

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

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In the Matter of Applications 12140, 12183, 12231, 12235, 12236, 12277, 12278, 12295, 12300, 12314, 12315, 12321, 12322, 12324, 12325, 12326, 12399, 12421, 12422, 12423, 12440, 12441, 12456, 12457, 12603, 12622, 12623, 12667, 12682, 12755, 12759, 12779, 12780, 12781, 12782, 12785, 12786, 13370, 13371, 13372, 14242, 14243, 14662, 14744, 15635, 15636, 15644, 15954, 15955, 16014, 16015, 16016, 16017, 16018, 16019, 16044, 16060, 16212, 16243, 16385, 16386, 16688, and 16819 by the City of Sacramento and other applicants, to appropriate waters of the American River and its tributaries.

Decision No. D 893

Decided March 18, 1958

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Appearances at Hearing Conducted at Sacramento commencing on November 27, 1956, by Henry Holsinger, Chairman, John B. Evans, Member, and W. P. Rowe, Member, State Water Rights Board:

Sacramento Municipal Utility District	)	Stephen B. Downey, Attorney
	)	Martin McDonough, Attorney
	)	David S. Kaplan, Attorney
City of Sacramento	)	Stephen B. Downey, Attorney
City of North Sacramento	)	Martin McDonough, Attorney
County of Sacramento)	
Sacramento River Water and Delta Association)	
Santa Clara Valley Water Conservation District	)	Albert T. Henley, Attorney
Hollister Irrigation District)	
Campbell Water Company)	
City of San Jose)	
State Department of Water Resources	)	Mark Nosler, Attorney
Elk Grove Irrigation District	)	Denslow B. Green, Attorney
Galt Irrigation District)	
State Department of Fish and Game	)	Lucian B. Vandegrift
	)	Deputy Attorney General
Pacific Gas and Electric Co.	)	Joseph Sheeks, Attorney

1,300,000 acre-feet per annum for municipal, domestic, irrigation, and other purposes within a designated service area. That service area (delineated on USBR Exh. 6) extends from the north boundary of Placer County to the vicinity of Mendota. It lies mainly within the Sacramento and San Joaquin Valleys and is so extensive as to include substantially all the places of use designated in all of the other applications at issue except the applications by the Counties of El Dorado and Placer, by the Georgetown Divide Public Utility District, and by the Southside County Water District.

Items contained in the hearing testimony and/or exhibits and relating to Applications 13370 and 13371 and/or to the intentions of the applicant United States with respect thereto are summarized as follows:

Application 13370 is to provide a new or supplemental irrigation supply for a net area of 500,000 acres in any one year. Application 13371 will provide water for municipal, industrial, domestic, and incidental recreational purposes for the present or future requirements of cities, towns, and other municipalities within the overall service area (R.T. 1/3/57 a.m., pp. 21-22).

Delivery of water from the Folsom project will be conditioned upon the execution of valid contracts for such deliveries (R.T. 1/3/57 a.m., p. 22).

There are about 500,000 acres of land south of the American River in Sacramento and San Joaquin Counties that are in need of an additional water supply to offset present overdrafts on ground water and to provide opportunity for development of additional irrigable lands (R.T. 1/7/57, p.14). A report on the feasibility of a water supply development for this area is contained in a publication by the United States Bureau of Reclamation entitled "Folsom South Unit, Central Valley Project, California", dated April, 1956 (SWRB Exh. 24). That report concludes that in Sacramento County 27,000 acres were irrigated in 1946, that 54,000 acres were irrigated in 1953 and that ultimately 149,500 acres may be irrigated in any one year with a diversion from the American River of 440,000 acre-feet per year.

Reconnaissance studies by the United States in San Joaquin County have considered diversion of about 378,000 acre-feet per year from the American River to supplement present overdraft and to provide for the ultimate needs of an area of about 300,000 acres (R.T. 1/7/57, p. 17).

Reconnaissance studies by the United States of water problems in Sacramento and Placer Counties north of American River are given in a report entitled "Folsom North Unit, Central Valley Project, California", dated March, 1956 (SWRB Exh. 23). In that report it is estimated that as of 1954, 111,000 acre-feet were used in the area each year, that future water requirements may reach 225,000 acre-feet by year 1980, about 300,000 acre-feet by year 2,000, that part of the area is now supplied from the American River, that in most of the area adequate and economical ground water supplies are presently being obtained, but that various organizations are considering ways and means of obtaining additional water from the American River (R.T. 1/7/57, p. 22).

The average annual yield of Folsom Reservoir operated in conjunction with other Central Valley Project Reservoirs is 1,100,000 acre-feet (page xi, SWRB Exh. 24 - "Folsom South Unit").

Ultimately the yield of Folsom Reservoir will not be sufficient to meet the Folsom North and South and Delta requirements (R.T. 1/7/57, p. 32).

The Bureau of Reclamation has received requests for water service or for studies in connection therewith from the City of Roseville, San Juan Suburban Water District, Citrus Heights and Fair Oaks Irrigation Districts, Sacramento County Board of Supervisors, Clay Water District, City of Stockton, North San Joaquin Water Conservation District, San Joaquin County Board of Supervisors, City of Lodi, and Stockton and East San Joaquin Water Conservation District (R.T. 1/7/57, pp. 18-19-20-25).

The County of Sacramento under Applications 12314 and 12315 seeks a total of 2,250 cubic feet per second plus 700,000 acre-feet per annum for municipal, domestic, and irrigation purposes within Sacramento County. The amounts so sought apparently represent Sacramento County's estimate of the amounts that should be obtained from the American River to meet full, ultimate requirements within its boundaries for the purposes stated.

acquired thereunder remain subject to reduction by appropriation of water for reasonable, beneficial use within the watershed above Folsom Reservoir, provided that releases past Nimbus Dam are sufficient at all times to satisfy demands under downstream rights and requirements for fish conservation and salinity control, provided that deliveries outside of Placer, Sacramento, and San Joaquin Counties are sufficiently restricted to ensure the satisfaction of such demands as developed within those counties, provided such development is undertaken within a reasonable period, and provided that licenses when issued shall be issued to the public agencies of the State within which the water is found to have been put to beneficial use.*


While not attempting to define the area which may be entitled to preferential consideration under Water Code Section 11460, the Board nevertheless concludes that in view of that code section, the demonstrated needs for additional water in Sacramento, San Joaquin, and Placer Counties, the provisions of Water Code Sections 1253, 1255, and 1257, and considerations of public interest, the three counties mentioned should be allowed a reasonable period, say ten years, within which to negotiate with the United States for water from the American River, before the supply available from that source is permanently committed to use in a more remote area.

Applications 12140, 12321, 12622, and 16060, initiated by or assigned to the City of Sacramento, Applications 12421, 16212,

*Reference: "Legislative Resolutions Citing Necessity for Special Terms and Conditions in Permits and Licenses for Federal Reclamation Projects." - Pages 57 and 58, SWRB Exh. 1

and 16688, standing in the name of the Georgetown Divide Public Utility District, and Applications 13370 and 13371 by the United States, insofar as those nine applications relate either to direct diversion or to accumulation in storage, between about August 1 and about November 1 should be denied, the evidence indicating nonexistence of unappropriated water at that time of year. Applications 13372 and 14662 by the United States Bureau of Reclamation, insofar as those applications relate to accumulation in storage during the same three-month period, should be denied for the same reason.

Application 12183 by the City of North Sacramento, Application 12295 by the City of Roseville, Application 12300 by the Fair Oaks Irrigation District, Application 12667 by the Citrus Heights Irrigation District, Application 12231 by the City of San Jose, Applications 12235 and 12236 by the Santa Clara Water Conservation District, Application 12277 by the San Jose Water Works, Applications 12603 and 12682 by the Campbell Water Company, Application 14744 by the Hollister Irrigation District, Application 12278 by the California Water Service Company, Application 12399 by the City of Stockton, Applications 12440 and 12441 by the North San Joaquin Water Conservation District, Applications 16385 and 16386 by the Stockton and East San Joaquin Water Conservation District, Applications 12314 and 12315 by the County of Sacramento, and Application 15635 by the Elk Grove Irrigation District should be denied, the evidence indicating that the approval of those applications would serve no useful purpose.



The point or points of diversion under each of those applications is Folsom Dam and/or Nimbus Dam to which right of access has not been acquired by the applicants. Accordingly, issuance of permits to those applicants would be meaningless in view of the obvious necessity of contracting with the United States for a supply of water from the Federal facilities. The service areas which those applicants desire to supply may be supplied equally well and with less administrative confusion by contract with the United States. Permits are being issued to the United States to appropriate enough American River water to adequately supply the applicants naturally dependent on that source and availability of water to such applicants is reasonably assured by the terms to be contained in the permits to be issued to the United States restricting exportation of water under those permits insofar as exportation interferes with fulfillment of needs within Placer, Sacramento and San Joaquin Counties. Other applicants in more remote areas must if necessary seek water from other sources.

The record is also abundantly clear in regard to the applications by California Water Service Company, City of Stockton, North San Joaquin Water Conservation District, and Stockton and East San Joaquin Water Conservation District that the applicants have no immediate plan or purpose to proceed promptly with construction and/or with the application to beneficial use of the water sought. In such cases the Board has little choice in the action to be taken since it is a settled principle that an application to appropriate is not a proper instrument to make a reservation of water for a development at an indefinite and uncertain time in the future.

Diversion of Water Under Contracts with the United States" between the United States and the California Department of Fish and Games, dated October 15, 1957, filed of record as Fish and Game Exhibit 19 of the hearing of Applications 13370, 13371, 13372 and 14462.

14. Deliveries of water under permits issued pursuant to Application 13370 and 13371 shall be limited to deliveries for beneficial use within Placer, Sacramento and San Joaquin Counties and shall not be made beyond the westerly or southerly boundaries thereof, except on a temporary basis, until the needs of those counties, present or prospective, are fully met provided, however, that agreements in accordance with Federal Reclamation laws between permittee and parties desiring such service within said counties are executed by July 1, 1968.

15. The right to divert and store water and apply said water to beneficial use as provided in the permits issued pursuant to Applications 13370 and 13371 is granted to the United States at Trustee for the benefit of the public agencies of the State together with the landowners and water users within such public agencies as shall be supplied with the water appropriated under the permits.

16. Subject to compliance by the public agencies concerned with any and all present and future valid contractual obligations with the United States, such public agencies, on behalf of their landowners and water users, shall, consistent with other terms of the permits, have the permanent right to the use of all water appropriated and beneficially used under permits