

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 Applications 15137 and 15138 by Heidrick Brothers, Application 15156 by Howard D. Beeman, Application 15160 by Anna Sieferman and Daisy Grissim, Application 15161 by Anna Sieferman and Edna Sieferman, Application 15162 by Bathia Ross and Carleton Pierson, Application 15373 by Clair P. and Lena M. Goode, Application 15555 by Opie and Carmen Odell and Application 15556 by Cassie Jane Koebel to Appropriate Water from Willow Slough and Branches Thereof, in Yolo County, for Irrigation Purposes.

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Decision A 15137, 15138, 15156, 15160, 15161, 15162, 15373, 15555,

15556 D.           D 815          

Decided           January 13, 1955          

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Appearances at Hearing Held at Sacramento on April 13 and June 10, 1954:

For the Applicants

*Heidrick Brothers	)	
*Howard D. Beeman	)	
*Anna Sieferman and Daisy Grissim	)	E. L. Means, Attorney at Law
*Anna Sieferman and Edna Sieferman	)	
*Bathia Ross and Carleton Pierson	)	

Clair P. and Lena M. Goode                      No appearance

Opie and Carmen Odell                              Opie Odell

Cassie Jane Koebel                                  Don Koebel

For the Protestants

Woodland Farms, Inc.                              Martin McDonough, Attorney at Law

O. F. Wilkendorf                                      No appearance

EXAMINER - LESLIE C. JOPSON, Principal Hydraulic Engineer, Division of Water Resources, Department of Public Works, for A. D. EDMONSTON, State Engineer.

Also present - James M. Carl, Senior Attorney, and Kenneth L. Woodward, Associate Hydraulic Engineer, Division of Water Resources.

\* Represented at hearing session of April 13 only.

OPINIONGeneral Description of the Projects

The applications contemplate pumping from Willow Slough or from one or another of its branches for the irrigation of rice, general crops, alfalfa and pasture. The amounts sought, the locations of the proposed points of diversion and the acreage to be irrigated under the several applications are as follows:

Application	Amount sought (cfs)	Location of proposed point of diversion (MDB&M)	Acreage to be irrigated	Season
15137	8.75	Sec. 24 T9N R1E	318.82	3/ 1 to 10/31
15138	8.5	Sec. 17 T9N R1E	303.64	3/15 to 10/31
15156	3.0	Sec. 19 T9N R2E	228.41	4/ 1 to 10/ 1
15160	6.0	Sec. 10 T9N R1E	462.01	4/ 1 to 10/ 1
15161	4.0	Sec. 16 T9N R1E	306.94	4/ 1 to 10/ 1
15162	6.0	Sec. 15 T9N R1E	611.15	4/ 1 to 10/ 1
15373	0.5	Sec. 26 T9N R1E	40.00	4/15 to 10/31
15555	2.0	Sec. 28 T9N R1E	80.00	4/ 1 to 11/30
15556	1.0	Sec. 28 T9N R1E	40.00	4/ 1 to 11/30

### Protests

All of the applications are protested by Woodland Farms, Inc., that protestant alleging that it diverts at points downstream on the same source from which the applicants seek to appropriate and that for many years its various rights -- riparian, prescriptive and appropriative -- have entitled it to all the water in Willow Slough during the irrigation season except that taken under rights that antedate its own.

Applications 15160, 15161 and 15162 are also protested by one O. F. Wilkendorf who asserts a riparian right by virtue of ownership of land within Section 24 of T9N R1E, MDB&M, claims to have irrigated alfalfa and rice by diversion from Willow Slough, asserts that supply is insufficient during years of low rainfall, states that his protests may be disregarded and dismissed if applicants will recognize the rights that he claims.

### Answers

All of the applicants except the applicants Goode (initiators of Application 15373) answered the protests against their applications, the applicants in general asserting that they have been using, for several years last past, the water that they now seek to appropriate. The answers by the holders of Applications 15555 and 15556 merely assert the opinion that supply in normal seasons is enough to enable them to divert without infringement upon the rights claimed by the protestants.

Hearing Held in Accordance with the Water Code

Applications 15137, 15138, 15156, 15160, 15161, 15162, 15373, 15555 and 15556 were completed in accordance with the Water Code and the Rules and Regulations of the Division of Water Resources and being protested were set for public hearing under the provisions of the California Administrative Code, Title 23, Waters, on Tuesday, April 13, 1954, at 10:00 o'clock a.m., in Room 401, Public Works Building, Sacramento, California. Of the hearing the applicants and the protestants were duly notified. The hearing was reconvened and completed at the same hour and place, on Thursday, June 10, 1954.

Gist of Proceedings at Hearing

At the hearing session of April 13, 1954, a motion was introduced by Mr. Means, on behalf of the holders of Applications 15137, 15138, 15156, 15160, 15161 and 15162, as follows:

" ... I have just recently, last week, come into the matter in representing these six applications. We suggest a continuance of 60 days should we also wish to engage other counsel and we understand there may be some possibility in the meanwhile we may work out some compromise in our various rights."

In the absence of objection by any of the other parties the hearing was declared continued until June 10, 1954.

At the hearing session of June 10, 1954, Mr. Opie Odell stated that he desired the Odell application to be withdrawn, Mr. D. J. Koebel appearing for Mrs. Cassie Koebel, stated that he desired the

Koebel application to be withdrawn, the Examiner directed that the records show Applications 15555 and 15556 as having been withdrawn. Mr. McDonough, representing the protestant Woodland Farms, Inc., stated as follows:

" ... I have ... a copy of a letter addressed to the Division of Water Resources by Mr. Sherman C. Wilkie, attorney for the applicants of the other applications, those being 15137, 15138, 15156, 15160, 15161 and 15162, advising the Division that the applicants in those proceedings desire to withdraw their applications. We have no communication from the applicant in the other matter not represented nor covered by the letter. Mr. Goode who has Application 15373, did not appear at the former hearing nor at this one although he has not formally withdrawn. In my opinion, unless the Division Examiner wants us to proceed, I doubt that any purpose can be served by the protestant offering evidence at this time. We have evidence to produce, but I assume that the burden of producing the evidence on the existence of unappropriated water is on the applicants. Since there is no such evidence there is no need for the protestant to proceed."

Mr. McDonough next introduced a motion that Application 15373 (Goode) be dismissed. The Examiner advised that the motion would receive consideration in due course.

#### Withdrawal of Certain Applications

A letter dated June 9, 1954, signed by Sherman C. Wilkie, Attorney at Law, received by the Division of Water Resources on June 10, 1954, and bearing the annotation "Re: Applications Number 15137, 15138, 15156, 15160, 15161 and 15162" (filed with Application 15137) reads in part as follows:

"This is to advise you that the applicants in the above-entitled proceedings desire to withdraw their said applications.

"Said applicants will not appear at the hearings now scheduled upon said applications for June 10, 1954."

#### Discussion

In view of the withdrawal of Applications 15555 and 15556 by oral request at the hearing session of June 10, 1954, by representatives of the initiators of those applications and in view of the withdrawal of Applications 15137, 15138, 15156, 15160, 15161 and 15162 by the letter just quoted the only application requiring further consideration is Application 15373. However, Application 15373 has not been pressed diligently by its proponents. Their failure to answer the protest against their application and their disregard of the notice of the hearing of April 13, 1954, which was served upon them by registered mail on March 19, 1954, their failure to register in response to that notice their intention of attending the duly advertised hearing, their failure to attend that hearing and their failure within five days thereafter or at all to state good cause for such non-attendance warrant an interpretation under Section 731 of the California Administrative Code that they have abandoned interest in the subject matter of the application.

#### Conclusion

In view of the election by the applicants to withdraw Applications 15137, 15138, 15156, 15160, 15161, 15162, 15555 and 15556 and in view of the abatement of interest in Application 15373 by the proponents

thereof, as evidenced by their failure to answer the protest against that application and by their failure to appear at the hearing or to show cause for non-appearance thereat, it is the opinion of this office that Applications 15137, 15138, 15156, 15160, 15161, 15162, 15373, 15555 and 15556 should be rejected and canceled upon the records of this office.

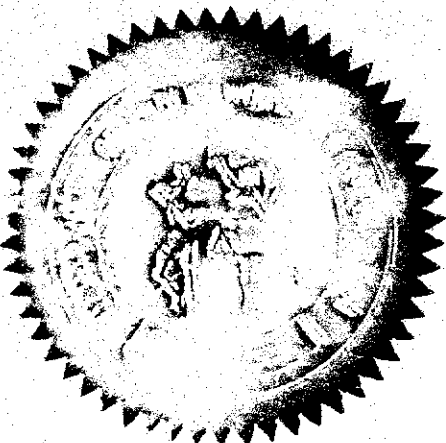
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ORDER

Applications 15137, 15138, 15156, 15160, 15161, 15162, 15373 15555 and 15556 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests 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 said Applications 15137, 15138, 15156, 15160, 15161, 15162, 15373, 15555 and 15556 be rejected and canceled 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 January 13, 1955.



*A. D. Edmonston*  
A. D. Edmonston  
State Engineer