

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

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IN THE MATTER OF APPLICATION NUMBER 2744 OF KAWEAH
MOLYBDENUM MINES COMPANY TO APPROPRIATE WATER FROM
MIDDLE FORK OF KAWEAH RIVER FOR POWER PURPOSES

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Decision No. 2744, D 63

Decided July 17, 1925

APPEARANCES AT HEARING HELD March 14, 1925

For Applicant: No appearance
For Protestants: People's Consolidated Ditch Co., et al
W. R. Bailey, Attorney, Visalia, California
No Appearance: U. S. National Park Service
Examiner: Edward Hyatt, Jr.,
Chief of Division of Water Rights

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O P I N I O N

This is an application filed February 1, 1922, to use 10 second feet of the natural flow and to store 260 acre feet for subsequent use of the waters of the upper reaches of the Middle Fork of Kaweah River for power purposes, all water to be returned to the source at a power house some 1200 feet below the point of direct diversion. It was jointly protested by 18 organizations diverting water some distance below on the Kaweah River and by the U.S. National Park Service.

This application was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights except as was determined subsequent to the hearing and being pro-

tested was set for a public hearing at 9:00 o'clock a.m. on March 14, 1925, in the Supervisor's Room of the Court House at Visalia, California. Of this hearing applicant and protestants were duly notified. No appearance was made on behalf of the applicant but protestants were jointly represented by counsel who introduced testimony tending to show that no storage of water from the source could be effected without injury to rights claimed by protestants.

It appears from evidence presented at the hearing that there is no objection on the part of the downstream protestants insofar as direct diversion is concerned the protest being directed against the storage phases of the application which proposes the collection of water in storage between January 1st and June 1st. Uncontroverted evidence indicates that, due to climatic conditions obtaining in the watershed above the proposed point of diversion, the precipitation remains in the form of snow throughout that period and there is accordingly no runoff until after June 1st of each season. It was also shown without contradiction that even though 260 acre feet were stored prior to June 1st the normal flow of the river is such that draft on storage would not be necessary until after August 1st. After this latter date any stored water turned into the River at the power house would be entirely lost through seepage and evaporation before it reached protestant's points of diversion. It further appeared that after June 15th of a normal year there is insufficient water to satisfy the irrigation demands of the protestants and any diversion to storage beyond that date would further deplete a supply already insufficient. This evidence is supported by various maps and records of flow in and use from the stream.

Subsequent to the hearing the U. S. National Park Service advised the Division of Water Rights that the project lies within the proposed Roosevelt-Sequoia National Park on which fact they base a protest, the creation of the park being now before Congress. Applicant has submitted no information in answer to this protest.

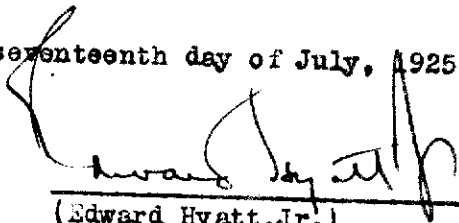
Under date of April 24, 1925, applicant was advised of the necessity of placing the project before the Federal Power Commission and allowed 60 days for the purpose of making the requisite application to that body, with advice that failure to initiate negotiations for the necessary right of way would be sufficient reason for cancellation of the application in accordance with regulations 14 and 15 of the Rules and Regulations of the Division of Water Rights. To date this office is not advised that any such application to the Federal Power Commission has been made. It is therefore found that the application is insufficient in form and that applicant has not corrected the deficiencies although sufficient time has been allowed for that purpose.

O R D E R

Application Number 2744 for a permit to appropriate water, having been filed with the Division of Water Rights as above stated, protests having been filed, the applicant having been advised of deficiencies in his said application which should be corrected, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises,

IT IS THEREFORE ORDERED that said application be and the same is hereby rejected and cancelled upon the records of the Division of Water Rights without prejudice.

Dated at Sacramento, this seventeenth day of July, 1925.



(Edward Hyatt, Jr.)
CHIEF OF DIVISION OF WATER RIGHTS