

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

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In the Matter of Applications 5002 and 5123 of the East Bay Municipal Utility District to appropriate from the Mokelumne River in Amador and Calaveras Counties for Power Purposes.

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DECISION A, 5002, 5123 D 269

Decided September 20, 1930

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APPEARANCES AT HEARING HELD IN SACRAMENTO, FEBRUARY 25, 1930.

For Applicant

East Bay Municipal Utility District

T. P. Wittschen
L. W. Irving

For Protestants

L. J. & E. M. Locke and Tip Anderson
California Delta Farms Inc.)
Rindge Land and Navigation Co.)
Delta Farms Reclamation Districts Nos.)
2024, 2025, 2026, 2028, 2029, 2042, & 2044)
G. H. & D. H. Atkins and C. H. Kroll)
Mercantile Trust Co. of Calif.
Stephen E. Kieffer
J. W. Preston Jr.
Rodney C. Bridge, et al.

Fred B. Wood

D. S. Hadsell

No Appearance.

No Appearance.

No Appearance.

No Appearance.

For Other Interested Parties

La Lomita Ranch
Woodbridge Irrigation District

J. E. Thorpe

W. J. Robinson

EXAMINER: Everett N. Bryan, Hydraulic Engineer,
Division of Water Resources, Department of Public Works
State of California.

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OPINION

On April 17, 1926, Application 4223 of the East Bay Municipal Utility District was approved by the issuance of Permit 2450 allowing the applicant to appropriate from the Mokelumne River at the Pardee dam,

310 cubic feet per second by direct diversion throughout the entire year and 217,000 acre feet per annum by storage in Lancha Plana Reservoir to be collected from about October 1st to about July 15th of each season at the combined diversion from natural flow and storage not to exceed an equivalent flow of 310 cubic feet per second and the water to be used for municipal purposes within the East Bay Municipal Utility District.

On June 15, 1926, Application 4768 of the East Bay Municipal Utility District was approved by the issuance of Permit 2529 amended by order of August 17, 1926, allowing the District to appropriate for power purposes from the Mokelumne River at the Fardees dam an amount not to exceed 375 cubic feet per second throughout the entire year by direct diversion and 217,000 acre feet per annum by storage in the Lancha Plana Reservoir to be collected from about January 1st to about July 31st of each season. This Application was filed in conjunction with Application 4228, it being understood that the water used under the permit would consist of any unused portion of that applied for under Application 4228 plus any other available.

Under Application 5002 the East Bay Municipal Utility District proposes to divert 750 cubic feet per second by direct diversion and 25,000 acre feet per annum by storage collected throughout the entire year in the "Middle Bar Reservoir" at the upper end of the Lancha Plana Reservoir where a dam will be constructed approximately 100 feet in height. Under this Application it is proposed to utilize such waters as may be returned to the Mokelumne River from reservoirs and power houses above the proposed power plant at the head of Lancha Plana Reservoir

for power purposes and return the waters to the Lancha Plana Reservoir. The 25,000 acre feet which it is proposed to store in the "Middle Bar Reservoir" will be held primarily for the purpose of creating a head with which to generate power and when once stored will be released only in exceptionally dry years.

As it appeared that it might be feasible to appropriate by storage a quantity of water in excess of 217,000 acre feet per annum in Lancha Plana Reservoir through replenishment and use it at a greater rate than 375 cubic feet per second as allowed under Application 4763 Permit 2529, Application 5123 was filed to provide for 100,000 acre feet of replenishment in Lancha Plana Reservoir and to secure the use of 375 cubic feet per second of additional direct diversion with which to operate a duplicate power unit to that covered by Application 4763 Permit 2529. It is understood that the Federal Power Commission recommended this course. The season of diversion is throughout the entire year.

The record Protestants are as follows:

Against both Applications 5002 and 5123

E. M. and L. J. Locke and Tip Anderson.
J. W. Preston, Jr.
Mercantile Trust Co. of California.
Rodney C. Bridge, et al.

Against Application 5002 only.

Stephen E. Kieffer.
California Delta Farms.
Rindge Land and Navigation Co.
Delta Farms Recl. Dists. Nos. 2024, 2025, 2026, 2028, 2029, 2032, 2034

Against Application 5123 only.

C. H. Kroll, G. H. Atkins, and D. H. Atkins

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

Applications 5002 and 5123 of the East Bay Municipal Utility District were completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested were set for a public hearing in accordance with Section 1 a of the Water Commission Act on February 25, 1930 at 10:00 o'clock A. M. in Room 401, Public Works Building, Sacramento. Of this hearing applicant and protestants were duly notified.

DISCUSSION

No sworn testimony was presented at the hearing and no briefs were submitted subsequently thereto, it being understood that the records upon which Decisions A. 1462, etc., D. 100 and A. 4763, D. 113 were based would be considered in evidence. The matter was submitted without further argument.

Since the decisions above referred to were rendered, the applications of Stephen E. Kieffer to appropriate from the Mokelumne River and of J. W. Preston, Jr. to appropriate from the South and Middle Forks of the Mokelumne River have been cancelled, otherwise the conditions existing at that time have not materially changed and for a discussion of the various grounds of protest reference is made to the opinion upon which those decisions were made. As hereinafter set forth in the discussion of Application 5123 it is usually ^{most} necessary to draw on storage water than to divert to storage during the months of July, August and September and it is the opinion of this office that the season of diversion to storage in any permit which may be issued upon Application 5002 should be limited to the period from about October 1st to about July 31st of each season.

No apparent injury to the protestants will result by the proposed storage as the storage will be made primarily for the purpose of creating a power head and will be released only in exceptionally dry years. The burden will be upon the applicant to store this water at such time as will not interfere with the rights of the lower users. It is obvious that the direct diversion feature of the application will not affect the lower users as the use proposed is a non consumptive one and the water will be returned to the stream just below the Power Plant.

Under Application 5128 the District, in addition to direct diversion of 375 cubic feet per second, proposes to store an additional 100,000 acre feet per annum throughout the year in the Lancha Plana Reservoir.

As the net capacity of the Lancha Plana Reservoir is only 217,000 acre feet and the District already holds a permit to store that amount therein for power purposes the fact was brought to the attention of the District that it is contrary to the established practice of this office to approve an application for an amount of water grossly in excess of the capacity of the diversion works and the District was asked to make a showing by means of graphs or tables of charge, draft and recharge of storage in Lancha Plana Reservoir which would indicate by application to particular years the amount of replenishment which could reasonably be expected, having in mind the combined use as proposed for municipal and power purposes.

In reply the District stated that the proposed diversion to storage proposed in Application 5128 was to enable storage to be made throughout the entire year there being considerable runoff during the

Fall months which it has not the privilege of diverting under Application 4768, Permit 2529, the season therein being limited to the period from about January 1st to about July 31st of each season.

A water supply study was submitted by the District presenting the conclusion that the storage accumulations made during the period August to December inclusive actually occur during the period October to December inclusive since it was normally necessary to draw from storage during the months of July, August and September and that the maximum amount of storage during this period would not exceed 50,000 acre feet, assuming that the flow in the Mokelumne River was regulated by the full development of the Pacific Gas and Electric Company above.

In view of this fact this office was requested under date of June 21, 1930 to approve the storage feature of the application for 50,000 acre feet to be collected during the period from October 1 to July 31 of each season, the total amount of storage under Application 4768 and 5128 not to exceed 230,000 acre feet per annum.

Under date of June 24, 1930 the District, however, requested that the application be approved in its present form excepting that it provide that the storage under Applications 4768 and 5128 for power purposes should be limited to 217,000 acre feet per annum.

In view of the facts that (1) no storage accumulations can be expected during the months of August and September; (2) the applicant has already acquired a permit to divert 217,000 acre feet to storage during the period from January 1st to July 31st; (3) no showing has been made by the District that more than 50,000 acre feet could be stored under Application 5128 during the period from October 1st to December 31st of each season and; (4) applicant

has signified that no more than 217,000 acre feet will be diverted under both Application 4768, Permit 2529 and Application 5128 during any one year, it is the opinion of this office that any permit which may be issued upon Application 5128 should allow only 50,000 acre feet per annum of storage to be collected between October 1st and December 31st of each season, and that combined diversions to storage under Applications 4768 and 5128 should be limited to 217,000 acre feet per annum.

As the power use proposed is a non-consumptive one and the water directly diverted is to be returned to the Mokelumne River immediately below the power house no injury to the protestants is apparent. As to the storage feature of the Application, since the season of diversion is limited to the months of October, November and December, a period during which little water is used for irrigation purposes it is not seen wherein the rights claimed by the protestants would be interfered with; in fact the storage proposed goes far toward assuring a much larger flow below the power house than would otherwise occur.

STATUS OF PROPOSED PROJECTS BEFORE THE FEDERAL RIVER COMMISSION

Under date of September 2nd 1930 this office was advised by the regional engineer of the Federal Power Commission that the license heretofore issued to the East Bay Municipal Utility District covered the project proposed under Application 5128 but that no application had been made which included the project described under Application 5002 which is before this office.

CONCLUSION

The purpose to which applicant proposes to put the water under both applications is a useful and beneficial one and it is the opinion of this office that Application 5128 should be approved for an amount not to

exceed 375 cubic feet per second by direct diversion throughout the entire year and for an amount not to exceed 50,000 acre feet per annum by diversion to storage to be collected from about October 1st to about December 31st of each season which diversion to storage, together with that under Application 4768 should not exceed 217,000 acre feet in any one year.

Since the project under Application 5002 has not been approved by the Federal Power Commission, action should be withheld for a reasonable time for this purpose. If and when the project receives the necessary clearance by the Federal Power Commission, Application 5002 should be approved by this office for an amount not to exceed 750 cubic feet per second by direct diversion throughout the entire year and for an amount not to exceed 25,000 acre feet per annum by diversion to storage to be collected from about October 1st to about July 31st of each season.

In order that future development on the Mokelumne River may be protected, a special clause similar to the one in Permit 2529 should be inserted in any permits which may be issued in approval of Applications 5002 and 5128 to the effect that no right to the use of water shall be acquired under the permits which may in any way interfere with future appropriations for agricultural or municipal purposes.

O R D E R

Applications 5002 and 5128 having been filed with the Division of Water Resources 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 Application 5128 be approved for an

amount not to exceed 375 cubic feet per second by direct diversion from January 1st to December 31st of each year and not to exceed 50,000 acre feet per annum by diversion to storage to be collected from about October 1st to about December 31st of each season, and that a permit be issued thereon subject to the usual terms and conditions and subject also to the following special terms and conditions to-wit.

(a) It is expressly recognized by all parties hereto that the right to store and use water for power purposes under this permit shall not interfere with future appropriations of said water for agricultural or municipal purposes.

(b) The combined total diversions to storage under Application 4768, Permit 2529 and Application 5128, Permit _____ shall not exceed 217,000 acre feet in any one year.

IT IS FURTHER ORDERED that action on Application 5002 be withheld until further order is entered.

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

EDWARD HYATT, State Engineer

BY Harold Conkling
Deputy

