

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 13576 by Ralph E. Enzler to Appropriate Water from a Branch of Pilot Creek, Tributary to North Fork of American River, in El Dorado County, for Domestic Purposes and Irrigation.

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Decision A. 13576 D. 696

Decided February 14, 1951

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APPEARANCES AT HEARING HELD AT SACRAMENTO ON SEPTEMBER 6, 1950:

For the Applicant

Ralph E. Enzler

Ralph E. Enzler

For the Protestant

Gordon H. Garland

No appearance

EXAMINER - HARRISON SMITHERUM, Supervising Hydraulic Engineer, Division of Water Resources, Department of Public Works, for A. D. EDMONSTON, State Engineer.

ALSO PRESENT - William Gianelli, Associate Hydraulic Engineer, Division of Water Resources.

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O P I N I O N

General Description of the Project

The application contemplates an appropriation of 85 acre-feet per annum, to be collected between October 1 and April 30 of each season, from a branch of Pilot Creek, a tributary of North Fork of American River, for domestic purposes and irrigation. The proposed

point of diversion is located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T 12 N, R 9 E, M.D.B. & M. Storage is to be accomplished by means of an earth dam, 29 feet high by 610 feet long. The resultant reservoir is to have a surface area of 5.9 acres and a capacity of 85 acre feet. The prospective place of use is a 91 acre tract at the corner common to T 11 & 12 N, R 8 & 9 E, which includes a 57 acre orchard and 34 acres of pasture. Irrigation is to extend from about April 1 to about October 1. The applicant claims also a riparian right.

Protest and Answer

Gordon H. Garland protests the application claiming that the diversion proposed thereunder will divert water which he has already filed upon and applied to beneficial use. In this connection he cites his prior Application 13233. He states also that water was used for many years by his predecessors in interest and at one time for placer mining. He describes his diversion as heading within the NW $\frac{1}{4}$ of Section 1, T 11 N, R 8 E, M.D.B.&M. and intimates that his protest may not be disregarded and dismissed under any terms.

The applicant answers the protestant by stating that rainfall of the watershed averages 36 inches of which 18 inches should run off, and that there are 1000 acres of watershed above the protestant's damsite which therefore should produce 1500 acre-feet as compared with the 7 or 8 acre-feet to which the protestant is entitled under Application 13233.

Hearing Held in Accordance with the Water Code

Application 13576 was completed in accordance with the Water Code and the Rules and Regulations of the Division of Water Resources

and being protested was set for public hearing under the provisions of Article 733(a) of the California Administrative Code on Wednesday, September 6, 1950 at 10:00 o'clock A.M. at Room 401, Public Works Building, Sacramento, California. Of the hearing the applicant and the protestant were duly notified.

General Discussion

Application 13233, referred to in the protest as the basis of the protestant's claim to a water right, initiated an appropriation of 2.50 cubic feet per second from Pilot Creek at either or both of two points of diversion located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, T 11 N, R 8 E, M.D.B.&M., for irrigation, domestic and stockwatering purposes. The application also included a small storage feature (12 acre-feet per annum). In the absence of protests, the application was approved and Permit 7831 issued. The permit authorizes diversion of 2.5 cubic feet per second from about April 1 to about October 1 for irrigation and diversion throughout the year as required for domestic purposes. It also authorizes the diversion to storage of 12 acre feet per annum, the stored water to be collected between about October 1 of each year and about April 1 of the next.

At the hearing of September 6, 1950 witness Enderlin, District Engineer, Soil Conservation Service, testified (page 6 of Transcript) that some 360 acres of watershed are tributary to the applicant's damsite and some 1100 acres tributary to the dam constructed by the protestant under Application 13233. These figures are in substantial agreement with figures obtained by tracing the boundaries

of the two watersheds on the Auburn Quadrangle, U.S.G.S. and scaling the enclosed areas. Witness Enderlin further testified (pages 6 and 7 of transcript):

"In our opinion the 360 acres - - - would yield in a normal year in excess of 85 acre feet. It is our opinion that it would be nearer to 360 acre feet. Of the 1100 acres tributary to the protestant's dam there would be 360 which would come through the Enzler dam site and that would leave 740 which would have no obstruction. It is our opinion that just considering the 740 acres of tributary area that is independent of the Enzler dam site, there is more than enough yield annually to supply protestant's established rights."

Witness Enderlin then added:

"There are two points I may state. The annual rainfall in that area is 36 inches a year. The 85 acre-feet Mr. Enzler asks for is roughly 8% of the annual rainfall in the watershed."

Witness Enderlin's testimony as to rainfall is roughly supported by published data. His testimony to the effect that average annual runoff may approach one acre-foot per acre cannot be rigorously checked because the particular data upon which it may be based are not at hand. According to the U.S.G.S. water supply papers the total flow of the North Fork of American River at North Fork Dam from October 1 to April 30 of each season of record (1941 to 1949) has been as little as 0.77 acre foot and as much as

2.96 acre feet and has averaged 1.67 acre feet per acre of tributary drainage area. In the light of these figures which represent measured runoff from known areas of roughly comparable though larger and higher watershed, Witness Enderlin's estimate appears conservative.

Other testimony by or on behalf of the applicant was either corroborative of Witness Enderlin's testimony or was not relevant to the principle issue, i.e. the existence or non-existence of unappropriated water.

No evidence or testimony was offered on behalf of the protestant, who was neither present nor represented. By letter dated September 5, 1950, Mr. Paul Mason stated that the protestant by reason of absence from California for business reasons had requested him to arrange a postponement of the hearing. Mr. Mason stated in his letter that he was not himself in a position to appear for Protestant Garland, not knowing what evidence the protestant would wish to present. The Examiner read aloud Mr. Mason's letter and upon objection by the applicant to the postponement therein requested, directed that the hearing proceed.

Summary and Conclusions

It appears that the applicant's proposed 85 acre-foot reservoir will fill when runoff during the collecting period amounts to 85/360 or 0.236 acre-foot per acre of tributary watershed, that the protestant's right to 12 acre-feet per like collecting period may be

met by a runoff of 12/1100 or 0.011 acre-foot per acre tributary to that party's dam, and that runoff probably occurs, on average, at the rate of one (1) acre-foot per tributary acre or close to that rate. It is therefore concluded that unappropriated water exists in a normal season in amounts more than sufficient to satisfy the appropriation sought under Application 13576 and that such unappropriated water may be taken and used in the manner proposed in the application without injury to the protestant. It is the opinion of this office that Application 13576 should be approved and permit issued, subject to the usual terms and conditions.

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O R D E R

Application 13576 having been filed with the Division of Water Resources as above stated, a protest having been filed, a public hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 13576 be approved and that a permit be issued to the applicant, 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 14th day of February, 1951.



A. D. Edmonston
A. D. Edmonston, State Engineer