BEFORE THE DIVISION OF WATER RESOURCES
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

In the matter of Application 5543 of Charles P. Bradford to Appropriate from Middle Fork of Cosumnes River, Septimus Creek and South Fork of South Fork of Cosumnes River in Amador and El Dorado Counties for Power Purposes; in the matter of Application 5544 of Charles P. Bradford to Appropriate from Middle Fork of Cosumnes River in El Dorado County for Power Purposes; in the matter of Application 5545 of Charles P. Bradford to Appropriate from North Fork of Cosumnes River in El Dorado County for Power Purposes, and in the matter of Application 5546 of Charles P. Bradford to Appropriate from North Fork of Cosumnes River and Middle Fork of Cosumnes River in El Dorado County for Irrigation and Domestic Purposes.

DECISION A. 4851, 4852, 4853, 5543 D-265
Decided August 20, 1930

APPEARANCES AT HEARING HELD AT SACRAMENTO, DECEMBER 13, 1929.

For applicant
Charles P. Bradford
Joseph E. Spink

For Protestant
G. E. Hutchison, et al.
Charley Einer
Joseph W. Gross
In propria persona

EXAMINER: Harold Conkling, Deputy in Charge of Water Rights, Division of Water Resources, Department of Public Works.

OPINION

GENERAL FEATURES OF THE APPLICATIONS

The essential features of the several applications are shown in the following table.
<table>
<thead>
<tr>
<th>Number</th>
<th>Date</th>
<th>Purpose</th>
<th>Source</th>
<th>Amount</th>
<th>Season</th>
<th>Point of Diversion</th>
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<tbody>
<tr>
<td>4344</td>
<td>11-24-25</td>
<td>Power</td>
<td>Middle Fk. Cosumnes R.</td>
<td>25,000</td>
<td>Jan.-Dec.</td>
<td>31:20 IW Sec.12 T30 R14E</td>
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<td>SOlano Creek</td>
<td>5,000</td>
<td>Jan.-Dec.</td>
<td>31:32 W Sec.7 T29 R14E</td>
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<td>S.F. S.I. Fk. Cosumnes R.</td>
<td>5,000</td>
<td>Jan.-Dec.</td>
<td>31:37 SW Sec.27 T34 R13E</td>
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<td>4345</td>
<td>11-24-25</td>
<td>Power</td>
<td>Middle Fk. Cosumnes R.</td>
<td>130cfs</td>
<td>Jan.-Dec.</td>
<td>31:77 NW Sec.19 T30 R12E</td>
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<td>39,500</td>
<td>Jan.-Dec.</td>
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<td>4346</td>
<td>11-24-25</td>
<td>Power</td>
<td>North Fk. Cosumnes R.</td>
<td>100cfs</td>
<td>Jan.-Dec.</td>
<td>31:86 NE Sec.12 T30 R11E</td>
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<td>20,000</td>
<td>Jan.-Dec.</td>
<td>31:86 NE Sec.12 T30 R11E</td>
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<tr>
<td>5543</td>
<td>6-21-27</td>
<td>Irrig. 2</td>
<td>North Fk. Cosumnes R.</td>
<td>15,000</td>
<td>Oct.-May</td>
<td>31:85 NE Sec.12 T30 R11E</td>
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Applications 4344, 4345 and 4346 were protested by C. E. Hutchison, et al. and El Dorado Irrigation District. Applications 4346 and 5543 by Charley Edner and Application 5543 by Leslie P. Frey.

HEARING SET IN ACCORDANCE WITH SECTION 1a OF THE WATER COMMISSION ACT

Applications 4344, 4345, 4346 and 5543 of Charles P. Bradford were completed sufficiently for advertising in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources and being protested were set for a public hearing in accordance with Section 1a of the Water Commission Act on December 15, 1929, at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicant and protestants were duly notified.

DISCUSSION

Action on each of the applications is predicated entirely upon the status of the project as developed at the hearing and subsequent thereto. The individual protests therefore will not be discussed.
At the time of the hearing the applicant had applied to the Federal
Power Commission for a preliminary permit which if granted would have given
him right of access to the several points of diversion. Testimony indicated
that he had been negotiating with Eastern capital for funds with which to de-
velop the projects. No arrangements had been made for the sale of the power
and no legal relationship had been established with the place of use named in
the agricultural filing. The necessary rights of way had not been acquired
and as a portion of the right of way was apparently over protestants property
and applicant had not the power of eminent domain and was not operating as a
public utility, it appeared that he was not in a position to obtain them.

Under date of April 28, 1930, this office was informed by the Federal
Power Commission that after careful consideration of the data which had been
filed by Mr. Bradford in connection with his Application 971 before the Federal
Power Commission for a preliminary permit on the North and Middle Forks of the
Cosumnes River, his application was rejected on the grounds that adequate evi-
dence of his financial ability to carry out the proposed project was not satis-
factorily shown.

A reasonable time was thereafter allowed the applicant by this office
within which to file an appeal from the decision of the Federal Power Commission
and the applicant was advised under date of May 1, 1930, that failing the re-
cipient of information from him that proper steps had been taken and were being
vigorously pressed for a reconsideration of the action taken by the Federal
Power Commission, this office would proceed to act upon the applications based
upon the information at hand.
No reply to the letter was received and on June 12th the applicant's agent was advised that inasmuch as the right of access for the agricultural filing depended partly upon rights of way having been acquired under the power applications which rights of way had been denied by the Federal Power Commission, Application 5543 was incomplete in respect to right of access. Applicant's attention was also directed to the fact that legal relationship had not been shown between the lands named as the place of use in Application 5543 as required under Regulation 10 of our Rules and Regulations. It was suggested that the filings be withdrawn unless applicant was in a position to acquire right of access and to establish legal relationship with the place of use but no reply to the letter has been received.

It is therefore the opinion of this office that Applications 4844, 4845 and 4846 for power purposes should be cancelled on the grounds that the Federal Power Commission has refused to grant the applicant a preliminary permit and therefore applicant is not in a position to acquire the necessary right of access.

Application 5543 should also be denied because of failure on the part of the applicant to acquire the necessary right of access and to establish legal relationship with the place of use.

ORDER

Applications 4844, 4845, 4846 and 5543 of Charles F. Bradford for permits to appropriate water having been filed with the Division of Water Rights as above stated, protests having been filed, a public hearing having been held, and the Division of Water Resources now being fully informed in the premises:
IT IS HEREBY ORDERED that said Applications 4344, 4345, 4346 and 5543 be rejected and cancelled 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 20 day of August, 1930.

EDWARD HYATT, State Engineer

by Harold Conkling, Deputy