

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 11822 by Pollock Pines Water Company to
Appropriate Water from two Unnamed Springs Tributary Respectively to
South Fork of American River and to South Fork of American River via
Webber Creek, in El Dorado County, for Domestic and Industrial Purposes.

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Decision A. 11822 D. 742

Decided May 5, 1952

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IN ATTENDANCE AT INVESTIGATION CONDUCTED BY THE DIVISION OF WATER
RESOURCES AT THE SITE OF THE PROPOSED APPROPRIATION ON AUGUST 17, 1949:

Euell Y. Gray	Applicant's Representative
John F. Bonner	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 application contemplates an appropriation of 0.2 cubic
foot per second from an unnamed spring directly tributary to South Fork
of American River and an appropriation of 0.1 cubic foot per second from
an unnamed spring tributary to Webber Creek which in turn is tributary
to the same South Fork. Use is to extend year round and the purposes to

be served are domestic and industrial. The proposed points of diversion are described as lying within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25, T 11 N, R 12 E, and within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31 of T 11 N, R 13 E, M.D.B.&M., respectively. A pump, 100 gallons per minute in capacity, is to be installed in connection with each of the proposed diversions. The project also includes a concrete sump at the first named spring, a small concrete diverting dam at the other spring and a distribution tank. A 4 inch pipe line 3900 feet long and rising 206 feet is to lead from the first named spring to the distribution tank; from the other spring the water is to pass first by gravity through 4000 feet of 3 inch pipe to a pump sump whence it is to be lifted 110 feet through 800 feet of 4 inch pipe to the distributing tank. The proposed place of use lies within Sections 25 and 26 of T 11 N, R 12 E and in Sections 21, 32 and 33 of T 11 N, R 13 E, M.D.B.&M. In this connection the application mentions "Pollock Pines", "Reichert's" and "Tuman's" subdivisions, "fresh pond" and "summer homes adjacent to Highway 50". As to domestic use the application also mentions 30 residences and gardens at Pollock Pines, 350 homesites, 12 stores, and gardens not to exceed 1/2 acre each. The application states that the applicant is serving as a public utility and does not own the land upon which the water is to be used.

Protest

Pacific Gas and Electric Company protests the application, setting forth that the diversions proposed therein lie upstream with respect to the protestant's diversions, and that the proposed diversion would detract from natural flows to which the protestant is entitled under prior appropriations. The protestant asserts under such appropriations a right to divert 10,000 miner's inches (200 cubic feet per

second) from the South Fork of the American River to and through its American River Power House and a right to divert 100,000 miner's inches (2500 cubic feet per second from the American River to and through its Folsom Power House. The protestant asserts that all water which it diverts under the appropriations mentioned is used for the generation of electricity sold to the public; it argues that any diminution of its supply for such purpose would be against the public interest.

The applicant answers the protest by asserting that the granting of the application will in no way interfere with existing water rights as the springs are remote from the river and the amount of water which they contribute to the river is negligible. It complains on the other hand that the protestant has recently installed a large pump at one of the springs filed upon and has been pumping water from that spring without apparent authority. The applicant further states that the application is made to relieve a serious water shortage, residents of Pollock Pines being out of water every day and having to carry water for house use.

Field Investigation

The parties 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 17, 1949 by an engineer of the Division. The applicant and the protestant were represented at the investigation.

Records Relied Upon

Application 11822 and all data and information on file therewith.

Discussion

According to the report of the investigation of August 17, 1949, Spring No. 1 (the spring in Section 25, T 11 N, R 12 E) is formed by a rather extensive seepage area in the bottom of a draw tributary to Long Ravine, which in turn is tributary to South Fork of American River. The report states that the yield of this spring when visited was 0.075 cubic foot per second. Spring No. 2 (the one in Section 31 of T 11 N, R 13 E) was not visited as it was understood that objections to diversions from that spring had been withdrawn. Mr. Gray (representing the applicant) stated that his company's meters indicated Spring No. 2 to be then yielding at the rate of 10,000 gallons per day. In that connection Mr. Bonner (representing the protestant) stated that the spring just mentioned, in September, 1947, had been observed to be yielding 16,000 gallons per day. Mr. Bonner also stated that until the several factions proposing plans for the serving of the area settled their differences and decided on one plan for the area and in so doing eliminated some of the filings made, no concessions could be expected from the protestant. Mr. Bonner intimated that if it should be decided that the applicant is to serve the area the protest might be withdrawn, if the applicant would use Spring No. 1 only for the purpose of making up deficiencies in supply from Spring No. 2 and from other supply sources now in use, and would agree to a reduction of the amount sought from Spring No. 1 to, say, 0.1 cubic foot per second. Mr. Bonner also suggested that storage be developed in lieu of dependence upon diversions from perennial flow, intimating that his company would not object to a storage project, inasmuch as diversions thereunder would occur at times when, usually, there was more water in American River than the Pacific Gas and Electric Company could use.

According to the Placerville Quadrangle, U.S.G.S., the applicant's Spring No. 1 is but little removed from the thread of "Long Canyon" which in turn, some 4.5 miles downstream, enters South Fork of American River. The Pacific Gas and Electric Company diversion which serves its American River power plant heads about 1.5 mile below the mouth of Long Canyon. The diversion serving the Pacific Gas and Electric Company's Folsom plant heads on American River some 33 miles downstream from its American River plant.

According to the same map, the applicant's Spring No. 2 lies on or practically on the thread of the North Fork of Webber Creek. A scaled distance of about 9 miles downstream from Spring No. 2, the North Fork of Webber Creek enters Webber Creek and some 20 miles farther downstream Webber Creek enters South Fork of American River. It is roughly 12 miles farther downstream to the intake of the conduit serving Folsom power house.

From the two preceding paragraphs it is apparent that water issuing from Spring No. 1 may pass through both of the protestant's power plants and water issuing from Spring No. 2 may pass through the Folsom plant. It follows that if the applicant diverts water from the two springs and prevents that water from returning to the natural drainage the protestant will be denied the use of some water that would otherwise be available to it and, to that extent, will be injured.

In view of intimations during the field investigation of August 17, 1949 that the protest might be voluntarily withdrawn the Division for a time deferred action. That position appeared to be strengthened by an oral statement by Earl F. Bacon, President, Pollock Pines - Fresh Pond

Public Utilities District, on April 6, 1950, to the effect that negotiations were in progress with a view to the purchase by that District of the Pollock Pines Water Company's water rights. On June 26, 1950 Mr. Euell E. Gray (representing Pollock Pines Water Company) stated orally that negotiation for right of way was to be continued, also that a bond election to be held on July 10 would have a bearing on the matter. By letter dated February 3, 1952, Mr. Gray advised that proceedings to acquire right of way by condemnation had been initiated and would be pressed; and he asked that action be taken if possible upon Application 11822.

The Pacific Gas and Electric Company as stated in an earlier paragraph asserts an appropriative right to divert 2500 cubic feet per second through its Folsom Power House. In protesting Application 9142 (by North Fork Ditch Company) the same protestant asserted a right based upon an alleged filing in 1872 in the amount of 100 000 miner's inches; the renewal of that appropriation in 1895 and the construction of Folsom Canal to divert 1200 cubic feet per second; and continuous utilization of the flow of American River at Folsom Dam up to 1000 cubic feet per second, since 1895. In USGS Water Supply Paper 493, page 151, the operating capacity of the canal serving Folsom Power House is stated to be about 1200 cubic feet per second. It is assumed for the purposes of this discussion that amounts passing Folsom Power House in excess of 1200 cubic feet per second are subject to appropriation. It is further assumed that amounts passing Folsom Power House are substantially the same as those passing the USGS gage at Fair Oaks.

The dates upon which the flow of the American River at Fair Oaks has risen above 1200 cubic feet per second, according to the USGS Water Supply Papers, have ranged from about October 30 to about January 31

and averaged about December 18. The dates upon which that flow has fallen below 1200 cubic feet per second have ranged from about May 12 to about July 25 and averaged about July 4. It appears therefore that unappropriated water exists in American River, above the Folsom Power House, on average, from about December 18 to about July 4 and occasionally exists as early as October 30 and as late as July 25. Obviously when unappropriated water exists the protestant can have no valid objection to its utilization in the manner that the applicant proposes. In view of the considerable variation of the dates between which unappropriated water exists, the difficulty of their determination and the small amounts of water involved, limitation of the diversion period by calendar dates in such permit as may be issued appears unwarranted. However in view of the evidence as to the yield of the two springs the amounts to be diverted should be limited, in any permit issued, to not more than 0.1 cubic foot per second from Spring No. 1 and not more than 16000 gallons per day from Spring No. 2.

Summary and Conclusion

Unappropriated water exists at times in the sources from which appropriation is sought under Application 11822. Such water may be taken and used beneficially in the manner proposed in that application without injury to any downstream user. Adjustment of the protest by negotiation between the parties appears unlikely and further deferment of action by this office is unwarranted. In view of all the circumstances it is the opinion of this office that the application should be approved,

subject to the usual terms and conditions, but with diversions thereunder limited in amount to 0.1 cubic foot per second from Spring No.1 and 16000 gallons per day from Spring No. 2.


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ORDER

Application 11822 for a permit to appropriate water 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 11822 be approved and that a permit in the reduced amounts of 0.1 cubic foot per second from Unnamed Spring No. 1 and 16000 gallons per day from Unnamed Spring No. 2 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 5th day of May 1952.


A. D. Edmonston
State Engineer

