

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

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In the matter of Application 11581 of Ira J. Thorn to appropriate from North Cow Creek tributary to Sacramento River via Cow Creek in Shasta County for irrigation purposes.

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Decision 11581 D. 576

Decided: *March 11, 1948*

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Appearances at Field Investigation conducted on September 22, 1947, under the provisions of Article 13, Section 733b of the California Administrative Code.

For the Applicant

Ira J. Thorn

In propria persona

For the Protestants

August Kuss
Tilden and Carrie L. Boyle
E. C. Frisbie

Mrs. August Kuss
Tilden Boyle
In propria persona
Lawrence Kennedy, Attorney

For the State Engineer

A. S. Wheeler, Assistant Hydraulic Engineer, Division of Water Resources, Department of Public Works, State of California.

Also in attendance was Cow Creek Watermaster, George M. Vickroy, Assistant Hydraulic Engineer, Division of Water Resources, Department of Public Works, State of California.

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OPINION

Application 11581 having been filed with the Division of Water Resources, protests against approval thereof having been received and applicant and protestants having signed stipulations to submit the matter for decision was regularly set for a field investigation of which applicant and protestants were duly notified.

APPLICANT'S PROJECT

Applicant proposes diversion of 0.20 cubic foot per second from North Cow Creek by means of a pumping plant for the irrigation of 15 acres from about April 1 to about July 1 of each season.

PROTESTANTS' PROJECTS

The protestants are entitled to divert at all times from North Cow Creek the amounts allotted from the points described in and for use on the lands described in the judgment and decree entered on April 29, 1932, in the case of Charles L. Lemm, et al., vs. John Rutherford, et al. (Superior Court, Shasta County, No. 5804).

RECORDS RELIED UPON

Application 11581 and all data, maps and reports filed therewith.

All data, maps and reports on file with the Division of Water Resources in connection with the North Cow Creek Reference (Charles L. Lemm, et al., vs. John Rutherford, et al.) and all North Cow Creek Watermaster Reports.

DISCUSSION

At the field investigation it was brought to the attention of the interested parties that 36 cubic feet per second were required to supply the decreed rights of the water users on the stream with 100% allotments and that normally water in excess of that amount was present in the stream until about June 1 and in view of this the protestants stated that their protests could be considered as withdrawn provided that the season of diversion under the application was limited to the period from April 1 to June 1, to which provision applicant agreed.

Stream flow records which are set forth in the report of the investigation clearly indicate that over a period of twenty-one years (1926 to 1946 inclusive) there were sixteen years in which water would have been available for appropriation by the applicant prior to June 15 or later and there were only five years during this period that surplus water would not have been available up to June 1.

The waters of North Cow Creek are subject to regulation by the watermaster on this stream and during the few years which are sub-normal the applicant would be required to so regulate his diversions as not to interfere with prior vested rights.

Inasmuch as there is unappropriated water in North Cow Creek during the period from about April 1 to about June 1 of a season of normal runoff and the applicant has agreed to limit his diversions to that period, the protests against the approval of the application are dismissed and Application 11581 should be approved and a permit issued subject to the usual terms and conditions for diversion and use from about April 1 to about June 1 of each season.

ORDER

Application 11581 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, a field investigation having been made, a stipulated hearing having been held in accordance with Article 13, Section 733b of the California Administrative Code and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 11581 be approved for 0.20 cubic foot per second from about April 1 to about June 1 of each

season and that a permit be issued subject to such of the usual terms and conditions as may be appropriate.

IT IS FURTHER ORDERED that diversion throughout the remainder of the season applied for be denied.

WITNESS my hand and the seal of the Department of Public Works of the State of California this *11th* day of *March*, 1948.


Edward Hyatt, State Engineer

