

BEFORE THE DIVISION OF WATER RIGHTS  
DEPARTMENT OF PUBLIC WORKS  
STATE OF CALIFORNIA

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In the matter of Application 4673 of W. L. Leland,  
Application 4776 of E. W. Sharp and O. Watts  
to appropriate for power purposes and Ap-  
plications 4775 and 4777 of E.W. Sharp  
and O. Watts to appropriate for min-  
ing purposes from certain tribu-  
taries of Jamison Creek in the  
Middle Feather River Watershed

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DECISION NO. A 4673-4775-4776-4777 D 202

Decided *August 8, 1928*

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APPEARANCES AT HEARING HELD FEBRUARY 20, 1928, at Sacramento

For Applicant-  
W. L. Leland

W. L. Leland in propria persona  
H. A. Kluegel, Engineer,  
Balfour Building, San Francisco

For Applicants-  
E. W. Sharp and O. Watts

No appearance

For Protestant-  
Feather River Lumber Company

L. H. Hughes, Atty., Quincy, Calif.

For Protestants-  
Feather River Improvement Company  
and Sierra Feather River Lodge

C. A. Lundy, Blairsden, Calif.

For Protestants-  
Plumas Eureka Corporation;  
John Uhart; James Absalom

No appearance

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EXAMINER: E. N. Bryan, Deputy Chief, Division of Water Rights.

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O P I N I O N

There is no direct connection between the projects but some are interprotested, on which account the applications were included in one hearing.

The Sharp and Watts project is covered by three applications all of which were protested by W. L. Leland. Application 4776 for power purposes was also protested by Feather River Lumber Company. Prior to the hearing and on October 24, 1927 O. Watts, one of the applicants, visited the office and submitted verbal information that E. W. Sharp, the other applicant is no longer interested in the mines or in the applications. Watts at this time stated that he secured ample water for his needs from Squirrel Creek under Application 4775 and requested cancellation of Applications 4776 and 4777, both to appropriate from Bear Creek. The Division of Water Rights thereupon advised Sharp of Watts' desire in the matter and in answer to its second letter received the following statement from Sharp:

"Would like to hold my interest in Applications 4775 and 4776".

Having been advised of Sharp's desire, Watts on February 17, 1928 again advised the Division of Water Rights that Sharp had withdrawn from active interest in the mines and stated that all of the three applications had been abandoned and requested cancellation thereof.

These three applications were completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights, and were set for a public hearing at 10:30 o'clock A.M. on February 20, 1928 in Room 707 Forum Building, Sacramento. Of this hearing both applicants and all protestants were separately notified and

both applicants advised this office in advance that they would not appear nor be represented thereat.

Under existing circumstances the controversy is in fact between the applicants and is relative to abandonment of the applications. Letters from each show that Watts is at the mines and Sharp is at Los Angeles, the inference being that Watts is actively working the mines. Furthermore Watts' letters indicate definite thought while Sharp's letters are characterized by apathy, both tacit and expressed. Certainly no reason has been adduced by either Sharp or Watts for believing that either construction or use will ever be consummated under the applications.

Since the hearing was held two letters have been addressed to Sharp indicating the desire of this office to cancel these applications unless information as to his ability and intention to consummate the projects was submitted by him. The last letter was sent by registered mail and was received by Sharp over six weeks since but no answer has been submitted.

Quotation therefrom is made as follows:

"This office will have no choice but to consider any failure to submit such information as a clear indication of apathy in the premises and govern itself accordingly."

It therefore appears that no use of water will ever be consummated under these applications and that approval thereof would be an idle gesture. The applications by Sharp and Watts will therefore be cancelled.

Application 4673 by W. L. Leland in its present form proposes use of water for power generation without storage the sources named being Jamison Creek and its tributaries Bear Creek and Deer Creek. It was filed July 3, 1925 to cover a combined direct flow and storage project to provide power for mining operations. About two years later it appeared that certain options

held by applicant covering land required in connection with the storage phases of the project had lapsed and the application was amended to strike out all reference to storage. Since this amendment was made the applicant has been advised by the Division of Water Rights four times of the necessity of completing an application to the Federal Power Commission and has also received advice from the Federal Power Commission several times as to its requirements for securing the necessary license.

The last communication with the applicant was under date of April 19, 1928 at which time he was advised it was our feeling that as the application had then been pending for more than two and one-half years ample time had already been afforded in which to complete an application to the Federal Power Commission. He was however allowed further time until August 1, 1928 within which to file this application with the injunction that unless this had at that time been done action could not longer be withheld on his application to this office and that we would be governed by the provisions of Regulation 15 covering the matter of right of access.

On July 23, 1928, J. N. Turner, an associate of Leland visited this office and stated that the project as of present intention was not yet before the Federal Power Commission and asked an additional thirty days from August 1, 1928 to make proper presentation. He was advised that under the circumstances this office would not consider a verbal request to that effect and was asked for a written statement which should show what has been accomplished and what will be done in the immediate future toward placing the project before the Federal Power Commission. No such information or written request has been received and on August 3, the Federal Power Commission advised the Division of Water Rights by telephone that the project is not before that office.

Except as above stated this application also was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights. Numerous protests were filed and a public hearing was held in the matter at 10:30 o'clock A.M. on February 20, 1928, in Room 707 Forum Building, Sacramento. Applicant and protestants were duly advised of this hearing and appearances were made on behalf of applicant and certain of the protestants.

Due to the fact that the project is not before the Federal Power Commission the Division of Water Rights cannot consistently with the provisions of Regulation 15 of the Rules and Regulations approve the application. Applicant has had abundant opportunity, ample time and frequent advice on this point but has shown this office no reason to believe that the necessary application for a license will be prepared. Action on the application to the Division of Water Rights is not, therefore, predicated on the points raised by protests but on the probability that approval would be an idle gesture in that applicant has no right to construct the necessary works on the public domain nor has he initiated any right to do so. Rejection of the application is without prejudice to applicant's right to re-file on the project.

O R D E R

Applications 4775, 4776, 4777 and 4673 for permits to appropriate water having been filed with the Division of Water Rights as above stated, protests having been filed, a public hearing having been held and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Applications 4775, 4776, 4777 and  
4673 be rejected and cancelled on the records of the Division of Water Rights.

Dated at Sacramento, this *8* day of *Aug*, 1928.

*Harold Conkling*  
(Harold Conkling)  
CHIEF OF DIVISION OF WATER RIGHTS

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