

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 13740 by Alexander E. Buck to appropriate  
Water from an Unnamed Stream in Placer County, Tributary to Markham  
Ravine, for Irrigation Purposes.

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Decision A. 13740 D. 714

Decided August 27, 1951

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In Attendance at Investigation Conducted by the Division of Water  
Resources at the Site of the Proposed Appropriation on April 17, 1951:

Alexander E. Buck	Applicant
P. J. Bosanko	Protestant's Representative
A. S. Wheeler	Senior 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 project contemplates an appropriation of 0.965 cubic foot per second from April 1 to October 31 and 1.15 acre-feet per annum, the latter to be collected between October 31 and April 1 of each season, from an unnamed stream, tributary to Markham Ravine, in Placer County, for the purpose of irrigation. Diversion is to be effected by pumping, at a point within the NE 1/4 of Section 12, T12N R6E, MDB&M. There is to be a sump, 8 feet deep and 70 feet by 90 feet

in plan and the project is also to include a 4 inch slip joint pipe line, 1210 feet long. The place of use is to be a 77.27 acre pasture located within the N $\frac{1}{2}$ W $\frac{1}{2}$  of the same Section 12. Irrigation is to extend from about April 1 to about October 31. According to the application the land to be irrigated has no other water right or source of water supply.

#### Protest

The Nevada Irrigation District protests the application, asserting that it diverts any water that might be in the stream filed upon below the applicant's point of diversion. It states that any water reaching that point is irrigation return water and seepage from its own canals. It claims a right under the Water Code, especially under Section 22430 thereof, to any natural flow that might there occur as well as to return flow. It states that for the past several years it has been diverting and selling the water which the applicant seeks to appropriate, continuously. It describes its diversion point as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 17, T12N R5E, NBD&M. The protestant does not object to the storage feature of the project.

No answer to the protest is on file.

#### Field Investigation

The applicant and the protestant having stipulated to an informal hearing as provided for in Section 733(b) of the California Administrative Code, Title 23, Waters, a field investigation was conducted at the site of the proposed appropriation on April 17, 1951 by an engineer of the Division. The applicant was present and the protestant was represented during that investigation.

### Records Relied Upon

Application 13740 and all data and information on file therewith.

### Discussion

The source filed upon is described in the report of investigation as an unnamed stream heading in the undulating plains along the base of the Sierra Nevada and flowing southwesterly via Markham Ravine and Cross Canal to Sacramento River. The report states that the watershed tributary to the applicant's project is sparsely wooded, is about 1.5 square miles in extent, and, except during storm periods, carries but little natural flow. However, the report states, 2 small seeps and the overflow from a well combine to supply around 0.05 cubic foot per second, the well being located on lands adjacent to and upstream from the applicant. According to the report the flow at the applicant's intake at the time of the investigation was about 0.05 cubic foot per second, it was all entering the applicant's reservoir and it was gradually increasing, the owner of the adjacent upstream land having commenced pumping from the well, 2 hours earlier.

On or about May 1, the report states, the protestant District commences deliveries and waste waters therefrom combined with the water from the 2 seeps and from the well amount to about 0.50 cubic feet per second at the applicant's intake. The report states further that the stream channel on leaving the applicant's lands enters a rather extensive area in which a gold dredger once operated and that it is the applicant's contention that the summer flows are dissipated on reaching this dredged area and that they never reach Markham Ravine and therefore never become available to the protestant. The protestant's representative however is said

to have disagreed on this point, contending that if the applicant uses the water he should pay for it even if it cannot otherwise reach Markham Ravine, the water being already District water and not subject to appropriation. The report states that the dredged area is marked by rather heavy growths of tule and willow and that the applicant's contention that the flow of the unnamed stream is there dissipated is probably correct.

The report of investigation finally states that the applicant has a reservoir, 1.15 acre-feet in present and 2.3 acre-feet in ultimate capacity, used for both storage and regulation; that the applicant's irrigation system which includes also a pump, pipe line and sprinkler system has been in use for several years; that the protestant has no objection to the storage feature of the application; and that the applicant has been trying for several years to have the protestant deliver water to him but without success, the protestant claiming that the cost of such delivery would exceed the revenue to be derived.

Since the report of investigation indicates that the flow of the unnamed stream is being allowed to waste in the dredged area below the applicant such flow evidently falls within the category of unappropriated water. It is not apparent that the diversion of that flow in the manner proposed in the application can injure any downstream user. The proposed use being a beneficial use, it is the opinion of this office that the application should be approved and permit issued, subject to the usual terms and conditions.

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PERMIT

Application 13740 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 13740 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 27th day of August, 1951.

Original signed by

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A. D. Edmonston  
State Engineer

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