

Before the Division of Water Resources
Department of Public Works
State of California

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In the Matter of Application 9625 of O. W. Baker & Sons,
Incorporated, and Applications 9766 and 9302 of Murdock
Land Company to appropriate from Butte Creek in Glenn and
Colusa Counties for irrigation and stock watering purposes.

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Decision A. 9625, 9766, 9302 D. 470

Decided *March 8, 1941*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, JANUARY 28, 1941.

For Applicants

O. W. Baker & Sons, Inc.

Arthur V. Baker

Murdock Land Company

J.K. Sexton

For Protestants

T. L. Chamberlain and H. W. Davis

T.L. Chamberlain

Reclamation District 833

Arthur B. Eddy

EXAMINER: Mark S. Edson, Senior Hydraulic Engineer for Harold Conkling, Deputy
in Charge of Water Rights, Division of Water Resources, Department
of Public Works, State of California.

O P I N I O N

Essential Features of the Applications

Application 9625 was filed by O. W. Baker and Sons, Incorporated, on
June 19, 1939. It proposes an appropriation of 15 cubic feet per second from
Butte Creek, tributary to the Sacramento River in Glenn County for the irriga-
tion of 345.72 acres of rice within Sections 28, 29, 32 and 33, T 19 N, R 1 E
and Sections 4, 5 and 3, T 18 N, R 1 E, M.D.B.M. as shown on a map filed with

the Division of Water Resources. The point of diversion is described as being within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 23, T 19 N, R 1 E, M.D.B.M. The season of diversion is from April 1 to October 1 of each season.

Application 9766 was filed by Murdock Land Company on November 13, 1939. It proposes an appropriation of 7 cubic feet per second from Butte Creek tributary to the Sacramento River in Colusa County for the irrigation of 314 acres of general crops and for stock watering purposes within Sections 6, 7 and 18 T 17 N, R 1 E, M.D.B.M. as shown on a map filed with the Division of Water Resources. The two points of diversion are described as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6 and the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 7, T 17 N, R 1 E, M.D.B.M. The season of diversion is from March 1 to November 1 of each season.

Application 9802 was filed by Murdock Land Company on January 11, 1940. It proposes an appropriation of 6 cubic feet per second from Butte Creek, tributary to the Sacramento River in Glenn County for the irrigation of 264 acres of general crops and for stock watering purposes within Sections 17 and 18, T 18 N, R 1 E as shown on map filed with the Division of Water Resources. The point of diversion is described as being within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 17, T 18 N, R 1 E, M.D.B.M. The season of diversion is from March 1 to November 1 of each season.

Protests

Application 9625 was protested by T. L. Chamberlain and Howard W. Davis who claimed a right to the use of ten cubic feet per second from Butte Creek by virtue of their lands being riparian to both Butte Creek and Howard Slough and use for the irrigation of rice since 1923. This protest was withdrawn at the hearing as a result of a stipulation entered into between applicant and protestant and therefore need not be discussed further.

Application 9625 of O.W. Baker & Sons, Inc. and Applications 9766 and 9802 of the Murdock Land Company were protested by Reclamation District 833.

The District claims a right to divert 12.2 cubic feet per second from Butte Creek at a point within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T 16 N, R 1 W, of which 8.1 cubic feet per second is claimed under Application 7925, License 1797 and the balance is claimed under riparian ownership and use. Protestant alleges in effect that the approval of these applications will result in depriving the District of water which it has actually diverted and found necessary for beneficial use.

Hearing Set in Accordance With
Section 1a of the Water Commission Act

Applications 9625, 9766 and 9802 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 public hearing on Tuesday, January 23, 1941 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

As stated above the protest of T. J. Chamberlain and Howard W. Davis against the approval of Application 9625 of O. W. Baker & Sons, Inc., was settled by stipulation at the hearing and may therefore be dismissed.

The only remaining protest is that of Reclamation District 833 against the approval of Applications 9625, 9766 and 9802.

Application 7925 was filed by Reclamation District 833 on May 1, 1934 and was approved on July 10, 1934 for an amount of water not to exceed 12.2 cubic feet per second to be diverted from Butte Creek at a point within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 23, T 16 N, R 1 W, M.D.B.M. from about April 1 to about November 1 of each season for the irrigation of 643 acres of general crops

within Sections 23, 24, 25 and 26, T 16 N, R 1 W, M.D.B.M. as shown on a map filed in support of the application.

Upon inspection preliminary to license action it was found that the District had used water from about May 1 to about September 15 of each season and that the maximum use of water had been made during the month of August 1935 when 587 acre feet had been pumped during a 31 day period for the irrigation of 650 acres of beans. This diversion and use was equivalent to a continuous flow of 9.56 cubic feet per second or 1 cubic foot per second for each 68 acres irrigated, a very low duty and as the use was considered excessive the amount was reduced in the license to 8.1 cubic feet per second for the irrigation of 648 acres or 1 cubic foot per second continuous flow to each 80 acres of land.

The following table indicates the use of water which has been made by the District since use was commenced in 1929 as shown upon the records of this office.

Use of Water by Reclamation District 633
Monthly Diversions in Acre-Feet

<u>Year</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>	<u>Total Diversion</u>	<u>Area Irrigated (general crops)</u>
1929	56	111	292	357	--	806	577
1930	--	40	279	377	44	740	518
1931	98	258	522	433	16	1317	575
1932	--	--	298	473	139	900	550
1933	35	260	440	550	--	1295	675
1934	36	227	551	385	--	1199	529
1935	--	--	368	587	184	1139	650
1936	--	--	912	925	406	2243	675
1937	--	82	502	626	61	1271	650
1938	--	--	125	763	160	1048	600
1939	32	327	694	771	--	1814	600
1940							600

The largest use of water was made by the protestant during the month of August 1936 when 925 acre feet were diverted for the irrigation of 675 acres or an equivalent continuous flow of approximately 15 c.f.s. or 1 cubic foot per

second for each 45 acres of land which is excessive for the irrigation of beans or other general crops. A rate of 1 c.f.s. to each 30 acres or 3.44 c.f.s. for 675 acres should be a reasonable use and any water diverted by the protestant above this amount would in our opinion be excessive. We believe that the use of 12.2 c.f.s. as claimed by the protestant is in excess of what is reasonably needed for the irrigation of 675 acres of land. Furthermore there is little or no water available in Butte Creek during the summer months except foreign waters released from irrigation above. These foreign waters for the most part originate in the Feather river and cannot be claimed for use on lands riparian to Butte Creek under the riparian right doctrine.

It is interesting to note that during the irrigation seasons of 1939 and 1940 O. W. Baker and Sons irrigated 407 acres of rice and the Murdock Land Company irrigated from 250 to 265 acres of general crops without any apparent interference with the irrigation of 600 acres of general crops by the protestant Reclamation District 833. In fact the record for the 1939 irrigation season indicates that during the month of August 1939 protestant diverted at an average rate of 11 cubic feet per second or 1 c.f.s. for each 54 acres of land irrigated which is an extremely low duty of water for the Sacramento Valley. Although the applicants were irrigating approximately 50% of the lands which they propose to irrigate under the applications now before us, protestant District was not deprived of sufficient water for the irrigation of its lands but rather had an excess of water over and above the amount which was actually needed.

It is our opinion therefore that there is unappropriated water available for appropriation under Applications 9625, 9766 and 9802 and that these applications should be approved subject to vested rights.

O R D E R

Applications 9625, 9766 and 9802 for permits to appropriate water having been filed with the Division of Water Resources, 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 Applications 9625, 9766 and 9802 be approved and that permits be issued 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 *8th* day of *March* 1941.

EDWARD HYATT, State Engineer

By HAROLD CONKLING
Deputy

(Seal)

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