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 15102 by Gene Davis to Appropriate Water from Paddy Creek Tributary to Bear Creek in San Joaquin County for the Purpose of Irrigation.

oOo

Decision A 15102 D 829

Decided May 10, 1955

oOo

In Attendance at Investigation Conducted by the Division of Water Resources on December 3, 1953:

Gene Davis	Applicant
Robert Dietderich	Protestant
Dewey Murdock	Protestant
C. A. Eddlemon	Protestant
William L. Silva	Representing C. A. Silva, successor in interest to Protestant Elmer L. Maupin
K. L. Woodward Associate Hydraulic Engineer Division of Water Resources Department of Public Works	Representing the State Engineer

oOo

OPINION

General Description of the Project

The application initiates an appropriation of 0.40 cubic foot per second from Paddy Creek, tributary to Bear Creek in San Joaquin County, the water to be diverted at a point within

the NE¼ SW¼ of Section 7, T3N R8E, MDB&M, and utilized for the irrigation, from April 15 to November 1, of 20 acres of alfalfa and 10 acres of pasture within the same Section 7. Diversion is to be effected by pumping from an equalizing reservoir on Paddy Creek. The project includes a concrete and timber diverting dam 5 feet high by 47 feet long, a 450-gallon per minute pump, 500 lineal feet of ditch and 1,500 lineal feet of 10-inch concrete pipe. The applicant states that he has also another source of water supply, i.e. a deep well pump, 450 gallons per minute in capacity. He states that he owns both the land at the proposed point of diversion and the land upon which the water is to be used.

Protests

The protestants against the application and the substance of the protests are as follows:

Robert E. and Verona V. Dietderich state in part:

> "We have never had sufficient water to date that we applied for. We started out irrigating about 20 acres, gradually increasing this every year, now being able to irrigate about 35 acres. We have made arrangements to put in 600 feet of 12-inch cement pipe this spring, in anticipation of getting sufficient water to irrigate 60 acres. If application of Gene Davis is granted our project will be stalemated and money invested by us will be wasted."

The Dietderichs base their claim of a right to the use of water upon a prior application, state that they divert at a point within the NE¼ NE¼ of Section 23, T3N R7E and state further in that connection:

"We used the water first about April 15, 1948. We kept about 20 acres irrigated for the season. Used from March 1st to October ... each season, irrigating clover. We have used all available water to date. Applicant's point of diversion is on Patty Creek, the same stream we pump from ...."

The Dietderichs are willing that their protest be disregarded and dismissed "if we get all the water we originally applied for".

Dewey Murdock states in part:

"I have a permit to divert water from Bear Creek, but to date have not installed a pump as there has not been sufficient water to warrant the installation of a pump. But I have made plans to install one this spring in anticipation of an increase in the water supply. If application of Gene Davis is granted, I will have to abandon my place and my permit will be to no avail."

Protestant Murdock describes his point of diversion as being located within the SW¼ NW¼ of Section 23, T3N R7E, and states that his protest may be disregarded "if and when I get the full amount of water my permit calls for".

Elmer L. Maupin states as the basis of his protest:

"There is insufficient flow in Bear Creek between March 1st to November 1st to supply my required need to irrigate approximately 100 acres and to water 125 head of cattle."

Protestant Maupin states as the basis of his claimed right: "Application No. 12341- I have purchased the property under permit from Edward Giubbini." He states further that water has been used to irrigate approximately 100 acres and for dairy purposes, his diversion heading within NW¼ SW¼ of Section 23, T3N R7E. He mentions no terms under which his protest may be disregarded and dismissed.

C. A. Eddlemon objects, stating:

> "There is at present an insufficient amount of water to satisfy existing rights on this stream."

He states further that he holds Applications 12447 and 12448, that during 1952 he irrigated 100 acres from the stream and from wells, that he used well water only when the flow of the stream was insufficient, that his diversion heads within NW¼ of Section 23, T3N R7E, and that his protest may be disregarded and dismissed "if protestant is satisfied that there is sufficient water for other users."

Answers

The applicant answers the Dietderich protest by stating, in part:

> "Before answering this protest I feel that a brief review of the irrigable lands and consequent drainage area is in order. Therefore the attached sketch is submitted and made a part of this answer.
>
> "It is evident ... that the amount of land coming under irrigation in the last two years has been very rapid. Also with the channels being cleaned, the channel changes and newly constructed channels completed as of last fall, there will be a large increase in the amount of unappropriated water in Bear Creek and its tributaries.
>
> "At the time that Robert and Verona Dietderich made application there was a totel drainage area available to them of approximately 462 acres. At the present time, there is approximately 1,614 acres, an increase of 351%. My application, if approved, would affect an area of approximately 131 acres, or 8.1% of the drainage area in existence at the time

they filed their application. Of the total increase, or 351%, there is approximately 49% which is located upstream from me, and from which I would have access to the waters that drain ....

"Robert and Verona Dietderich state in their protest that they have used all available water to date. On numerous occasions in the past two years and in the presence of other people, I have passed or stopped at the Dietderich residence when water was available from the creek but no use was being made of it, and in lieu thereof, they were using their deep-well turbine for irrigation.

"They also state that if my application is approved their project will be stalemated and their money invested will be wasted. It is rather evident that Robert and Verona Dietderich have not given serious consideration to the effect which my proposed appropriation would have on their rights. In view of this and the above evidence, it is rather absurd that my appropriation of 0.40 cu.ft. sec. would have any effect upon their appropriation, or any of their completed or uncompleted projects."

In answer to the Murdock protest the applicant states, in part:

"Attached is a sketch showing Mr. Murdock's point of diversion is located on another tributary of Bear Creek. Consequently he is not affected by approval or disapproval of Application No. 15102."

The applicant's answer to the Maupin protest closely parallels his answer to the Dietderichs. As to that protestant's allegation of insufficiency of flow the applicant states:

"Mr. Maupin states he has not had sufficient flow in Bear Creek between March 1 and November 1 to supply his required need to irrigate approximately 100 acres and to water 125 head of cattle, yet he also states that he has used the water to irrigate approximately 100 acres and for dairy purposes.

From this I gather that he has had sufficient water for his needs."

No answer to the protest by C. A. Eddlemon is of record.

Field Investigation

The applicant and the protestants with the approval of the Division having stipulated to the submittal of the application and protests upon the official records, a field investigation was conducted on December 3, 1953, by an engineer of the Division. The applicant and the protestants were present or represented during the investigation. Supplementing the investigation a total of nine visits were made to the locality by Division personnel to observe flow conditions during the 1954 irrigation season.

Records Relied upon

Applications 12341, 12426 and 15102 and all data and information on file therewith; Waterloo Quadrangle and Water Supply Papers, Part 11, "Pacific Slope Basins in California", United States Geological Survey.

Information Secured by Field Investigation

Extracts from the report dated November 18, 1954, covering the field investigation of December 3, 1953, are as follows:

"Paddy Creek originates in the foothill area in T3N R9E, MDB&M at elevation of about 300 feet and flows westerly, thence southwesterly, a total of about 10 miles to a confluence with Bear Creek a short distance west of Lockford Road (State Highway 88). The watershed tributary to Paddy Creek above the lowermost protestant is about 30 square miles. The lower reach of the stream traverses an extremely flat agricultural area with irrigation use of water devoted principally to vineyard and pasture."

" ... the entire flow in Paddy Creek available to the users during the major portion of the season ... is unquestionably waste and return flow from upstream irrigation from wells."

" ... protestants ... Eddlemon and Murdock, are located on Bear Creek upstream from the confluence with Paddy Creek. During the 1954 irrigation season, flow of Bear Creek below Harney Lane had ceased by April 20 and the supply available to the users on Bear Creek below Harney Lane was Paddy Creek water which had been backed up Bear Creek by the 'Giubbini Dam' ...."

"A comparison of the AMS quadrangle, Bellota, California, 15', 1942, and U.S.G.S. quadrangle Waterloo, California, 7½', 1953, reveals a discrepancy as to the names of the streams in question below Lockeford Road. The numerous applications under discussion were prepared before the issuance of the later map and therefore agree with the nomenclature of the earlier map."

" ... periodic observations were made of water conditions at 4 points in the vicinity during the 1954 irrigation season as follows:

1. At Jack Tone Road crossing near the southeast corner of Section 12, T3N R7E, MDB&M.

2. At Protestant Dietderich's dam.

3. Above Protestant Eddlemon's upper point of diversion at Harney Lane crossing on Bear Creek.

4. At the Giubbini Dam."

"Nine visits were made to the area between April 20, 1954, and September 17, 1954, and only upon one occasion was water observed flowing over the Giubbini Dam. This flow together with the seepage around and through the dam was estimated at 50 gallons per minute.

"At the December 3, 1953, investigation, it was generally agreed by all parties present that a considerable acreage in the vicinity has been put under irrigation in recent years and that increased flow in the stream at some future date appeared possible. It was indicated, however, that at present the flow is extremely erratic in quantity and in time of occurrence, and although at times the protestants had sufficient water to meet their needs, at other times the flow was insufficient with the exception of Eddlemon's lowest point of diversion. This lower point being located in one of the deeper holes in the channel always seemed to have sufficient water for the needs thereat. All the protestants indicated that during such times as excessive water was available, they were agreeable to allowing the use by the applicant. The only assurance they wanted however was that during periods of deficient flow the applicant would cease diversion until the earlier permits were satisfied."

Summaries of facts observed during the nine field visits in 1954 referred to in the report of field investigation as to supplementing that report, are as follows:

Visit of April 20, 1954 - No flow in either Bear or Paddy Creek at State Highway 88 bridges; no flow past Giubbini Dam except three or four gallons per minute of leakage past flashboards.

Visit of June 11, 1954 - Water standing about two inches below top flashboard of Giubbini Dam, about 20 gallons per minute leaking around and through dam, apparently a greater flow had occurred within the previous two or three days; Dietderich Dam raises water level three feet, no water seeping

or leaking; at Jack Tone crossing water standing but no movement; no flow in Bear Creek above Eddlemon; Dietderich stated water conditions to date satisfactory, but future flow uncertain.

Visit of June 25, 1954 - At Giubbini Dam water standing about 14 inches below top of top flashboard, leakage about 20 gallons per minute, no evidence of recent flow, field adjacent to dam dry; at Dietderich Dam conditions as on June 11, water standing nearly flush with top of flashboards, little apparent leakage; at Jack Tone crossing water standing but very little apparent movement; no flow above Eddlemon diversion on Bear Creek, downstream therefrom some return flow from sprinkler irrigation.

Visit of July 9, 1954 - At Giubbini Dam no water against flashboards, water in storage channel above dam considerably less than on June 25, no leakage past dam, drain channel by the creek empty, a new (6 inch) pump installed, supply said (by one Williams, operator) to be insufficient for one continuous irrigation; at Dietderich Dam water was 16 inches below top of flashboards, no flow in channel below dam, Dietderich states that supply had been very low, that he has been pumping out the entire flow by mid-day and at times has been using his well, that no water has been passing his place; at Jack Tone road some standing water but no apparent surface movement; above Eddlemon diversion (Harney Lane Crossing) no flow in Bear Creek, water level lower than on June 25, at one point above bridge channel dry.

Visit of July 26, 1954 - At Giubbini dam water level lower than on July 9, no leakage past dam, no flow in channel below dam, pump not operating at time of visit, supply only enough (according to Williams) for three hours continuous operation; at Dietderich dam water stood two feet below top flashboard, no flow in channel below dam. The report then continues:

> "Mr. Dietderich was very angry about Davis and Snider using the water. He said he hadn't had enough water for over a month. He said that Williams had been

up giving him a bad time about the water shortage. He asked that Mr. Woodward call on Snider and tell him he was using water not belonging to him. His (Dietderich's) pump was in operation at time of visit. The writer also talked to Mr. Murdock. He said the water has been very low and that he had been using his well. His pump was not operating because of the low level of the water. He said that his pump, Eddlemon's pump and Hieb's pump have been sucking air and sand most of the time and that Williams' pump by the Giubbini Dam has been turning on and off every minute or two while in operation. Mr. Murdock also mentioned Snider's use of the water and indicated that in his opinion this use was a major factor in the water shortage."

At the Jack Tone Road crossing apparently a very slight surface movement, tules very thick, observation difficult; at Eddlemon diversion at Harney Lane crossing a very small flow though more than on July 9, neither the Murdock pump nor the Eddlemon pump was in operation, the water level in the large channel by the Eddlemon pump which is usually high was considerably lower than at last visit, there was a slight movement of water upstream.

Visit of August 4, 1954 - The record states:

"1. At the Giubbini dam the water level was about the same as at last visit with no water against flashboards, no seepage and no flow in downstream channel. At the pump site ... water was flowing in both directions, that is, about 1.0 to 1.5 c.f.s. was flowing down the channel above the pump and the pump was drawing an indeterminable amount from downstream channel storage. Channel storage was low and no water was backing upstream as has been the case in the past. The pump was operating on and off according to the level of the water. It would pull water for 10 seconds and then turn off for 10 seconds, occasionally pulling as long as 30 seconds.

"2. At the Dietderich dam some water was flowing over the top of the flashboards, however, the moss in the downstream channel made it difficult to see any surface movement of the water. The Dietderich pump was in operation. Late in the afternoon on the return trip from Stockton conditions at the Dietderich dam were observed to be the same as at the morning visit.

"3. At the Jack Tone Road crossing there appeared to be very slight surface movement, however, the tules were so thick both above and below the bridge that it was very difficult to see the water.

"4. Above the Eddlemon diversion at the Harney Lane crossing there was more water in the channel and more flow than at any previous visit. The Eddlemon pump was operating at time of visit. The surface velocity was about 20 feet per minute."

Visit of August 20, 1954 - The report states:

"1. Visited the Davis place on Jack Tone Road. Davis dam consists of 3 large concrete culverts with corrugated metal and canvas in front of them. Mr. Davis said that it takes a week or two to fill channel to top of dam and then they pump it all out. A small pump was operating upstream from the dam. The dam had broken the night before and all the water had drained out. Channel appeared to have been completely full at time of break. There was no flow in the creek and very little channel storage left at time of visit.

"2. At the Jack Tone Road crossing there appeared to be very slight surface movement, however, the tules were so thick both above and below the bridge that it was very difficult to see the water.

"3. At the Dietderich dam water was flowing over the top of the flashboards about one inch deep, moving very rapidly. Storage channel full. The channel below

the dam was quite full with some water flowing downstream. Mr. Dietderich said that he'd been short of water all month and that the water had been way down the night before. The high water was apparently the result of the Davis dam breaking. The Dietderich pump was in operation.

"4. Above the Eddlemon diversion at the Harney Lane crossing the channel was full and there was a small flow. The Eddlemon pump was not in operation.

"5. At the Giubbini Dam water was against the flashboards for the first time in several visits. The water was standing about 12 inches below top of flashboards. Seepage was about 2 gallons per minute. At the pump site water was backed up in a large pool and the pump was operating continuously. Mr. Williams said that the pump had not been operating for 2 or 3 days waiting for the water to build up.

"The apparent abundance of water was obviously the result of the Davis Dam breaking. Both Mr. Dietderich and Mr. Williams stated that the water had been very low right up to the night before and both expressed surprise at the sudden high water."

Visit of September 17 - At Jack Tone Road crossing water standing but no apparent movement; at Dietderich Dam pump operating, water spilling over flashboards in morning, two inches below top of flashboards by late afternoon; above Eddlemon Dam at Harney Lake crossing no apparent surface movement, more water in channel than on September 3, Eddlemon pump not operating, Murdock pump operating. At Giubbini Dam water standing a foot below top of flashboards, leakage about 10 gallons per minute, pump in continuous operation.

Information from Division Files

Other applications before this office to appropriate from the same stream system, within the same township, for

irrigation and/or domestic and stockwatering purposes, include the following:

Application 12341, Permit 7114, initiated by Edward Giubbini, assigned to Elmer L. Maupin, 1.65 cubic feet per second from March 1 to November 1, on Bear Creek at a point within the NW¼ SW¼ of Section 23.

Application 12426, Permit 8079, Robert and Verona Dietderich, 0.75 cubic foot per second, March 1 to October 1, on Paddy Creek at a point within the NE¼ of Section 23.

Application 12444, Permit 8080, Dewey Murdock, 0.44 cubic foot per second from March 15 to October 15 on Bear Creek at a point within the SE¼ NW¼ of Section 23.

Application 12445, Permit 8081, Melvin O. Hieb, 0.71 cubic foot per second year-round on Bear Creek at a point within the SW¼ NW¼ of Section 23.

Application 12446, Permit 8082, Leroy L. Hieb, 0.59 cubic foot per second year-round on Bear Creek at a point within the SW¼ NW¼ of Section 23.

Application 12447, Permit 8083, C. A. and Nellie A. Eddlemon, 1.28 cubic feet per second from March 1 to November 1, on Bear Creek at a point within the SE¼ NW¼ of Section 23.

Application 12448, Permit 8084, C. A. Eddlemon, 0.88 cubic foot per second from March 1 to November 1 on Bear Creek at a point within the NW¼ SW¼ of Section 23.

Application 12449, Permit 8085, Charles J. Faber, 2.88 cubic feet per second from January 1 to October 15 on Bear Creek at a point within the SW¼ SE¼ of Section 14.

Application 12450, Permit 8086, Donald H. Hieb, 0.86 cubic foot per second, year-round, on Bear Creek at a point within the SE¼ NW¼ of Section 23.

Application 12451, Permit 8087, Ludwig F. Hieb, 0.98 cubic foot per second, year-round, on Bear Creek within the SW¼ NW¼ of Section 23.

Application 12660, Christian and Elizabeth Ulrich, 0.031 cubic foot per second, from April 1

to October 31, on an unnamed stream tributary to Bear Creek at a point within the SW¼ NW¼ of Section 24.

Application 12843, North San Joaquin County Water Conservation District for various amounts at various places including 100 cubic feet per second and 5,000 acre-feet per annum from Paddy Creek, year-round, at a point within Section 27.

Application 15132, Permit 9335, Donald H. Hieb and Melvin O. Hieb, 0.86 cubic foot per second, on Pixley Creek at a point within the NE¼ SE¼ of Section 22.

Applications 12426, 12444 to 12451 inclusive and 12660 were the subject of a public hearing on October 5, 1949. Of the applications heard at that time Applications 12444, 12447 and 12448 were unprotested. All of the other applications were protested. There was but one protestant - Edward Giubbini, then holder of Application 12341. Decision 671, covering that hearing, contains the following paragraph:

"The testimony -- even when combined with information available from other sources, was deemed insufficient to serve as a proper basis for a determination. It was undertaken to secure essential additional information by means of a field investigation or investigations .... One such investigation was made on May 2, 1950. Further investigation was rendered unnecessary by withdrawal by the protestant, on that same date, of all of his protests."

The results of the investigation mentioned in the quotation of the preceding paragraph are recorded in Memorandum of Field Visit of May 2, 1950, in the folder relating to Application 12426. The memorandum contains field notes as follows:

"General: Accompanied by Applicants Robert E. Dietderich, C. A. Eddlemon, Christian Ulrich,

Chas. J. Faber, Dewey Murdock, and Protestant Giubbini. Ludwig F. Hieb representing the Hieb applicants was not present but was interviewed later.

"After an inspection of the various points of diversion was made a discussion followed during which written agreements were signed by Faber and Dietderich to by-pass water at all times through their dams via a 4-inch pipe.

"Mr. Giubbini then agreed to withdraw his protests against the seven applications which involved #12426, #12445,#12446,#12449, #12450, #12451 and #12660.

"Subsequent to the discussion the writer visited the sources involved for purposes of flow measurement, with the following results:

Bear Creek at U.S.G.S. gaging station 3/4 mile south of Lockeford on Locust Street showed no flow - several large pools.

Bear Creek at Kettleman Lane above Faber diversion measured 0.01 c.f.s.

Bear Creek immediately below Faber dam no flow.

Bear Creek leakage through Giubbini dam estimated flow about 0.10 c.f.s.

Bear Creek about 1/2 mile below Giubbini dam at 10-inch pipe on Pope property estimated 0.20 c.f.s.

Pixley Creek on roadway crossing about 500 feet below Eddlemon pump estimated 0.20 c.f.s.

Paddy Creek passing through pipe at Dietderich dam measured flow = 0.03 c.f.s.

Ulrich Creek (unnamed creek) passing through pipe at Ulrich dam measured flow = 0.13 c.f.s.

Unnamed Creek passing through opening in Liebig dam measured flow = 0.26 c.f.s.

"Pixley Creek is an alternate channel for Bear Creek waters when Giubbini dams the creek.

"Remarks:: Several unauthorized parties pump from water held by applicant's dams as the water is backed up about 1/4 mile or more because the lands are so nearly level in this area."

A group of protestants (Dietderich, Murdock, Maupin, Eddlemon), according to office memorandum of April 3, 1953, conferred at the office of the Division with Engineers Gianelli and Woodward. The memorandum reads, in part:

"Dewey Murdock indicated that our understanding of the situation on the stream was not correctly stated in our letter of March 30 and submitted a map which purportedly depicts the conditions as they presently exist. Allegedly there is no water in Bear Creek at Mr. Murdock's pump during most of the irrigating season and his source of water actually comes from Paddy Creek. As shown on the map Bear Creek and Paddy Creek join a short distance below Mr. Murdock's pump. Mr. Maupin has constructed a dam in the creek which backs the Paddy Creek water upstream in Bear Creek to Mr. Murdock's pump. If such is correct it appears that Mr. Murdock would have the same status as a downstream diverter ...."

The flow of Bear Creek has been measured by the United States Geological Survey and the results published in Water Supply Papers. The point of measurement is at a county road bridge 0.8 mile southeast of Lockeford, or roughly 6 miles upstream from the junction of the branch locally called Paddy Creek with Bear Creek. According to the record monthly

mean flows in Bear Creek in cubic feet per second since October (inclusive) 1943 have been as follows:

Water-year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.
1943-44	0	0	0	0	49.3	29.6	0.19	0	0	0	0	0
44-45	0	9.11	4.00	0.76	104.0	22.2	2.60	0.04	0	0	0	0
45-46	0	0	25.6	7.86	5.28	2.1	1.6	0	0	0	0	0
46-47	0	0.10	0	0	3.25	3.08	.03	0	0.1	0.11	0	0
47-48	0	.01	0	0	0	1.93	6.00	0.27	0.02	.07	.01	0
48-49	0.01	0	0	0	1.75	57.3	0.42	0.02	0.01	0.01	0.01	0.01
49-50	0	0	0	25.4	60.4	3.15	0.99	0.01	0.03	0.003	0.003	0
50-51	0	27.9	84.7	82.0	22.4	16.0	0.33	0.17	0.01	0.01	0	0
51-52	0	0	45.4	130.	45.7	79.5	2.67	0.02	0	0	0	0
52-53	0	0.08	8.37	26.1	1.15	0.43	0.80	0.31	0.17	0.14	0.52	0.58
Average	0.0	3.72	16.8	27.21	29.32	21.33	1.56	0.08	0.03	0.03	0.05	0.06

The watershed tributary to the point of measurement is reported as comprising 48.4 square miles. There is said to be no storage or diversion upstream.

At a point about 0.2 mile up Bear Creek from the entrance of Paddy Creek into that stream, some water apparently leaves Bear Creek through an alternate channel that heads westerly and is locally called Pixley Creek. About 0.4 mile down Pixley Creek from the departure of that stream from Bear Creek, water is diverted by Donald H. and Melvin O. Hieb under Application 15132 Permit 9355, a filing for 0.86 cubic foot per second from March inclusive through October, for irrigation.

In their progress report for 1954 the Hiebs indicate that they irrigated 25 acres that year, that they used water every

month from March to November, both inclusive, and that their use cannot be full and complete until more water is available.

Discussion

The flow of Bear Creek, the principal stream traversing the area wherein the interested parties' lands are located, is insignificant during the applicant's proposed season of use, having averaged, over a 10-year period at "Bear Creek near Lockeford," but 0.08 cubic foot per second in May and even less than that in all of the later months to include October. Despite this fact the data indicate that there is considerable irrigation within the area. Presumably the water that supports such irrigation comes partly from wells, being pumped either directly therefrom or from drainage channels in which return flow from irrigated lands has collected. Whatever the origin of the irrigation supply, practically all of it during the irrigation season of 1954 was either used or was dissipated, as by evapo-transpiration or percolation, above Giubbini dam and/or above the Hieb intake on Pixley Creek. With negligible exceptions none of it escaped downstream and none of it, apparently, may be considered subject to appropriation.

Conclusion

The available information points to the conclusion that unappropriated water seldom if ever exists in Paddy Creek during months when irrigation is usually practiced and that diversions from that stream in the manner proposed in Application 15102 would result in denial to parties downstream of the use of waters to which they are entitled. In view of that conclusion it is the opinion of this office that Application 15102 should be denied.

oOo

ORDER

Application 15102 having been filed with the Division of Water Resources as above stated, protests having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 15102 be rejected and canceled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 10th day of May, 1955.

A. D. Edmonston
State Engineer