicants subject to such of the usual terms and conditions as may be appropriate; and it is further ordered that said Application No. 2460 be approved and that permit be granted to the applicants subject to such of the usual terms and conditions as may be appropriate and the following special terms and conditions, to wit:

"It is expressly recognized by all parties hereto that no rights to water, except stored water, are to be acquired under this permit which may in the future operate to the disadvantage of irrigation development."

Dated at Sacramento, this 25th day of May  
1925.

  
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Chief of Division of Water Rights  
Department of Public Works  
State of California