In the matter of Application 3232 of Homer C. Jack and Antone Avilla to appropriate from Packwood Flat, Windmill Flat and Juniper Creek in Lassen County for Agricultural Purposes.

DIVISION NO. A 3232 D 146
Decided March 28, 1927

APPEARANCES AT HEARING HELD February 7, 1927

For Applicant - No appearance

For Protestant- No appearance

EXAMINER - Edward Hyatt, Jr., Chief of Division of Water Rights

OPINION

Application 3232 was filed by Homer C. Jack on January 16, 1923. It proposes an appropriation of 3050 acre feet per annum from Packwood Flat and 1650 acre feet per annum from Windmill Flat by means of storage during a season of diversion to storage from about January 1st to about July 1st. An appropriation of 28.8 cubic feet per second of direct diversion from Juniper Creek is also sought under this application during a season of diversion from about March 1st to about June 1st. It is proposed to irrigate under the application a total area of 2460 acres of which 1720 acres are included under Applications 1550, 1696, 3187 and 3188, Permits 1350, 1361, 1750 and 1691; the remaining 760 acres lie within the Antone Avilla Ranch. An assignment to Antone Avilla of that portion of the application covering storage in Packwood
Flat was executed and filed with the Division by Homer C. Jack on January 12, 1927. The application was protested by Pitt River Power Company.

This application was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights, and being protested was set for a public hearing at 707 Forum Building, Sacramento, at 10:00 o'clock a.m. on February 7, 1927. Of this hearing applicants and protestants were duly notified. Notice was received from protestant on January 27, 1927, that an appearance would not be made at the hearing. Applicants were notified on January 31, 1927, that no appearance would be made by protestant and that an appearance by applicants was not necessary unless it was desired to present additional information in the matter. No appearance was made on behalf of applicants at the hearing.

The protest of the Pitt River Power Company was filed on February 17, 1923. It is based on a claim of riparian rights on Pitt River at a place about 70 miles downstream from the projects of applicants. In a letter dated January 26, 1927, protestant stated that the protest would not be pressed since it was understood that an application was approved subject to vested rights. No development work has been done under the riparian claims of protestant.

The Division obtained intermittent records of flow in Juniper Creek during the spring of 1922 in connection with an investigation of Applications 1300 and 1696. A summary of the measurements follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Discharge (Cubic Feet per Second)</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 6, 1922</td>
<td>72</td>
</tr>
<tr>
<td>April 21, 1922</td>
<td>755</td>
</tr>
<tr>
<td>April 25, 1922</td>
<td>309</td>
</tr>
<tr>
<td>April 30, 1922</td>
<td>72</td>
</tr>
<tr>
<td>May 6, 1922</td>
<td>33</td>
</tr>
<tr>
<td>May 10, 1922</td>
<td>146</td>
</tr>
<tr>
<td>May 11, 1922</td>
<td>56</td>
</tr>
<tr>
<td>May 16, 1922</td>
<td>72.4</td>
</tr>
</tbody>
</table>
During the above mentioned investigation it was found that water was diverted from Juniper Creek for the irrigation of about 150 acres on the Avila Ranch. Prior applications, 1300, 1656 and 2187, cover storage of 300 acre feet per annum and direct diversion of 21.5 cubic feet per second from Juniper Creek watershed. The Division has no information on hand indicating the existence of other claims to water from Juniper Creek. Application 1885 covers supplemental diversion from an unnamed canyon of 1280 acre feet to storage in the reservoir of 3900 acre feet capacity covered by Application 1300.

No direct diversion under this application is sought for the 760 acres within the Antone Avila Ranch. The remaining area of 1720 acres has rights under previous permits issued by the Division for 21.5 cubic feet per second of direct diversion from the same source under which direct diversion is sought in this application. The prior direct diversion rights allow for a duty of one cubic foot per second to 60 acres, which is considered adequate.

The above measurements indicate a probability of considerable unappropriated water in Juniper Creek watershed at times during the season that applicants seek to appropriate therefrom.

**ORDER**

Application 3232 for permit to appropriate water having been filed with the Division of Water Rights as above stated, a protest having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that that portion of said Application 3232 relating to storage be approved and that a permit be granted to applicants for the storage sought therein subject to such of the usual terms and conditions as may be appropriate, and
IT IS FURTHER ORDERED that that portion of said Application 3232 relating to direct diversion be disallowed and that a permit for direct diversion be denied.

Dated at Sacramento, California, this 28th day of March, 1927.

[Signature]

(Edward Hyatt, Jr.)

CHIEF OF DIVISION OF WATER RIGHTS

THE END