

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

oOo

In the Matter of Application 13748 by Woodrow F. Larimore to appropriate
Water from Capps Ravine in Placer County for Irrigation Purposes.

oOo

Decision A. 13748 D. 711

Decided August 17, 1951

oOo

In Attendance at Investigation Conducted by the Division of Water
Resources at the Site of the Proposed Appropriation on January 29, 1951:

Woodrow F. Larimore	Applicant
Joe S. Ferreira	Protestant
Edward D. Ferreira	Protestant Ferreira's son
I. R. Sousa	Protestant
Percy J. Bosanko and) William Shinn)	(Protestant Nevada Irrigation District's representatives
A. S. Wheeler	Senior Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

oOo

O P I N I O N

Description of the Project

The application contemplates the appropriation of 8 acre feet per annum from Capps Ravine in Placer County, at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T13N R7E, MDB&M, for the purpose of irrigation. Capps Ravine is tributary via Sailors Ravine to Doty Ravine.

The water filed upon is to be collected between November 1 and April 1 and stored behind an earth dam 14 feet high and 315 feet long. The reservoir created by the dam is to have a surface area of 2 acres and a capacity of 8 acre feet. The water is to be applied by means of a portable sprinkler system and used upon a 50 acre pasture located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of the Section 26 above mentioned. Irrigation is to extend from about April 1 to about November 1.

Protests

The Nevada Irrigation District protests, asserting that all water flowing in summer time at the proposed point of diversion is foreign water accruing as runoff from irrigated lands and that such water is later recovered by the protestant District for resale. The protestant claims the right to use all return water. It's works on Doty Ravine, it states, are now diverting practically all of the flow and putting it to beneficial use under Section 22430 of the Water Code, that diversion heading within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, T13N R6E, MDB&M. It states that its protest may be disregarded and dismissed if the applicant will agree to pass through his reservoir all of the water that flows above his reservoir during the period from April 1 to November 1 of each year.

Joe S. and Mary G. Ferreira protest that the applicant's project will interfere with their existing water right and with their pending application for additional water from Capps Ravine. They claim ancient appropriative rights, also rights under Applications 2190 and 11640. They state that they divert at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T13N R7E, MDB&M, and that they irrigate some 20 acres. They state that they have no objection to the storage proposed by the appli-

cant, provided it is not made in such a manner as to interfere with water to which they are entitled. They take the position however that the applicant's project makes no suitable provision for permitting the water to which they are entitled to reach them.

I. R. and Mary Soisa protest for reasons similar to those advanced by the protestants Ferreira. They claim riparian rights, ancient appropriative rights and rights under License 352. They state that they irrigate some 15 acres of orchard and that their diversion heads within the NE $\frac{1}{4}$ of Section 34, T15N R17E, MDB&M. They have no objection to the applicant's project provided adequate provision is made for allowing water to which they claim to be entitled, to reach them.

Answers

The applicant answers to the three protests to the effect that the storage of winter flood waters which he proposes will not interfere with diversions by downstream appropriators, inasmuch as his project includes the by-passing of the flow of Coops Ravine around the dam. He answers further that his project should increase the flow in the ravine below his proposed dam as a result of the utilization of the stored water upon undeveloped land.

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, Title 23, Waters, a field investigation was conducted at the site of the proposed appropriation on January 29, 1951 by an engineer of the Division. The applicant and the protestants were present or represented during that investigation.

Records Relied Upon

Application 13748 and all data and information on file therewith.

Discussion

According to the report of the investigation of January 29, 1951, the watershed tributary to the proposed reservoir is moderately wooded, is about 0.3 square mile in extent and has an average annual rainfall of about 32 inches; and the flow in the source at the time of that investigation was about 0.5 second-foot. According to the report it developed during the investigation that the protestants do not object to the applicant's proposed storage of winter runoff but apprehend that such storage will interfere with the flow in the ravine between April 1 and November 1. To quiet that apprehension, the report states, the applicant orally agreed to install a gate-equipped outlet at the base of the dam for the purpose of passing all of the flow of the ravine through the reservoir between April 1 and November 1 and further agreed to install measuring devices above and below the reservoir to insure that the full flow was being released. Protestant Sousa and the representatives of the Nevada Irrigation District then stated, according to the report, that they had no further objections to the approval of the application, provided that a special clause covering the matter of the outlet gate and measuring devices be included in any permit issued. According to the report, Protestant Sousa then signed a withdrawal of his protest subject to the provision above mentioned, but Protestant Ferreira desired to consult his attorney before signing a similar withdrawal, fearing that runoff from the applicant's irrigated lands would enter the reservoir below the upper measuring device and therefore escape measurement and inclusion in the water released.

That unappropriated water is practically non-existent in Capps Ravine at the Ferreira intake during the summer months was a conclusion reached recently in connection with action taken in the matter of Application 11640. Under that application Joe S. Ferreira (now a protestant

against Application 13748) sought to appropriate 0.13 cubic foot per second, from April 1 to November 1 of each season, at a point within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T13N R7E, M&B&M, for the irrigation of 10 acres of pasture. After due consideration of the matter of Application 11640 it was concluded (in Decision 675, August 31, 1950) that:

"The flow of Capps Ravine at the point of diversion proposed under Application 11640 from April 1 to November 1 is seldom if ever more than sufficient to satisfy requirements under existing rights, that unappropriated water in that source and during that period is ordinarily non-existent, and that for those reasons Application 11640 should be rejected and cancelled - - -"

It may be presumed that the shortage of water supply in Capps Ravine is no less acute now than in the summer of 1950, when Decision 675 was rendered.

That surpluses probably exist in Capps Ravine during the period (November 1 to April 1) within which the applicant desires to accumulate water in storage follows not only from the non-objection by the protestants to such accumulation but also from the following flow figures, submitted by Nevada Irrigation District in connection with that District's protest against Application 11640:

<u>Date</u>	<u>Measured Flow of Capps Ravine (miner's inches)</u>	<u>Remark</u>
12/16/48	6.50	
12/31/48	5.60	
1/6/49	5.60	
1/8/49	4.40	
1/12/49	2.68	
1/15/49	4.40	Storm
1/20/49	9.84	Storm
1/22/49	16.44	
1/26/49	5.60	
1/29/49	4.40	
2/2/49	3.00	
2/5/49	11.16	Storm

Table continued -

<u>Date</u>	<u>Measured Flow of</u> <u>Canon Ravine</u> <u>(miner's inches)</u>	<u>Remark</u>
2/9/49	16.44	Storm
2/11/49	11.84	Storm
2/14/49	7.60	Storm
2/19/49	4.40	
2/23/49	3.96	
2/26/49	3.60	

Rainfall at Auburn for the 4 month period November, 1948 to February, 1949 was but 78.6% of normal, according to U.S. Weather Bureau records. Eight acre feet may be accumulated in 4 months time by a constant flow of but 1.33 miner's inches, a lesser flow than any of the flows tabulated.

The matter of a permit clause remains to be considered. Inasmuch as the proposed reservoir is located directly upon the watercourse that is to serve the applicant and already serves the protestants it is obviously incumbent upon the applicant, if the application is approved, to take necessary steps to ensure that his impounding works do not impede the flow that is necessary to satisfy existing rights downstream, i.e. the entire flow of the stream after April 1 and before November 1. The applicant's obligation may be met by passing such flow as reaches the reservoir during that period either through the reservoir or around it and it is not deemed necessary that the method be prescribed exactly in a permit clause. However in view of the superposition of the proposed dam upon the watercourse and the concern of the protestants lest that dam deny them the summer supply upon which they depend it is the opinion of this office ^{should} that a permit if issued/contain a clause emphasizing the applicant's responsibility to pass all water downstream except that to which he is specifically entitled.

Conclusion

Unappropriated water exists in the source from which and during the period within which appropriation is sought under Application 13748. Such water may be taken and used beneficially in the manner proposed without injury to lower users. The application should be approved, subject to the usual terms and conditions and subject also to a special term and condition fixing upon the applicant the responsibility of passing downstream all water which enters his reservoir from April 1 to November 1 and which he is not authorized to retain.

oOo

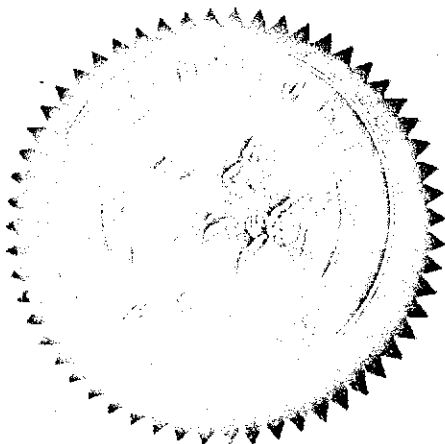
ORDER

Application 13748 having been filed with the Division of Water Resources as above stated, protests having been filed, a stipulated hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13748 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 term and condition, to wit:

Permittee shall install, maintain and operate facilities to ensure that all flow in Capps Ravine between April 1 and November 1 of each season will pass downstream un- hindered by any of his works.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 17th day of August, 1951.



A. D. Edmonston
A. D. Edmonston
State Engineer