

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

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In the Matter of Application 5143 of State Land Settlement Board,  
Application 5145 of Maude C. Maddrill, et al., and  
Application 5473 of A. F. Lieurance to Appropriate  
Water from Butte Creek, tributary to Sacramento  
River in Butte County for Irrigation Purposes

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DECISION A 5143, 5145, 5473 D-323

Decided

*July 13, 1932*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, JUNE 14, 1932.

For Applicants

State Land Settlement Board  
Maude C. Maddrill, et al.  
A. F. Lieurance

No appearance  
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For Protestants

John Hannah  
A. F. Lieurance  
A. M. and H. C. Compton  
B. P. Compton and W. G. Patrick  
J. F. Entler  
Maude C. Maddrill  
W. C. Stevens  
Eliza Hegan and Bank of Italy  
Estate of C. H. Olinger  
Richard White  
Pacific Gas & Electric Company

No appearance  
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EXAMINER: Everett N. Bryan, Supervising Hydraulic Engineer, for  
Harold Conkling, Deputy in Charge of Water Rights,  
Division of Water Resources, Department of Public Works,  
State of California.

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## O P I N I O N

### GENERAL FEATURES OF APPLICATIONS

Application 5143 was filed by the State Land Settlement Board on August 5, 1926. It proposes an appropriation of 20 cubic feet per second from Butte Creek to be diverted from about July 1st to about September 1st of each season. Two points of diversion are named in the application, one of which is within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 5 and the other within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 20, T 21 N, R 2 E, M.D.B.&M. It is proposed to use the water for the irrigation of 3,610 acres of land within the Durham State Land Settlement. The application was protested by the following:

John Hannah  
A. F. Lieurance  
A. M. Compton and H. C. Compton  
B. P. Compton and W. G. Patrick  
J. F. Entler  
Maude C. Maddrill  
W. C. Stevens  
Eliza Hegan and Bank of Italy  
Allen M. Olinger, administrator of the  
Estate of C. H. Olinger, deceased  
Richard White

Application 5145 was filed on August 9, 1926, by Maude C. Maddrill for herself and as Guardian of Estates of Edward Crouch Moore and James Milton Moore. It proposes an appropriation of 15 cubic feet per second from the natural flow of Butte Creek to be diverted from about April 15th to about June 15th and 20 cubic feet per second from the regulated flow of Butte Creek resulting from the operation of Clear Creek Reservoir of the Pacific Gas & Electric Company to be diverted from about November 1st to about April 30th of each season as same may become available, the total amount of which will not exceed 4,000 acre feet per annum. The point of diversion is within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 4, T 21 N, R 2 E, M.D.B.&M. The water is to be used

for irrigation purposes on 1042 acres within the Rancho de Farwell, being also within projected Sections 7, 8, 9, 17 and 18, T 21 N, R 1 E, M.D.B.&M. The application was protested by the Pacific Gas and Electric Company.

Application 5473 was filed by A. F. Lieurance on May 19, 1927.

It proposes an appropriation of 4 cubic feet per second for irrigation purposes on 477 acres of land within Sections 5, 6, 7 and 8, T 21 N, R 2 E, M.D.B.&M. The water is to be diverted from Butte Creek from about May 1st to about October 1st of each season at a point within the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 5, T 21 N, R 2 E, M.D.B.&M. The application was protested by

Allen M. Olinger, administrator of the  
Estate of C. H. Olinger, deceased

#### PROTESTS

The protests against the approval of Applications 5143 and 5473 are set forth in Decision A. 5109, 5110, 5143, 5473 D 213 decided January 18, 1929, to which reference is herewith made.

The Pacific Gas & Electric Company protested against the approval of Application 5145 on the grounds of possible interference with its property rights in connection with its Clear Creek Storage Project and that it would in effect tend permanently to restrict protestant to the present plan of utilizing said water for power development.

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

The several applications were completed 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

June 14, 1932, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento. Of this hearing applicants and protestants were duly notified.

GENERAL DISCUSSION

No appearances were made at the hearing although Captain Hubbard of the Phelan and Parrot interests and Jerome D. Peters, attorney for Mrs. Maddrill were present.

Mr. Peters informed the examiner that Mrs. Maddrill had authorized him to withdraw Application 5145 but no written request has been submitted.

Applications 5143 and 5473 were previously heard on July 17, 1928, together with Applications 5109 and 5110 of the Phelan and Parrot interests. In our opinion at that time (Decision 213) the view was expressed that the natural flow of Butte Creek and the importations of water stored in Philbrook reservoir were wholly appropriated under prior vested rights and Applications 5109 and 5110 and that it appeared reasonable that action should be withheld upon Applications 5143 and 5473 inasmuch as there was no immediate prospect of development of other supplies.

Although at that time the proposed storage in Clear Creek Reservoir was in contemplation, this storage project has been definitely abandoned and release therefrom into Butte Creek may no longer be considered a source of supply and so far as this office is advised there were no other new sources of supply which were in prospect when Applications 5143, 5145 and 5473 were filed.

It appears also from the progress reports of the Phelan and Parrot interests that all water released from Philbrook Reservoir of the Pacific Gas & Electric Company has been put to complete use.

It appears therefore that there is insufficient unappropriated water either natural or imported to justify the approval of Applications 5143, 5145 and 5473 and these applications should therefore be rejected.

O R D E R

Applications 5143, 5145 and 5473 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, public hearings having been held, and the Division of Water Resources now being fully informed in the premises:

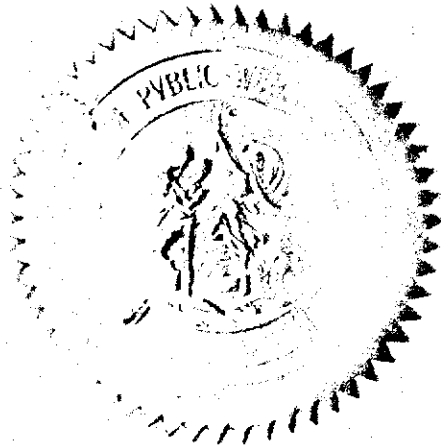
IT IS HEREBY ORDERED that said Applications 5143, 5145 and 5473 be rejected and cancelled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 13<sup>th</sup> day of July, 1932.

EDWARD HYATT, State Engineer

BY Harold Conkling  
Deputy

WES:MP



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