

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 14661 by Louis G. Sutton to Appropriate
Water from Colusa Drain (2047 Main Drain), Tributary via District
108 Back Levee Drain to Sacramento River, in Colusa County, for
Irrigation Purposes.

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Decision A. 14661 D. 785

Decided February 15, 1954

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In Attendance at Investigation Conducted by the Division of Water
Resources on April 17, 1953:

George Park Sutton	Representing the Applicant
Albert C. Kolb	Representing the Protestant
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 applicant seeks to appropriate 3 cubic feet per second from Colusa Drain (2047 Main Drain) at a point within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, T16N R2W, MDB&M, from March 1 to December 31 for domestic, stockwatering, irrigation and recreational purposes. Diversion is to be effected by pumping from a sump adjacent to the source, conveyance by an earth ditch, 4600 feet long. The place where the water is to be used is described as consisting of 163 acres lying within the westerly portion of Section 9 and the easterly portion of Section 8, T16N R2W, MDB&M. It is to include 120 acres of rice and a 43 acre pasture. Besides irrigation of the rice and pasture the water applied for is also to cover the domestic requirements of 8 people quartered in 2 cabins, the watering of a 0.1 acre garden and the watering of 1000 sheep. The recreational use contemplated is the supply of duck ponds. The place of use is said to have another water right or source of water supply, allegedly inadequate, from Maxwell Irrigation District.

Protests

George R. Zumwalt protests that approval of the application would be destructive of his rights under Application 11028 Permit 6440. He states that the diversion that the applicant proposes will lessen the amount of water available to him, such amount, both during periods

of drouth and during the early portions of irrigation seasons being already insufficient for the satisfaction of his existing rights. He asserts that the flow in the source in question is already appropriated and that the approval of the application would cloud his rights and render uncertain the amount to which he is entitled. He states that he first diverted water from Colusa Trough in 1919 and that he has diverted and used water similarly ever since. He states further that his diversion heads at a point within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, T16N R2W, MDB&M, and that his protest may be disregarded and dismissed if and when he (the protestant) is granted a license to divert 100 cubic feet per second from the same source and if such rights as are granted to the applicant are "subservient, inferior and subject" to his own.

Answer

No answer to the protest is of record.

Field Investigation

The applicant and the protestant, with the approval of the Department, having stipulated to the submittal of the application and protest upon the official records of the Department, a field investigation was conducted on April 17, 1953, by an engineer of the Division. The investigation consisted of an interview with the applicant's representative at Maxwell and an interview with the protestant's representative at Colusa. As a result of those interviews, visits to the parties' projects appeared unnecessary and were omitted.

Information Secured by Field Investigation

Extracts from the report of the field investigation of April 17, 1953, are as follows:

"The source ... is District 2047 Main Drain which is better known as Colusa Drain or Colusa Trough. The drain is located on the floor of the west side of the Sacramento Valley and it collects run-off from an area somewhat in excess of 500 square miles, which includes the eastern slopes of the Snow Mountains. The drain discharges into the Sacramento River via District 108 Back Levee Drain.

"The average annual precipitation in the drainage area is about 30 inches.

"During the major portion of the irrigation season, all or most of the flow in the drain consists of waste and return waters from irrigation operations within the drainage area. Natural flow is present in the spring and during storm periods and it is possible that some is present at all times. The chief contributor in this respect is Willow Creek.

"Flow in the drain at the time of this investigation appeared to be around 300 or 400 cfs., which was far in excess of protestant's requirements. Continuous records of flow for the past 13 years are available in the reports of the Sacramento-San Joaquin Supervision. The gaging station is below protestant's project. These records indicate that around 90 per cent of the time there is sufficient water in excess of protestant's requirements to provide the applicant with the amount sought by him.

"Mr. Kolb admitted that there was excess water present most of the time during the irrigation season.

"Protestant's use of water is covered by Application 11028, Permit 6440, for 150 cfs. for rice irrigation use on 6,400 acres.

"Actual use by protestant has been considerably less than the amount covered by his permit, and it is not expected that it will ever be to the extent of the permitted amount."

* * *

"During a general discussion of the matter, Mr. Kolb stated that it was realized that the small amount sought by applicant probably

would not affect protestant, that there was usually excess water present and that the protest was filed more or less as a formality in order that the protestant's rights would not be overlooked"

Information from Other Sources

The flow of the source from which the applicant seeks to appropriate has been measured, since 1924, at a station called "Colusa Trough at Colusa-Williams Highway." As to this station a footnote to Table 48, Report of Sacramento-San Joaquin Water Supervision for 1951, reads in part:

"Division of Water Resources station located 37.0 miles above mouth of Back Borrow Pit of Reclamation District 108 The flow is return water flowing in the main drain of Reclamation District 2047; it is drainage chiefly from lands irrigated by Glenn-Colusa, Provident, Princeton-Codora-Glenn, Compton-Delavan, Maxwell, and Jacinto Irrigation Districts. Flow reaches Sacramento River at mile 34.15 R, through the Knights Landing outfall gates via Back Borrow Pit"

Monthly mean flows in Colusa Trough at Colusa-Williams Highway, according to the Water Supervision reports, have ranged, in recent irrigating seasons, as follows:

<u>Year</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>	<u>Oct.</u>
1940	*	*	538	460	502	465	148
1941	*	572	734	572	688	731	329
1942	681	413	585	495	577	866	292
1943	262	350	478	448	542	547	333
1944	368	888	630	478	629	840	234
1945	229	697	717	562	725	811	330
1946	319	758	619	568	715	834	260
1947	140	474	594	452	668	825	289
1948	523	427	953	492	684	911	306
1949	295	894	540	582	857	912	280
1950	256	706	576	481	692	936	301
1951	443	897	523	610	908	1023	393

* No record

The number of days in each month of the same seasons in which discharge averaged less than 150 cubic feet per second (the amount in stated/Permit 6440) is as follows:

<u>Year</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>	<u>Oct.</u>
1940	*	*	0	0	0	0	12
1941	*	0	0	0	0	0	0
1942	0	0	0	0	0	0	0
1943	0	0	0	0	0	0	0
1944	11	0	0	0	0	0	0
1945	8	0	0	0	0	0	0
1946	0	0	0	0	0	0	0
1947	18	7	0	0	0	0	2
1948	2	9	0	0	0	0	0
1949	5	0	0	0	0	0	0
1950	9	0	0	0	0	0	0
1951	0	0	0	0	0	0	2

* No record

According to Table 166 of report of Sacramento-San Joaquin Water Supervision for 1951 a diversion in the name of I. G. Zumwalt heads on Colusa Trough 2.2 miles upstream from Colusa-Williams

Highway gaging station. That diversion appears to be the diversion under Application 11028, Permit 6440, currently standing in the name of the Estate of I. G. Zumwalt. The progress report upon Application 11028 for the year 1950 is signed "I. G. Zumwalt by George R. Zumwalt, Adm," and the progress reports for the years 1951 and 1952 are signed "Estate of I. G. Zumwalt, by George R. Zumwalt." The signer of the three progress reports on Application 11028 and the signer of the protest against Application 14661 are apparently one and the same.

Application 11028 Permit 6440 authorizes the Estate of I. G. Zumwalt to divert not to exceed 150 cubic feet per second from about April 1 to about October 15 at a point within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, T16N R2W, for the irrigation of 6422.29 acres of rice. The time within which to complete construction of works and application of water to beneficial use under the Zumwalt filing has been extended to December 1, 1955. According to Report of Sacramento-San Joaquin Water Supervision for 1951, I. G. Zumwalt during that year operated four 20-inch pumps, diverted 2092 acre-feet from April to October, both inclusive, and irrigated 3160 acres of general crops and 400 acres of rice. The progress report pertaining to Application 11028 for the year 1951 contains the same statement as to acreage irrigated. The reported diversion of 2092 acre-feet in 7 months is equivalent to an average diversion for the same period of about 299 acre-feet per month or about 5 cubic feet per second. The 1951 progress report also contains the following statement:

" ... The Glenn-Colusa Irrigation District have built a new ditch and are recapturing all drain water formerly flowing from Salt Creek, Cortina Creek and Freshwater Creek."

The three streams mentioned in the quoted statement are tributaries from the west. Their channels, according to Powell Slough quadrangle, USGS, enter Colusa Trough from about 1 mile to about 5 miles below the Zumwalt point of diversion.

By petition submitted June 16, 1950, the holder of Application 11028 (then I. G. Zumwalt) indicated a desire to reduce his designated place of use by 467 acres and to reduce the amount of his appropriation to 139 cubic feet per second. He was informed that appropriate adjustments as to acreage irrigated and amount appropriated will be made when license action is in order.

Discussion

From the tabulations in an earlier paragraph it appears that the flow reaching the protestant's point of diversion usually exceeds his requirements greatly, and that the days when the flow is less than 150 cubic feet per second are relatively few in number. The petition of June 16, 1950, to reduce the extent of use sought under approved Application 11028 indicates that the amount of water that will be actually required under that application will probably be somewhat under 150 cubic feet per second.

The protestant's apprehension that the approval of Application 14661 would be destructive of rights under Application 11028 is

evidently unwarranted, Application 14661 being junior to Application 11028. Neither and for the same reason is the apprehension warranted that is implied in the protestant's assertion that drainage formerly flowing in Salt, Cortina and Freshwater Creeks is being recaptured by Glenn-Colusa Irrigation District. Even though such recapture should materially lessen the flow in Colusa Trough the advantage in priority of Application 11028 over Application 14661 remains undisturbed.

Summary and Conclusions

The applicant seeks to appropriate 3 cubic feet per second from Colusa Drain, called also 2047 Main Drain and Colusa Trough, in Colusa County from March 1 to December 31 for domestic, stockwatering, irrigation and recreational purposes.

The application is protested by one George R. Zumwalt who claims a right under Application 11028 Permit 6640 to divert 150 cubic feet per second from the same source at a point some 3.2 miles downstream from the applicant and apprehends that the approval of Application 14661 would cloud his appropriative rights and render uncertain the amount to which he is entitled.

A record of the flow of Colusa Drain at a point of measurement about 2.²/₁ miles downstream from the protestant's intake indicates that that flow, in recent years, has usually exceeded the protestant's requirements by an amount much greater than the amount sought by the applicant. No diversions are of record between the protestant's intake and the point where flow is measured.

At such times as the flow at the protestant's intake is less than the amount required to satisfy Application 11028, the holder of that filing will be protected against diversions under Application 14661 by the advantage in priority of the former application over the latter.

The circumstances point to the conclusion that unappropriated water usually exists in the source filed upon and that such water may be taken and used in the manner and to the extent proposed by the applicant without injury to the protestant. It is the opinion of this office therefore that Application 14661 should be approved and permit issued, subject to the usual terms and conditions.

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ORDER

Application 14661 having been filed with the Division of Water Resources as above stated, a protest having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 14661 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 15th day of February, 1954.



A. D. Edmonston
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State Engineer