

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 12642 by Charles J. Carroll to Appropriate Water from an Unnamed Stream, Tributary to Lights Creek in Plumas County for Domestic and Irrigation Purposes.

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Decision A. 12642 638

Decided December 16, 1949

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON APRIL 25, 1949.

Charles J. Carroll	Applicant
E. B. and Minnie F. Bates	Protestants
J. T. Freeman	Co-partner in Bates and Freeman Ditch
Arthur Peter	Lower user
J. B. Peter	Lower user
W. S. Quigley	Lower user
L. C. Jopson	Supervising Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

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OPINION

General Description of the Project

Application 12642 was filed by Charles J. Carroll on August 11, 1948. The application is for direct diversion of 0.25 cubic foot per second from an unnamed stream, tributary to Lights Creek in Plumas County for domestic purposes, fire protection and irrigation. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T 27 N, R 11 E, M.D.B.&M. Diversion is to be effected by a log and gravel dam 2.5 feet high and 15 feet long from which water is to be conducted to the proposed place of use by means of a 4 inch diameter Bermico fiber pipe 800 feet long. The water is to be used upon a 20 acre tract located within the quarter quarter section above described. There are to be two houses and a population of 7 persons, besides 2 cows, some pigs and lesser livestock and 500 chickens. The season of use is to extend year round except that irrigation (10 acres of general crops and 9 acres of pasture) is expected to begin about April 15 of each season and extend until about September 30.

Protest

E. B. and Minnie F. Bates protested the application alleging that the water supply from Freds Creek (as the source in question is locally called) and Lights Creek is insufficient to supply present appropriations. The protestants claim a right to the use of water from the source in question, basing their claim upon alleged use prior to 1914. They refer to their point of diversion as the head of the Freeman and Bates ditch on Lights Creek.

In answer to the protest the applicant represents that the

Freeman and Bates ditch does not receive any water from the source filed upon because after June or July that stream "submerges" some 400 feet upstream from its junction with the Bates and Freeman ditch.

Field Investigation

The applicant and the protestants having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code, a field investigation was conducted in connection with the proposed appropriation, by an engineer of the Division. The investigation commenced on April 25, 1949, as a conference with the applicant, protestants and other interested parties, at Greenville. It was there agreed to continue the investigation through the summer to enable the Indian Creek watermaster to observe conditions of flow on Freds Creek and Lights Creek during the 1949 irrigation season. The investigation ended on September 16, 1949, with another conference with the principals and an inspection of the project.

Records Relied Upon

Application 12642 and all data and information on file therewith.

Discussion

According to the report of investigation the extent of the claimed water rights of users served by the Bates and Freeman ditch is 2.90 cubic feet per second and the total of all other claimed water rights on Lights Creek below the mouth of Freds Creek is 15.65 cubic feet per second, these figures having been arrived at in the course of the Indian Creek adjudication. According to the same report they represent amounts

delivered and to them should be added transmission losses which measurements have indicated to be of the order of 10%. From this it may be presumed that no surplus exists in Freds Creek (the source under consideration) except when the combined flow of Lights Creek and Freds Creek (measured immediately above the respective intakes of the Bates and Freeman ditch from those two streams) equals or exceeds 20.4 cubic feet per second. However, according to the report, it has been observed that Freds Creek sometimes carries 0.5 cubic foot per second at the proposed point of diversion after the flow of that stream at the Bates and Freeman ditch intake ceases; and that when that condition obtains diversion as proposed in the application may be made without injury to the protestants or to other downstream users.

Limited records quoted in the report of investigation, indicate that surpluses usually occur in Lights Creek until some time in June and that Freds Creek flows until some time in July. The parties, during the investigation, conceded that there generally is unappropriated water in Lights Creek until late June and that after some time in July Freds Creek fails to reach the Bates and Freeman ditch. The protestants insistently objected however to any additional diversion from Freds Creek between the time when the combined flow of the two streams recedes to the aggregate of claimed rights and the time when Freds Creek fails to contribute. This period apparently varies considerably from year to year.

In view of the apparent existence of a surplus, at times in the source from which the applicant proposes to divert (Freds Creek) the protestants' objections are deemed insufficient and the application should be approved. For the protection of the protestants and other downstream users however a clause should be included in any permit issued providing

that water shall not be diverted for irrigation purposes unless the combined flow of Freds Creek and Lights Creek is equal to or greater than 20.4 cubic feet per second or unless the flow of Freds Creek has ceased to reach the Bates and Freeman ditch.

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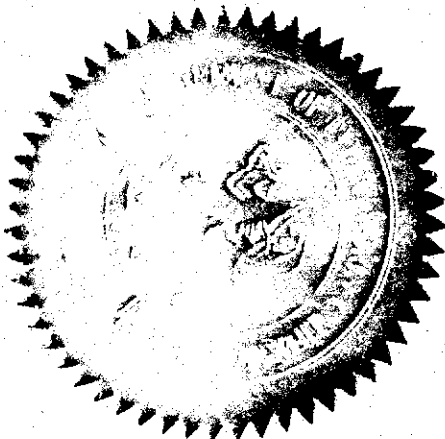
ORDER


Application 12642 for a permit to appropriate water having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733(b) of the Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12642 be approved and that a permit be issued to the applicant, subject to such of the usual terms and conditions as may be appropriate and subject also to the following special clause, to wit:

"Water shall not be diverted for irrigation purposes under this Permit unless the combined flow of Freds Creek and Lights Creek is equal to or greater than 20.4 cubic feet per second measured immediately above the respective intakes of the Bates and Freeman ditch from those two streams or unless the flow of Freds Creek has ceased to reach the intake of the Bates and Freeman ditch."

WITNESS my hand and the seal of the Department of Public Works of the State of California this 16th day of December, 1949.




Edward Hyatt, State Engineer.