

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

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In the Matter of Application 12688 by El Dorado Burial Association to Appropriate Water from an Unnamed Stream Tributary to Hangtown Creek in El Dorado County for Irrigation Purposes.

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Decision A. 12688 D. 707

Decided June 4, 1951

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON AUGUST 16, 1950:

James Hull	)	
Robert Voth	)	Applicant's representatives
Geoffrey A. Hughes	)	
Loren D. Forni	)	Protestant
Henry S. Lyon	)	Protestant Forni's Attorney
J. F. Bonner	)	
F. Brenneman	)	(Protestant Pacific Gas and Electric Company's representatives)
S. Skeehan	)	Associate Hydraulic Engineer, Division of Water Resources, Department of Public Works, Representing the State Engineer.

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OPINION

General Description of the Project

The application contemplates an appropriation of 0.05 cubic foot per second from April 1 to October 1 of each season from an unnamed stream tributary via Hangtown Creek to Webber Creek, in El Dorado County, for irrigation purposes. The proposed diversion is to head within the SW 1/4 of Section 12, T 10 N R 10 E, V.D.B. 6M. The water is to be diverted from a

sump in the stream bed by means of a pumping plant, 100 gallons per minute in capacity. The project includes a 2000 gallon regulatory reservoir and a 3 inch pipe line, 250 feet long. The proposed place of use is a 12 acre tract of alfalfa, located in Sections 11 and 12 of the same township. No other water right or source of water supply is claimed.

Protest

Loren D. Forni protests that the water filed upon has been used on his property for at least 40 years, that the loss of the water will depreciate the value of his property and that he is informed that he will be unable to purchase additional water from the local irrigation district. He states that his diversion heads at a point within the SW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of Section 12, T 10 N R 10 E, M.D.B. & M.

The Pacific Gas and Electric Company protests that the diversion of any of the natural flow of American River at any time when there is less than 1000 cubic feet per second of natural flow in that stream at Folsom Dam will deprive that company of the use of water to which it is entitled for power generation. The protestant company claims a right to the entire flow of said American River up to 1000 cubic feet per second, by virtue of early appropriations and continuous use since 1895.

Answers

The applicant answers the protests by stating that Protestant Forni has not used the water filed upon during the 3 years last past, that such use as he has made has been limited in time to the usual summer irrigation season, and that since filing the application the applicant has developed a further and additional flow of water in which the protestants have no right, title or interest.

### Field Investigation

The applicant and the protestants having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code a field investigation was conducted at the site of the proposed appropriation on August 16, 1950 by an engineer of the Division. The applicant and the protestants were present or represented at the investigation.

### Records Relied Upon

Application 12688 and all data and information on file therewith.

### Discussion

According to the application which was filed by one James R. Orr, it was originally intended to use the water filed upon for alfalfa irrigation. According to the report of field investigation the present holder of the application intends to use the water for the sprinkling of cemetery lawns and as a domestic supply for the caretaker. The season of use obviously is limited to the season specified in the application, i.e. from April 1 to October 1.

According to the report of field investigation the source filed upon is a small creek whose summer flow is supplied mainly by waste water from upstream irrigation and by leakage from the El Dorado Irrigation District ditch. The report states also that there are several springs on the applicant's property but that as the spring area is of the nature of a swamp no estimate was attempted as to the flow that might be developed. According to the report of investigation it also appears that there was no measurable flow in the source above the applicant's property on August 16, 1950; and that in Protestant Forni's opinion the flow of the source is usually about 3 miner's inches in June, dwindling to about 1 miner's inch in August.

Protestant Forni is said to have admitted that the water supply is ample for all concerned during the rainy season. The report states that Protestant Forni irrigates 40 acres of orchards and claims a water right based on continuous use since 1910.

At the investigation, the report states, the applicant's Attorney agreed that the applicant should pass waste waters, unimpaired, through its property; and both protestants agreed that neither would protest a new application if the latter be limited to storage and if Application 12688 be abandoned.

The above data indicate that Protestant Forni is probably entitled to divert the full flow of the source under consideration during June and later months and that during those months at least, unappropriated water does not exist. Beyond Protestant Forni's admission that the supply is ample during the rainy season little is known as to the flow of the stream in question during April and May. However when rains extend into April and May the tendency is for irrigation to be deferred correspondingly.

In view of the evident lack of unappropriated water after about June 1 and the limited advantage if any to the applicant of a permit restricted to the months of April and May, it is the opinion of this office that Application 12688 should be denied.

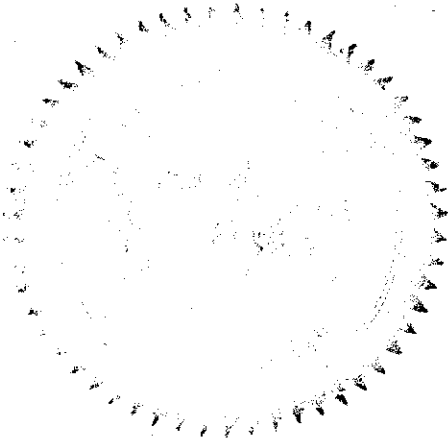
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ORDER

Application 12688 having been filed with the Division of Water Resources as above stated, a protest having been filed, a stipulated hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 12688 be rejected and cancelled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 4th day of June, 1951.



*A. W. Montgomery*  
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State Engineer