

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 13699 by E. F. Steinmeyer to Appropriate
Water from South Fork of Eel River in Mendocino County for Irrigation
Purposes.

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Decision A. 13699 D. 718

Decided August 27, 1951

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OPINION

General Description of the Project

The application contemplates appropriations aggregating 0.56 cubic foot per second, from April 15 to October 15 of each season, from the South Fork of Eel River, in Mendocino County, for the purpose of irrigation. Diversions are to be made at 2 points, located respectively within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, T19N R12W, NDB&M, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17 of the same township. The 2 points of diversion are to be equipped respectively with pumps of 55 and 325 gallons-per-minute capacity. The project includes 1750 lineal feet of 2 $\frac{1}{2}$ inch and 2640 lineal feet of 4 inch pipeline. The places of use aggregate 45 acres of pasture, of which 10 acres are to be served by the first mentioned plant and 35 acres by the second.

Protest and Answer

The County of Humboldt protests the application, asserting that the diversion therein proposed and the diversions proposed in

similar applications tend to diminish the flow of Eel River and its tributaries and would therefore be detrimental to the health and welfare of the people, especially during the summer months as well as to the fish and wild life of the region. It asserts further that the water filed upon is a part of the drainage and natural river system in the County of Humboldt which supplies water to the residents thereof and maintains the water table within that county. It states no terms under which its protest may be disregarded.

In answer to the protest the applicant alleges that the protest is made as a matter of form and not because the appropriation at issue would result in actual injury to the protestant. The applicant denies that the diversion proposed would appreciably affect the protestant, diminish the flow of Eel River or adversely affect fish and wild life. He asserts that the protest should be dismissed for lack of valid grounds. He argues that since most of the tributaries of Eel River enter that stream below his proposed point of diversion, his relatively small diversion cannot affect the welfare or health of the people of Humboldt County.

Records Relied Upon

Applications 12923, 13699 and 13731 and all data and information on file therewith.

Discussion

The applicant and the protestant stipulated respectively that the application and the protest be submitted upon the official records of the Department in accordance with the provisions of Section 733(b) of the California Administrative Code.

The situation presented by Application 13699 is essentially the same as in the matter of Applications 12923, 13086 and 13240 which matter was the subject of a conference in Eureka on August 8, 1950 and field investigations at the sites of the then proposed appropriations on August 8 and 9, 1950. In view of the information gained through the conference and field investigations mentioned the Department is sufficiently informed to act in the matter of Application 13699 without further conference or investigation which accordingly has been adjudged unnecessary and has been dispensed with. Other applications within the Eel River watershed, recently processed in like manner, i.e. by stipulated hearing based on office records alone, field investigation being adjudged unnecessary, are Applications 13731, 13736 and 13912.

Applications 12923, 13086 and 13240 initiated appropriations of 0.40, 0.30 and approximately 0.014 cubic foot per second from Eel River drainage at points respectively 105, 6 and 75 miles, roughly, upstream from the U.S.G.S. gage on Eel River at Scotia. In the matter now at issue, Application 13699, the applicant seeks to appropriate 0.56 cubic foot per second at points roughly 98 miles above Scotia. The County of Humboldt protested Applications 12923, 13086 and 13240 for substantially the same reasons that are the bases of its protest now against Application 13699. No showing was made during the conference or investigations in connection with Applications 12923, 13086 and 13240 to support the objections set forth in the protests, i. e. that the depletion of the flow of Eel River resulting from the proposed appropriations would be detrimental to fish and wild life and/or would cause a lowering of ground water levels. In the absence of such showing and in the absence of any information derived by field investigation or office study that would support the protestant's objections it was concluded

that any effect that the proposed appropriations would have upon fish and wild life or upon ground water levels would be too slight to justify consideration as the basis of a protest. The protests against Applications 12923, 13086 and 13240 were accordingly adjudged insufficient and the applications were approved.

The flow of Eel River at Scotia since 1910, as recorded in the Water Supply Papers of the U.S. Geological Survey has ranged from a maximum of 345000 to a minimum of 10 second feet and has averaged 6,235 second feet. During September, 1939 when monthly mean discharge was the lowest of any of the summer months of the last 10 years of published record, daily mean discharges at Scotia ranged between 63 second feet and 42 second feet. It is apparent from these data that the amount applied for in the application now at issue (0.56 second foot) is small in comparison with the flow of the river, even during low stages, as was the aggregate (0.714 second feet) of the amounts applied for in Applications 12923, 13086 and 13240, investigated last year.

In view of the very close similarity of the two situations discussed and the absence of any indication that the general situation has changed since the conference and investigation of August 8 and 9, 1950, it is the opinion of this office that the same reasoning that applied in the handling of Applications 12923, 13086 and 13240 applies equally in the handling of Application 13699. This office concludes therefore that the protest by the County of Humboldt against Application 13699 is insufficient. It further concludes that in view of the absence of other protests and of the known flow characteristics of Eel River as reflected by the U.S.G.S. record of discharges at Scotia, Application 13699 should be approved, subject to the usual terms and conditions.

ORDER

Application 13699 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13699 be approved and that a permit be issued 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 27th day of August, 1951.

Original signed by

A. D. Edmonston
State Engineer