

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

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In the matter of Applications 10787 and 10788 of
Claire H. and Byrd E. Epperson to Appropriate
Water from East Levee Sutter By-pass Borrow
Pit and Poodle Creek, respectively, in
Sutter County for Irrigation Purposes

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DECISION 10787, 10788, D 516

Decided October 4, 1944

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APPEARANCES AT HEARING HELD AT SACRAMENTO, SEPTEMBER 5, 1944

For Applicants

Claire H. and Byrd E. Epperson

No appearance

For Protestants

R. E. Hughes

No appearance

C. Fred Holmes

No appearance

EXAMINER - Harold Conkling, Deputy State Engineer in Charge of Water Rights,
Division of Water Resources, Department of Public Works,
State of California.

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O P I N I O N

GENERAL DESCRIPTION OF PROPOSED PROJECT

Applications 10787 and 10788 were filed by Claire H. and Byrd E.
Epperson on March 20, 1944.

Under Application 10787 it is proposed to appropriate 3 cubic feet

per second from the East Levee Sutter By-pass Borrow Pit tributary to the Sacramento River to be diverted from April 1 to October 1 of each season for the irrigation of 160 acres within the NW $\frac{1}{4}$ of Section 19, 80 acres within the W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Section 19 and 40 acres within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19, T 15 N, R 2 E, M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 24, T 15 N, R 1 E, M.D.B.&M.

Under Application 10788 it is proposed to appropriate 3 cubic feet per second from Poodle Creek, tributary to the Sutter By-pass from April 1 to October 1 of each season for the irrigation of 160 acres within the SW $\frac{1}{4}$ of Section 20 and 80 acres within the W $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 20, T 15 N, R 2 E, M.D.B.&M. The point of diversion is described as being within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 20, T 15 N, R 1 E, M.D.B.&M.

PROTESTS

R. E. Hughes claims appropriative rights under Applications 6348, 6582 and 7989 to appropriate from the borrow pit of the East levee of Sutter By-pass and under Application 9325 to appropriate from that portion of Gilsizer Slough which lies within the Sutter By-pass.

C. Fred Holmes claims an appropriative right under Application 9230 to appropriate water from the borrow pit of the East levee of Sutter By-pass.

Both of these protestants allege in effect that there has been a shortage of water for irrigation purposes in the past and that the proposed appropriations under Applications 10787 and 10788 would result in depriving them of water to which they are entitled under their prior filings.

GENERAL DISCUSSION

Subsequent to the filing of the protests it appeared that they were filed, not for the purpose of preventing the applicants from proceeding with their proposed developments, but to direct attention to protestants' prior rights and to safeguard their interests during seasons of deficient runoff.

It was explained to them that permits were issued by this office based on normal conditions and subject to prior vested rights and that in our opinion there had been little or no actual loss of crops due to lack of water even in the driest years but by careful conservation methods all users of water in the valley areas had been able to secure sufficient water to produce good crops.

Recognizing these conditions protestants consented to submit the matter on the record as it stood and agreed to a formal hearing at which no appearance would be made.

Consequently the matter was set for public hearing at Sacramento on Tuesday, September 5, 1944, at 10:00 o'clock A.M. at 401 Public Works Building. Of this hearing applicants and protestants were duly notified and informed that inasmuch as there were protests of record against the applications which had not been withdrawn, the hearing was mandatory, but that it was understood in accordance with recent letters received from the applicants and protestants that no appearance would be made at the hearing by any of the parties.

No appearances were made at the hearing and such being the case we are in a position to approve the applications subject to vested rights.

O R D E R

Applications 10787 and 10788 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 10787 and 10788 be approved 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 4th day of October, 1944.

EDWARD HYATT, STATE ENGINEER

BY

Harold Corblum
Deputy State Engineer

WES:MP
SEP 29 '44 W.E.S.

