

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 14328 by Antonio Montero and Frances
Montero to Appropriate Water from Antelope Creek Tributary to Dry
Creek in Placer County for Irrigation Purposes.

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Decision A. 14328 D. 771

Decided January 26, 1953

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In Attendance at Investigation Conducted by the Division of Water
Resources on May 23, 1952:

Antonio Montero	Applicant
R. E. Hayer	Protestant*
Ralph B. Aitken	Protestant
George Mavrias	Protestant
Tony Aquilar	An upper applicant
A. S. Wheeler	Senior Hydraulic Engineer Division of Water Resources Department of Public Works Representing the State Engineer

*Protest withdrawn by letter received September 17, 1952.

OPINION

General Description of the Project

The application initiates an appropriation of 6 miner's inches, the water to be diverted from Antelope Creek, from March 15 to October 31, at a point within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, T 11 N, R 7 E, MDB&M, and used for the irrigation of 20 acres of alfalfa located within the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 8 of the same township. The project includes a 350 gallon-per-minute pump and 1400 lineal feet of 3-inch diameter steel pipe.

Protests

Ralph B. Aitken protests the application, stating:

"The creek does not carry sufficient water to supply me under my prior right and also applicants' right to take and use the water requested. My injury will therefore be in not being able to obtain sufficient water for my needs under my water right, if application is granted."

Protestant Aitken claims a right under licensed Application 8015, states that his use of water began on July 9, 1934, and that he has used 0.59 cubic foot per second from March 1 until November 1 of every year since 1934. He states that he diverts at a point within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, T 11 N, R 7 E, MDB&M. He omits mention of conditions under which his protest may be disregarded and dismissed.

George and Criscilla Mavrias also protest the application, stating:

"Such proposed diversion will deprive us of the use of water we are entitled to use under prior rights."

The protestants Mavrias claim riparian rights and rights under Applications 2500 and 8037. With reference to alleged water shortage they state:

"Due to upstream diversion there has been insufficient water in the source during the past recent years to use for anything except stockwatering."

They state no terms under which their protest may be disregarded and dismissed.

Answers

No answer by the applicants to any of the protests is of record.

Field Investigation

The interested parties with the approval of the Department having stipulated to the submittal of the application and protests upon the official records of the Department, a field investigation was conducted on May 23, 1952, by an engineer of the Division. The applicants and the protestants were all present or represented at the investigation.

Records Relied Upon

Application 14328 and all data and information on file therewith, reports of Sacramento-San Joaquin Water Supervision (Division of Water Resources) for 1950 and 1951, and published records of the U. S. Weather Bureau relating to rainfall at Auburn, California.

Discussion

The investigating engineer summarized the results of his investigation of May 23, 1952, as follows:

"Occasional measurements of flow in the source were made over a period of 5 months in 1952 and are tabulated in the report.

"Flows as measured were probably slightly above normal due to precipitation in the area being around 160% of normal.

"Flow records indicate that the application may probably be approved."

Introductory statements in the body of that report are:

"In connection with the water supply it was Mr. Montero's contention . . . that there was sufficient flow at all times for him to take the small amount sought under Application 14328 without interference with protestants' rights. He based this on a claim that increased irrigation activities within the watershed, with waters purchased from the Pacific Gas and Electric Company, have materially increased the flow in Antelope Creek during the irrigation season. He therefore requested that action on the application be delayed, at least until September, 1952, and that a measurement of the flow in the creek be made at least once a month in the interim by someone from the Division

"Subsequent to the investigation it was decided . . . to investigate the flow of Dry Creek below Roseville, to which Antelope Creek is tributary, at Roseville, during the 1952 irrigation season . . . Antelope Creek was included in the Dry Creek investigation."

The report then sets forth determinations of flow, in cubic feet per second, made during the course of the investigation, as follows:

<u>Date</u>	<u>Antelope Creek at applicants' proposed point of diversion</u>	<u>Antelope Creek at bridge on US Route 40</u>	<u>Dry Creek at Roseville</u>
May 28	1.66	2.00	10.0
June 10	2.40	1.40	21.3
June 24	1.64	1.89	26.45
July 8	1.91	1.87	13.02
July 22	2.00	3.00	12.00
August 12	2.80	5.27	not reported
August 28	1.38	3.60	14.0
September 16	4.00	6.00	14.0

On the assumption that Protestant Aitken is entitled to divert 0.59 cubic foot per second, Protestants Mavrias 0.44 cubic foot per second and Protestant Hayer (whose protest had not yet been withdrawn) 1.0 cubic foot per second, the investigating engineer concludes in his report that during 1952 at least the applicants could have diverted the amount applied for without injury to any of the protestants.

Apart from the information contained in the report of the field investigation of May 23, 1952, is a record of the flow of Linda Creek (another name for Dry Creek) at a point some 0.5 mile below the crossing of Linda Creek by Highway 99E. Flows passing that point from August, 1949, to December, 1951, both inclusive, are published in Sacramento-San Joaquin Water Supervision reports. Later flows, reportedly, cannot be calculated until further gagings are made for recheck of rating curve. Monthly maximum, minimum and mean flows at "Linda Creek near Roseville" as the station is called, during the two complete water-years of record, in cubic feet per second, appear to have been as follows:

<u>Month</u>	<u>1949-50</u>	<u>1950-51</u>
October	19.3	32.4
November	27.7	202.
December	35.4	299.
January	100.	228.
February	178.	135.
March	88.9	86.
April	65.1	25.4
May	29.9	45.2
June	11.1	7.7
July	6.6	6.3
August	8.2	8.3
September	18.3	12.6
Average, 10/1 to 9/30	49.0	90.7
Average, 5/1 to 9/30	14.8	16.0

According to U. S. Weather Bureau records, rainfall at Auburn was about 90% of normal in the 12-month period ending June 30, 1950, and about 153% of normal in the like period ending June 30, 1951. Thus 1950-51 rainfall was approximately $(153 - 90)/90$ or 70% more than 1949-50 rainfall. From the stream flow data tabulated it is apparent that Linda

Creek near Roseville discharged $(90.7 - 49)/49$ or about 85.3% more water in the 12 months ending September 30, 1951, than in the 12 months ending a year earlier, but only $(16 - 14.8)/14.8$ or about 8.1% more water in the May-through-September period of 1951 than in the like period in 1950. It thus appears that while variations in annual rainfall, in the watershed under discussion, cause large variations in the annual discharge of Linda Creek, they cause very much smaller variations, relatively, in the flow that occurs during the irrigating months. Flow during the irrigating months may well be sustained, as applicant Montero claims it is, by return flow from irrigation. At any rate, the random measurements made during 1952 at the applicants' proposed point of diversion and at the U. S. 40 bridge indicate that unappropriated water existed in Antelope Creek during the irrigating season of that year; and the records of flow of Linda Creek near Roseville together with the record of rainfall at Auburn indicate that unappropriated water probably will exist in that stream in a normal year.

Summary and Conclusions

Antelope Creek, from which the applicants seek to appropriate 6 miner's inches from March 15 to October 31, for irrigation purposes, is tributary to Sacramento River, via Dry (sometimes called Linda) Creek. The application is protested by two water-users who divert from Antelope Creek at points below the applicants. Random measurements made by engineers of the Division during the late spring and summer months of 1952 indicate that the flow of the stream in that relatively wet season exceeded the protestants' requirements by substantially more than the

amount for which the applicants apply. Continuous measurements of Dry Creek below Antelope Creek indicate that the low water flow of that stream system is affected by but 8.1% by a 70% variation in annual rainfall.

In view of the situation summarized it is the opinion of this office that unappropriated water usually exists in the source from which the applicants seek to appropriate, that such water may be taken and used in the manner proposed without injury to downstream users and that Application 14328 should therefore be approved and permit issued, ^{subject} to the usual terms and conditions.

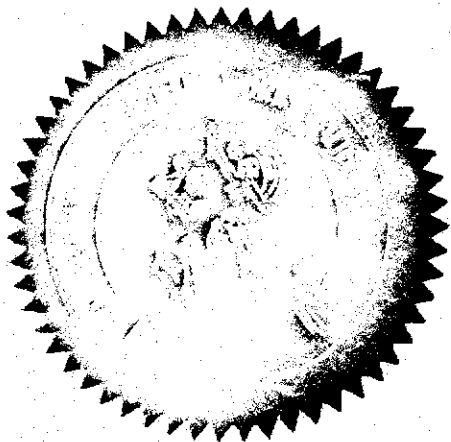
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ORDER

Application 14328 having been filed with the Division of Water Resources as above stated, protests having been filed, stipulations having been submitted by the parties, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 14328 be approved and that a permit be issued to the applicants, 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 26th day of January, 1953.



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