

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

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In the Matter of Application 14705 ) Source: Coon Creek  
by Nevada Irrigation District ) County: Placer

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Decision No. D 888

Decided: February 28, 1958

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Appearances at hearing held at Sacramento on September 3,  
October 2, 14, 15, and 17, 1957, by Henry Holsinger,  
Chairman, W. P. Rowe, Member, and John B. Evans, Member,  
State Water Rights Board:

For the Applicant

Nevada Irrigation District      David Minasian,  
Attorney

For the Protestants

Chamberlain Estate Company      T. L. Chamberlain  
Attorney

United States Bureau of      John K. Bennett,  
Reclamation      Assistant Regional  
Solicitor

State Department of      Lucian B. Vandegrift,  
Fish and Game      Deputy Attorney General

For Interested Parties

State Department of      Russell Kletzing,  
Water Resources      Associate Attorney  
Department of  
Water Resources

DECISION

Substance of the Application

Application 14705 filed on March 6, 1952, by Nevada Irrigation District is for a permit to appropriate 20,500 acre-feet per annum by storage to be collected between November 1 of each year and April 1 of the succeeding year from Coon Creek for irrigation purposes. Water is to be diverted by means of an earth-filled dam 150 feet in height by 735 feet long to be located within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 17, T13N, R7E, MDB&M\*, and stored in Coon Creek Reservoir (surface area, 375 acres; capacity, 20,500 acre-feet). From the reservoir water will be released into the natural stream channel and rediverted into the proposed North and South Canals at a point within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 12, T13N, R6E, and conveyed to the place of use. The North Canal will have a capacity of 30 cubic feet per second and will be 6.5 miles in length; the South Canal will have a capacity of 40 cubic feet per second and will be approximately 18 miles in length. The place of use consists of 5,500 acres within a gross area of 31,500 acres within the boundaries of Nevada Irrigation District.

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\*All township references herein are to Mount Diablo Base and Meridian (MDB&M). Further designation of base and meridian therefore becomes unnecessary and will be omitted.

Protests and Answers

Protests were filed against the subject application by:

Chamberlain Estate Company

United States Bureau of Reclamation

State Department of Fish and Game

The protests, in general, are based upon apprehensions that the diversion and/or impoundment that the applicant proposes will interfere with the exercise of the protestants' alleged rights to the use of the water in question. The State Department of Fish and Game contends that since the amounts the applicant seeks to appropriate exceed minimum flow of the stream, game fish which are present and spawn therein will be destroyed unless, in the event of approval of the application, the resultant permit is suitably conditioned. The Bureau of Reclamation asserts that there is no unappropriated water during July, August, and September in the sources named in the application, that the existence of unappropriated water during June and October cannot be depended upon, and that diversion as proposed in the application will interfere with Central Valley Project operations.

Among the statements contained in answers to the protests are those to the effect that the Bureau of Reclamation is without authority to represent beneficiaries of the Central Valley Project, that applicant's project will not result in injury to or in interference with the

Bureau's rights, that its project will not result in any injury to Chamberlain Estate Company or interfere in any way with any of the company's claimed rights, and, finally, that the appropriation which it (the district) proposes will not adversely affect fish life.

#### Hearing Held in Accordance with the Water Code

Application 14705 was completed in accordance with the Water Code and applicable administrative rules and regulations and was set for public hearing under the provisions of the California Administrative Code, Title 23, Waters, before the State Water Rights Board on Tuesday, September 3, 1957, at 10 o'clock a.m. in the Board hearing room, 1401 - 21st Street, Sacramento, California. Of the hearing the applicant and protestants were duly notified. The hearing extended through later sessions convened on October 2, 14, 15, and 17, 1957. The application was consolidated for hearing with Applications 14599, 14704, 14804, and Permit 5803.

#### Watershed

Coon Creek is formed by the junction of Dry Creek and Deadman Canyon which drain the area immediately south of Bear River in Placer County in T13N, R7 and 8E. Deadman Canyon heads about 3 miles northwest of the City of Auburn at an elevation of approximately 1,200 feet, while the two branches of Dry Creek to the north head at elevation of approximately 2,000 feet. It flows

northwestward 7 miles from the junction thence southwestward about 25 miles into the Sacramento River. Its principal tributaries are Dry Creek and Doty Ravine.

#### Water Supply

According to Bulletin No. 10 of State Water Resources Board, "Placer County Investigation", dated June, 1955, (Staff Exh. 6) the mean seasonal runoff for the approximately 40 square miles of watershed above the Coon Creek dam site is 32,800 acre-feet. On the average nearly 80 per cent of the seasonal precipitation in Placer County occurs during the 5 months from November through March, the season of the diversion proposed under Application 14705.

#### Coon Creek Project

The Coon Creek Project is designed to conserve the runoff of Coon Creek by storage in Coon Creek Reservoir for irrigation purposes in Placer County. The project includes as its principal feature a dam across Coon Creek at a point within Sections 8 and 17, T13N, R7E. The reservoir, which is to have a capacity of 20,500 acre-feet, is entirely within Placer County and will inundate 375 acres when full. Included within the area to be served are 5,500 acres of irrigable land (R.T., 10/14-15/57, pp. 13-19).

In deficient years water from the Parker Project (a project proposed under Nevada Irrigation District's Application 2652) will be diverted at Nevada Irrigation

District's Combie Reservoir into the district's existing Upper Gold Hill and Combie-Ophir Canals and discharged into Dry Creek, ultimately arriving at Coon Creek Reservoir. The Coon Creek Project is essentially the same as that set forth in Bulletin No. 10 (Staff Exh. 6), with the exception that the reservoir will be smaller (R.T., 10/14-15/57, pp. 17-23).

#### The California Water Plan

The California Water Plan (Bulletin No. 3, Department of Water Resources, May, 1957, - Staff Exh. 4) includes, as a principal feature relating to Coon Creek, the Coon Creek Reservoir with a gross storage capacity of 59,000 acre-feet. Although the project proposed by the applicant is somewhat at variance with the California Water Plan as set forth in Bulletin No. 3, the Department of Water Resources believes that it is susceptible of integration with the plan. Accordingly, the Department has indicated (R.T., 10/2/57, p. 28) that it has no objection to the project and, in fact, encourages its construction provided there is coordination of planning to insure such integration. The Department of Water Resources therefore suggests that any permit granted contain a clause to the effect that:

"Project planning shall be carried on by the Permittee in cooperation with the Department of Water Resources of the State of California for the coordination of the project with respect to comprehensive development of the water resources concerned." (R.T., 10/2/57, p. 28)

## Discussion

### Disposition of Protests

Chamberlain Estate Company Ranch which claims a riparian right on Coon Creek but also purchases water from the Nevada Irrigation District (R.T., 10/2/57, pp. 83 and 85) is situated near the junction of Coon Creek and Doty Ravine approximately 8 miles downstream from Nevada Irrigation District's proposed Coon Creek Reservoir site. Protest of this company is based on the apprehension that the applicant's project will impair the normal flow of Coon Creek and render the company's water supply inadequate during the irrigation season. According to the testimony of Mr. T. L. Chamberlain, representing Chamberlain Estate Company, the irrigation season begins as early as May in some years and ends as late as November in some years, depending on the rains (R.T., 10/2/57, p. 85). Since Nevada Irrigation District's proposed season for diversion to storage is November 1 of each year to April 1 of the succeeding year, it is apparent that Chamberlain diversions would not be adversely affected.

The protest of United States Bureau of Reclamation to Application 14705 was withdrawn by stipulation with the applicant (R.T., 10/2/57, pp. 5, 6).

State Department of Fish and Game Exhibit 2 sets forth several conditions and recommendations for by-pass of water at the point of diversion in the interest of maintaining fish life which that Department suggests be

incorporated in any permit issued to the applicant. The applicant has accepted the terms and conditions proposed (R.T., 10/2/57, pp. 7-11).

#### Unappropriated Water

As set forth in the earlier sections of this decision the average runoff of Coon Creek considerably exceeds the amount of water sought under Application 14705. The requested season of diversion is during that period of the year when little or no irrigation is practiced in the area, and the applicant has agreed to by-pass at all times a minimum of 2 cubic feet per second or the natural flow of the stream, whichever is less, to maintain fish life. There are no prior filings of record for diversion to storage during the season proposed by the applicant and only two filings totaling 2.13 cubic feet per second during a portion of the month of November (Staff Exh. 13). It is accordingly apparent that unappropriated water is available and that approval of Application 14705 will create little or no problem to downstream prior right users.

#### Conclusions

The evidence indicates and the Board finds that unappropriated water exists in Coon Creek at times in substantial quantities, that the intended uses proposed under Application 14705 are beneficial, and that said application may be approved, if appropriately conditioned, without injury to any lawful user of water.



ORDER

Application 14705 for a permit to appropriate unappropriated water having been filed, protests having been submitted, a hearing having been held by the Board, and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 14705 be and the same is hereby approved and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions, to wit:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 20,500 acre-feet per annum by storage to be collected from about November 1 of each year to about April 1 of the succeeding year.

2. The maximum amount herein stated may be reduced in the license if investigation so warrants.

3. Actual construction work shall begin on or before September 1, 1958, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1961.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1964.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

8. Project planning shall be carried on by the permittee in cooperation with the Department of Water Resources of the State of California for the coordination of the project with respect to comprehensive development of the water resources of Coon Creek.

9. Permittee shall by-pass a minimum of 2 cubic feet per second or the natural flow of the stream whichever is less, down the stream bed of Coon Creek beyond the permittee's storage dam and diversion dam for the purpose of maintaining fish life. Natural flow is defined as flow reaching said works of permittee, other than water developed by storage upstream by said permittee, or water diverted into Coon Creek watershed by said permittee.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the 28th day of February, 1958.

/s/ Henry Holsinger

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Henry Holsinger, Chairman

/s/ W. P. Rowe

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W. P. Rowe, Member