

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

oOo

In the Matter of Application 8070 of Lost Camp Mining Company  
to appropriate from Tributaries of the North Fork of the  
North Fork of the American River in Placer County  
for Mining Purposes.

oOo

DECISION A. 8070 D-410

Decided *October 30, 1937*

oOo

APPEARANCES AT HEARING HELD AT SACRAMENTO, AUGUST 17, 1936

For Applicant

Lost Camp Mining Company

H. B. Seymour, Attorney of  
Downey, Brand and Seymour

For Protestant

Caanyon Mines Corporation

Philip S. Ehrlich, Attorney

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.

oOo

OPINION

DESCRIPTION OF PROJECT

Under Application 8070 filed with the Division of Water Resources on  
August 16, 1934, the Lost Camp Mining Company proposes to appropriate from 8  
sources within the watershed of the North Fork of the North Fork of the American  
River as follows:

<u>Source</u>	<u>*Amount (c.f.s.)</u>	<u>Points of Diversion M.D.B.&amp;M.</u>
(1) East Fork Monumental Creek	20	NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21, T 16 N, R 12 E
(2) Monumental Creek	30	SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T 16 N, R 12 E
(3) Gaion Valley Creek	10	NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8, T 16 N, R 12 E
(4) North Branch of North Fork of North Fork American River (also known as Lake Valley Branch)	35	NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 8, T 16 N, R 12 E
(5) Unnamed Stream (also known as Sailor Canyon)	30	NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 13, T 16 N, R 11 E
(6) Fulda Creek (also known as North Fork North Fork American River)	40	NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 12, T 16 N, R 11 E
(7) Beaver Creek (also known as Texas Creek and Sailor Ravine)	25	SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 12, T 16 N, R 11 E
(8) Texas Creek (also known as West Branch Texas Creek)	20	NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 18, T 16 N, R 11 E

\*Total amount of diversion not to exceed 90 c.f.s. at any time

The water is to be diverted from about November 15th to about July 1st of each season for hydraulic mining purposes at the Lost Camp placer mine located within Section 23, T 16 N, R 11 E, M.D.B.&M. and after such use is to be returned to the North Fork of the North Fork of American River within either the southerly portion of Section 33, T 16 N, R 11 E, or the northerly portion of Section 4, T 15 N, R 11 E, M.D.B.&M.

#### PROTESTS

Application 8070 was protested by Canyon Mines Corporation. This Corporation claims rights to divert water from the North Fork of the North Fork of the American River at a point within the SE $\frac{1}{4}$  of Section 34, T 16 N, R 11 E, M.D.B.&M. for power, mining and domestic purposes at the "Rawhide Mine" located within the NE $\frac{1}{4}$  of Section 4, T 15 N, R 11 E, M.D.B.&M. which rights are based

upon (1) riparian ownership, (2) an appropriative right initiated prior to the effective date of the Water Commission Act, and (3) a prescriptive right.

Protestant alleges in effect that with the exception of flood waters there is no unappropriated water available for diversion by applicant and that should diversion be allowed as proposed it would result in depriving the Corporation of water necessary for its mining and power development, inasmuch as applicant proposes to return the water to the North Fork of the North Fork of the American River below the Corporation's point of diversion.

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

Application 8070 was completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested was set for public hearing in accordance with Section 1a of the Water Commission Act on August 17, 1936, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestant were duly notified.

GENERAL DISCUSSION

The only testimony presented at the hearing was given by George F. Buell, witness for the applicant. His testimony indicates that the area of that portion of the watershed which contributes to the flow at protestant's intake is approximately 37 square miles of which about 20 square miles are above the proposed diversion points of the applicant. An estimate made by this office indicates that the area of that portion of the watershed which contributes to the flow at protestant's point of diversion is approximately 35 square miles of which about 17 square miles are above the applicant's proposed diversion points.

The U. S. Weather Bureau records indicate that the normal seasonal precipitation at Blue Canyon (Elevation 4695) for the 38 seasons 1899-1900 to 1936-37 was 57.8 inches. The elevation of that portion of the watershed below the applicant's points of diversion which contributes to protestant's point of diversion varies from a minimum elevation of about 3000 feet to a maximum elevation of about 5500 feet and the area of the watershed which contributes only to the applicant's points of diversion varies from a minimum elevation of about 4500 feet to a maximum elevation of about 7000 feet.

From the testimony presented at the hearing it appears that the minimum operating requirements of the applicant at its mine is 1400 miners inches (35 c.f.s.) and due to the high transmission losses in its main canal it is necessary to divert from the several sources of supply a total of 3500 miners inches (87.5 c.f.s.) and that when this amount is not available, operations at applicant's mines will necessarily be suspended.

Based upon the areas of the two watersheds, Mr. Buell estimated that when 3500 miners inches were present in the stream at applicant's intakes approximately 3000 miners inches would be available for diversion by the protestant company at its point of diversion which does not appear unreasonable. In fact the testimony presented at the hearing indicates that during the summer months the runoff from the lower watershed is greater than that from the upper watershed due to the fact that underground water contributes to the flow of the stream just above protestant's point of diversion and below those of applicant.

Protestant Company claims to use the water for power, mining and incidental domestic purposes at the "Rawhide Mine" located within the NE<sub>1</sub> of Section 4, T 15 N. R 11 E. M.D.B.&M., its point of diversion being above the point where the applicant intends to return the water to the stream. Its

present requirement is approximately 37.5 cubic feet per second which is less than the 87.5 cubic feet per second which is the minimum supply necessary for the operation of the mines. In fact applicant avers that if this amount is not available its operations must necessarily be suspended. From this it would appear that at such times as a sufficient quantity of water is present in the streams from which applicant proposes to appropriate to enable the mines of the applicant to be operated there will be sufficient water for protestant's use at its point of diversion and at such times as the applicant is not operating, i.e. when the combined flow at applicant's points of diversion is less than 87.5 second feet, the runoff from both the upper and lower watersheds will be available at protestant's point of diversion.

The applicant, prior to the hearing reduced its season of diversion to the period from about November 15th to about July 1st of each season and during the seasons of 1934-35 and 1935-36 it operated during this period without any apparent interference with protestant's diversion. According to the U. S. Weather Bureau records the precipitation at Blue Canyon (Elevation 4695) during the season 1934-35 was 93% of normal and during the season 1935-36 was 100% of normal.

At the close of the hearing, the protestant requested that action be deferred in the matter a period of one year in order that measurements of flow might be made and further data submitted. This request was granted with the understanding that unless an agreement was reached between the applicant and protestant before the expiration of one year the Division might act upon the application.

Pursuant to this understanding protestant's engineer maintained a record of stream flow in the North Fork of North Fork of American River at pro-

testant's point of diversion, a report of which was submitted to the Division in the form of an affidavit signed by Oliver C. Dupuis. Included in the report is a graph of the stream flow from December 3, 1936, to August 31, 1937, inclusive, which indicates that the flow in the stream was in excess of the present requirements of the protestant from about January 29th to about June 21st inclusive, and from about July 13th to about July 27th, inclusive. The measurements of flow from which this graph was plotted does not include any water which may have been diverted above.

Protestant directs attention to the fact that the period 1936-1937 was a season of heavy precipitation. The records of precipitation maintained and published by the U. S. Weather Bureau however indicate that such is not the case. These records are as follows:

Precipitation at Blue Canyon (Elevation 4595)

Year	Month	Precipitation (inches)	Departure from Normal (inches)
1936	January	15.91	+ 4.49
	February	19.26	+ 8.62
	March	5.34	- 3.67
	April	3.31	- 0.94
	May	1.34	- 1.54
	June	2.79	+ 1.76
	July	0	- 0.06
	August	0	- 0.09
	September	0.96	- 0.04
	October	0.41	- 2.87
	November	0.18	- 6.54
	December	6.76	- 1.84
1937	January	7.80	- 3.62
	February	11.34	+ 0.70
	March	8.07	+ 0.84
	April	4.21	- 0.04
	May	0.59	- 2.29
	June	1.42	+ 0.39
	July	0	- 0.06

These records indicate that the precipitation for the season July 1, 1936, to June 30, 1937, at Blue Canyon was 41.74 inches or only 72% of normal. The records also indicate that during the month of October, 1936, the precipitation was 0.41 inches or 2.87 inches below normal, for the month of November, 1936, it was 0.18 inches or 6.64 inches below normal, for the month of December it was 6.76 inches or 1.84 inches below normal, and for the month of January, it was 7.80 inches or 3.62 inches below normal.

Protestant also submitted a graph of the flow in the stream at its point of diversion based upon measurements made from October 1, 1932, to September 30, 1933. This graph indicates that the flow in the stream exceeded protestant's requirements from about February 9th to about June 14, 1933. The records indicate however that the precipitation during the season 1932-33 was only 29.18 inches at Blue Canyon or about 50% of normal.

It is believed that the data filed by the protestant in support of its contention that the season of diversion proposed by the applicant should be still further reduced is not sufficient to justify this action as it would appear that with normal precipitation during the months of November and December there will be at times water for the use of applicant during these months.

#### SUMMARY AND CONCLUSIONS

The record clearly indicates that during the season from about November 15th to about July 1st during a year of normal runoff there is unappropriated water in North Fork of North Fork of American River; that whenever the combined flow at applicant's intakes is below 87.5 second feet the operations of the applicant are suspended and that whenever 87.5 second feet are available at applicant's intakes there is water sufficient in quantity at protestant's point of diversion to satisfy its present requirements. It is therefore

the opinion of this office that Application 8070 be approved and that a permit be issued to the applicant subject to the usual terms and conditions.

O R D E R

Application 8070 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest 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 8070 be approved and that a permit be granted to the applicant 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 30th day of October, 1937.

EDWARD STATT, State Engineer

BY HAROLD NORTH

Deputy

(Seal)

WES:MP