

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

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In the Matter of Application 7117 of Claude Rogers and  
Application 7235 of Comache Mining Company to  
Appropriate from Mokelumne River in  
Calaveras County for Mining and  
Domestic Purposes.

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DECISION A. 7117, 7235 D-330

Decided *September 23, 1932*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, CALIFORNIA, AUGUST 31, 1932

For Applicants

Claude Rogers  
Comache Mining Company

Ernest C. Crowley  
M. C. Gibford

For Protestants

Atkins Kroll & Company  
Staten Island Land Company

No appearance  
No appearance

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 7117 of Claude Rogers was filed on November 7, 1931.  
It proposes an appropriation of 7.8 cubic feet per second throughout the  
year from the Mokelumne River for mining and domestic purposes on claims  
located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  and NW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 12, T 4 N,  
R 9 E, M.D.B.&M. and within W $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 7, T 4 N, R 10 E, M.D.B.&M.  
The point of diversion is within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, T 4 N, R 9 E,

M.D.B.&M. After use for mining purposes the water is to be returned to the Mokelumne River at a point within the SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 1, T 4 N, R 9 E, M.D.B.&M. or to Camanche Creek, a tributary of Mokelumne River, within SW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 1, T 4 N, R 9 E, M.D.B.&M.

Application 7235 of Comache Mining Company was filed April 12, 1932. It proposes an appropriation of 3.0 cubic feet per second throughout the year from the Mokelumne River for mining and domestic purposes on claims located within the E $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  NW $\frac{1}{4}$  and N $\frac{1}{2}$  NE $\frac{1}{4}$  Section 7, T 4 N, R 10 E, M.D.B.&M. and within E $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 12, T 4 N, R 9 E, M.D.B.&M. The point of diversion is within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 5, T 4 N, R 10 E, M.D.B.&M. After use for mining purposes the water is to be returned to the Mokelumne River at a point within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 5, T 4 N, R 10 E, M.D.B.&M.

Both applications were protested by Atkins, Kroll and Company and Staten Island Land Company.

#### PROTESTS

Atkins Kroll and Company alleges in effect that there is an insufficient supply of water in the Mokelumne River to satisfy its riparian and prior appropriative rights, that the use proposed by the applicants would still further reduce the supply available to them, and that they have already been obliged to undertake litigation to defend their rights. It is alleged that the diminution of supply would result from evaporation, seepage and domestic consumption.

Staten Island Land Company also claims riparian and prior appropriative rights and alleges in effect that the proposed appropriations would so modify and reduce the flow of the Mokelumne River as to increase the salt

water incursion in the delta regions, that it would decrease the available water supply and cause a lowering of the water level thereby necessitating installation of pumps in place of existing siphons.

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

Applications 7117 and 7235 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 August 31, 1932, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicants and protestants were duly notified.

GENERAL DISCUSSION

Prior to the hearing, this office was informed by the protestants that although they wished their protests to stand on record, no appearances would be made at the hearing. Consequently the applicants only were represented.

The testimony presented at the hearing indicated that a pumping plant had been installed at the point of diversion specified in Application 7117 and water is piped a short distance (about 500 feet) to a washing plant having a capacity of approximately 400 or 500 cubic yards in eight hours and that after use the water is returned directly to the Mokelumne River or its tributary Camanche Creek. The loss due to evaporation would be negligible and the amount used for domestic purposes small.

Under Application 7235 water is to be diverted through an eight inch pipe to the washing plant having a capacity of approximately 2,000

cubic yards of gravel in 24 hours. The water is to be returned to the Mokelumne River within a thousand feet where it will flow over bedrock with evaporation and seepage losses reduced to a minimum. The domestic use will require water for sanitary and cooking purposes for twelve or fifteen men.

Unrefuted testimony presented at the hearing indicated that there was surplus water in the Mokelumne River available for appropriation under Applications 7117 and 7235.

The sewage wastes resulting from domestic use will be discharged within the watershed area above the protestants and there was no attempt made by them to show that losses by evaporation or seepage would be increased by the uses proposed. The claim that the appropriations proposed would perceptibly affect the available supply of protestants who are located some thirty-five or forty miles below the applicants is unsupported, the proposed uses are beneficial ones and it is our opinion that Applications 7117 and 7235 should be approved.

#### O R D E R

Applications 7117 and 7235 for permits to appropriate water 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 said Applications 7117 and 7235 be approved and that permits be issued to the applicants subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this 23rd day of September, 1932.

EDWARD HYATT, State Engineer

BY

Harold Conkling  
Deputy

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