

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

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In the Matter of Application 4844 of Charles F. Bradford to Appropriate from Middle Fork of Cosumnes River, Sopiago Creek and South Fork of South Fork of Cosumnes River in Amador and Eldorado Counties for Power Purposes; in the Matter of Application 4845 of Charles F. Bradford to Appropriate from Middle Fork of Cosumnes River in Eldorado County for Power Purposes; in the Matter of Application 4846 of Charles F. Bradford to Appropriate from North Fork of Cosumnes River in Eldorado County for Power Purposes, and in the Matter of Application 5543 of Charles F. Bradford to Appropriate from North Fork of Cosumnes River and Middle Fork of Cosumnes River in Eldorado County for Irrigation and Domestic Purposes.

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DECISION A. 4844, 4845, 4846, 5543 D-265

Decided *August 20, 1930*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, DECEMBER 13, 1929.

For applicant

Charles F. Bradford

Joseph E. Spink

For Protestant

C. E. Hutchison, et al.
Charley Edner

Joseph W. Gross
In propria persona

EXAMINER: Harold Conkling, Deputy in Charge of Water Rights,
Division of Water Resources, Department of Public Works.

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O P I N I O N

GENERAL FEATURES OF THE APPLICATIONS

The essential features of the several applications are shown in the following table.

Number:	Date	Purpose:	Source	Amount:	Season	Point of Diversion
:	:	:	:	A.F. :	:	M.D.B. & M.
4344	:11-24-25:	Power	:Middle Fk. Cosumnes R.:	20,000:	Jan.1-Dec.31:	NW NW Sec.12 T8N R14E
:	:	:	:Sopiago Creek	: 5,000:	Jan.1-Dec.31:	SE SW Sec. 7 T8N R14E
:	:	:	:S.Fk.S.Fk. Cosumnes R.:	5,000:	Jan.1-Dec.31:	SW SW Sec.27 T8N R13E
4345	:11-24-25:	Power	:Middle Fk. Cosumnes R.:	130cfs:	Jan.1-Dec.31:	NW NW Sec.19 T9N R12E
:	:	:	:	:36,500:	Jan.1-Dec.31:	NW NW Sec.19 T9N R12E
4346	:11-24-25:	Power	:North Fk. Cosumnes R.:	100cfs:	Jan.1-Dec.31:	SE NE Sec.12 T9N R11E
:	:	:	:	:20,000:	Jan.1-Dec.31:	SE NE Sec.12 T9N R11E
5543	: 6-21-27:	Irrig. & Dom.	:North Fk. Cosumnes R.:	15,000:	Oct.1-May 31:	SE NE Sec.12 T9N R11E
:	:	:	:Middle Fk. Cosumnes R.:	25,000:	Oct.1-May 31:	NW NW Sec.19 T9N R12E

Applications 4344, 4345 and 4346 were protested by C. E. Hutchison, et al. and El Dorado Irrigation District. Applications 4344 and 5543 by Charley Edner and Application 5543 by Leslie P. Frey.

HEARING SET IN ACCORDANCE WITH SECTION 1a
OF THE WATER COMMISSION ACT

Applications 4344, 4345, 4346 and 5543 of Charles F. Bradford were completed sufficiently for advertising in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources and being protested were set for a public hearing in accordance with Section 1a of the Water Commission Act on December 13, 1929, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestants were duly notified.

DISCUSSION

Action on each of the applications is predicated entirely upon the status of the project as developed at the hearing and subsequent thereto. The individual protests therefore will not be discussed.

At the time of the hearing the applicant had applied to the Federal Power Commission for a preliminary permit which if granted would have given him right of access to the several points of diversion. Testimony indicated that he had been negotiating with Eastern capital for funds with which to develop the projects. No arrangements had been made for the sale of the power and no legal relationship had been established with the place of use named in the agricultural filing. The necessary rights of way had not been acquired and as a portion of the right of way was apparently over protestants property and applicant had not the power of eminent domain and was not operating as a public utility, it appeared that he was not in a position to obtain them.

Under date of April 23, 1930, this office was informed by the Federal Power Commission that after careful consideration of the data which had been filed by Mr. Bradford in connection with his Application 971 before the Federal Power Commission for a preliminary permit on the North and Middle Forks of the Cosumnes River, his application was rejected on the grounds that adequate evidence of his financial ability to carry out the proposed project was not satisfactorily shown.

A reasonable time was thereafter allowed the applicant by this office within which to file an appeal from the decision of the Federal Power Commission and the applicant was advised under date of May 1, 1930, that failing the receipt of information from him that proper steps had been taken and were being vigorously pressed for a reconsideration of the action taken by the Federal Power Commission, this office would proceed to act upon the applications based upon the information at hand.

No reply to the letter was received and on June 12th the applicant's agent was advised that inasmuch as the right of access for the agricultural filing depended partly upon rights of way having been acquired under the power applications which rights of way had been denied by the Federal Power Commission, Application 5543 was incomplete in respect to right of access. Applicant's attention was also directed to the fact that legal relationship had not been shown between the lands named as the place of use in Application 5543 as required under Regulation 10 of our Rules and Regulations. It was suggested that the filings be withdrawn unless applicant was in a position to acquire right of access and to establish legal relationship with the place of use but no reply to the letter has been received.

It is therefore the opinion of this office that Applications 4844, 4845 and 4846 for power purposes should be cancelled on the grounds that the Federal Power Commission has refused to grant the applicant a preliminary permit and therefore applicant is not in a position to acquire the necessary right of access.

Application 5543 should also be denied because of failure on the part of the applicant to acquire the necessary right of access and to establish legal relationship with the place of use.

O R D E R

Applications 4844, 4845, 4846 and 5543 of Charles F. Bradford 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 Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Applications 4344, 4345, 4346 and 5543 be rejected and cancelled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 20 day of August, 1930.

EDWARD HYATT, State Engineer

BY Harold Conkling
Deputy

WES:MP