

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

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In the Matter of Applications 4523, 4668 and 4886 of La Joya Lodge Corporation and Application 4758 of J. J. Remmers and Louis Fishbeck to appropriate from Unnamed Springs Tributary to the San Francisquito Creek Drainage Area in Los Angeles County for Domestic Purposes.

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DECISION NO. A 4523, 4668, 4758 and 4886 D 145

Decided March 18, 1927

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APPEARANCES AT HEARING HELD January 10, 1927.

For Applicants:

La Joya Lodge Corporation  
J. J. Remmers and Louis Fishbeck

A. J. Gets  
in propria persona

For Protestants:

City of Los Angeles  
La Joya Lodge Corporation  
J. J. Remmers and Louis Fishbeck

W. B. Mathews and  
Kenneth K. Scott  
A. J. Gets  
in propria persona

EXAMINER: Harold Conkling, Hydraulic Engineer,  
Division of Water Rights

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O P I N I O N

Under the four applications it is proposed to appropriate water from unnamed springs lying within the drainage area of San Francisquito Creek. The water is to be diverted throughout the entire year and used for domestic purposes at cabin sites. Other features of the applications are shown by the following table:

App. Number	Date Filed	Applicant	Source	Am't. c.f.s.	Point of Diversion	Sec.	Protested by
4523	3-27-25	La Joya Lodge Corp.	Spring	0.025	SE $\frac{1}{4}$ NE $\frac{1}{4}$	18	City of Los Angeles
					T6N R14W S.B.M.		
4668	7- 8-25	La Joya Lodge Corp.	Spring	0.003	NW $\frac{1}{4}$ SW $\frac{1}{4}$	17	
					T6N R14W S.B.M.		
4686	1-14-26	La Joya Lodge Corp.	Spring #1	0.10	SE $\frac{1}{4}$ NW $\frac{1}{4}$	18	J. J. Remmers and Louis Fishbeck
					T6N R14W S.B.M.		
			Spring #2	0.05	SW $\frac{1}{4}$ NE $\frac{1}{4}$	18	
					T6N R14W S.B.M.		
			Spring #3	0.05	SW $\frac{1}{4}$ SW $\frac{1}{4}$	12	
					T6N R15W S.B.M.		
			Spring #4	0.05	NE $\frac{1}{4}$ NE $\frac{1}{4}$	12	
					T6N R15W S.B.M.		
4758	2- 5-25	J. J. Remmers and Louis Fishbeck	Spring	0.016	SE $\frac{1}{4}$ NW $\frac{1}{4}$	18	La Joya Lodge Corp. and City of Los Angeles
					T6N R14W S.B.M.		

These several applications were 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 (with the exception of Application 4668) were set for public hearing at 10:00 o'clock a.m. on January 10, 1927 in Room 1086 Sun Finance Building, Los Angeles, California. Application 4668 of La Joya Lodge Corporation although not protested was included in the hearing as the place of use named therein is essentially the same as it is proposed to serve under the Corporation's other applications. Of this hearing applicants and protestants were duly notified.

The City of Los Angeles and the Board of Water and Power Commissioners of the City of Los Angeles allege in effect that the waters sought to be appropriated by La Joya Lodge Corporation under Application 4523 and by J. J. Remmers and Louis Fishbeck under Application 4758 are tributary to and form a part of the flow of San Francisquito Creek and that therefore the proposed diversions, if permitted, would interfere with the diversion of the City of Los Angeles

under its prior Application 4220.

La Joya Lodge Corporation claims to have been using the water which J. J. Remmers and Louis Fishbeck seek to appropriate under Application 4758 for the last twenty-two months and also that these waters are tributary to Spunky Creek and San Francisco Creek from which water had been diverted by the applicants predecessors in interest for from twenty to seventy years prior to the purchase of the lands by the protestant; that at the time of acquiring the land the protestant believed that the water from the spring was available for use on the said land and was appurtenant thereto; and alleges in effect that the applicants are desirous of selling their land in its present state without subdividing the same and have filed their application for the purpose of forcing the protestant to purchase their lands.

J. J. Remmers and Louis Fishbeck claim that the waters which La Joya Lodge Corporation seeks to appropriate from Spring No. 1 under Application 4886 are in reality the same waters which the protestants have filed upon under Application 4758 and that since the protestants application was filed prior to that of La Joya Lodge Corporation that source of supply should be eliminated from the application.

On August 15, 1921 Application 2496 was filed by C. A. Arnold and approved by this office on March 14, 1923 by the issuance of Permit 1336. The permit was assigned to La Joya Lodge Corporation under date of January 27, 1926. Under the permit the corporation has the right to divert 0.09 cubic feet per second from San Francisco Creek at a point near its junction with Spunky Creek, for irrigation and domestic purposes. About 220 acres of land were irrigated under the permit by Mr. Arnold but since the assignment to La Joya Lodge Corporation the irrigation feature of the permit appears to have been abandoned and the corporation intends to subdivide the entire property into about 2050

cabin sites. A clubhouse and swimming pool have been constructed and the corporation has expended about 10 or 12 thousand dollars in the installation of a distribution system.

About a year ago the concrete dam which was constructed by Mr. Arnold was washed out during a flood and the proposed diversions from the springs appear to be at the present time a substitution of the supply allowed under Application 2496, Permit 1335 although the applicant stated at the hearing that the appropriations sought under Applications 4523, 4668 and 4886 were for the purpose of augmenting the supply under Application 2496 which the corporation intends to develop to its fullest extent either by reconstructing the dam at a point about 200 or 300 feet below the present point of diversion, the dam to extend down to bedrock to intercept the percolating waters, or by the sinking of wells at the point of diversion under Application 2496 from which a supply will be pumped. Attention is directed to the fact that an extension of time has been allowed the corporation within which to complete construction work and apply the water to complete beneficial use under Application 2496, Permit 1335, until July 1, 1927.

Under date of September 18, 1924 the City of Los Angeles filed Application 4220 with this office for the purpose of appropriating "flood and surplus waters" of San Francisquito Creek. The point of diversion named in the application is located in the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 1, T 5 N, R 16 W, S.B.B. & M. about nine miles downstream from the junction of San Francisquito Creek and Spunky Creek. The City of Los Angeles alleges in effect that since the waters which the applicants are seeking to appropriate are tributary to Spunky Creek and San Francisquito Creek, the approval of the applications would result in interference with the rights of the City under its prior Application 4220.

Since Application 4220 of the City of Los Angeles seeks the appropriation of "flood and surplus waters" of San Francisquito only there would appear to be no interference with the rights of the City as the applications before this office are for the appropriation of water which flows from the ground under normal conditions and since there are no surface connections between the springs and San Francisquito Creek it is very doubtful that any of the water which the applicants propose to divert would reach the diversion point of the City as flood waters.

The spring named as the source of diversion in Application 4758 of J. J. Remmers and Louis Fishbeck is located in Spunky Canyon about 200 feet in elevation above the canyon floor and about one mile distant above the point where Spunky Canyon becomes a flowing stream. The spring is located on government land and on a tract of 80 acres which the applicant proposes to subdivide into cabin sites.

In support of his contention that "Spring No. 1" designated as such in Application 4886 of La Joya Lodge Corporation was in fact fed by the waters from the source of supply named in Application 4758, Mr. Remmers testified that the water from his proposed source of diversion appeared on the sides of the canyon and trickled down the steep slopes to the said "Spring No. 1" disappearing just below that point and that there was a strip of green vegetation about 8 feet in width extending for a distance of two or three hundred feet between the two points.

Whether or not the spring designated as the source of proposed appropriation under Application 4758 supplies the source of the proposed appropriation under Application 4886 is really of no consequence in this proceeding as Application 4758 is prior to Application 4886 and that in itself constitutes protection to Messrs. Remmers and Fishbeck against any possible interference by

La Joya Lodge Corporation under its Application 4886. The protest of Messrs. Remmers and Fishbeck is therefore unnecessary as the corporation would not be entitled to divert any water under its Application 4886 except what would pass the point of diversion under Application 4758.

It would appear that the diversion made from Spring No. 1 by the La Joya Lodge Corporation prior to the filing of its application was made without authority under the Water Commission Act and therefore no right was established as against Application 4758.

The corporation claims also that Application 4758 was filed for the purpose of forcing it to purchase the lands of Remmers and Fishbeck and that these parties had no intention of using the water for the purpose applied for. In this connection it may be stated that in every permit issued by this office, dates are set for commencing and completing construction work and applying the water to complete beneficial use and unless the terms of the permit are complied with or good cause shown for extending these dates the permit is revoked.

La Joya Lodge Corporation should be granted the right to divert water from the four springs named in Application 4886 as the diversion points are so located that no interference could possibly be made with the proposed diversion of Messrs. Remmers and Fishbeck. If it should develop that on account of the diversion under Application 4758 no water would be available at "Spring No. 1" then the permit issued would become inoperative insofar as the diversion from that source was concerned and that source would not appear in any license which may hereafter be issued.

The only real controversy in the matter appears to be the question of possible interference by the proposed diversion of Messrs. Remmers and Fish-

beck with the prior rights of the La Joya Lodge Corporation to divert from San Francisco Creek under Application 2496.

The water from the spring named as the source of diversion in Application 4758 of Messrs Remmers and Fishbeck appears to sink into the ground after flowing a distance of some 300 feet and although it may be possible that a portion of the water not lost by evaporation or transpiration may find its way underground to the point of diversion named in Application 2496 of La Joya Lodge Corporation no evidence was presented at the hearing to indicate that the diversion would interfere with that under Application 2496 and lacking such information it would appear that the interference if any would be negligible and therefore Application 4758 should be approved. The fact is that the La Joya Lodge Corporation has itself under a subsequent application to that of Messrs. Remmers and Fishbeck applied for water from what appears to be this same source which is evidence that protestant itself feels there is unappropriated water in this source which is not available under Application 2496.

The purpose to which the water in the four applications is to be applied is a useful and beneficial one and there appears to be sufficient unappropriated water in the sources to justify their approval.

O R D E R

Applications 4523, 4668, 4758 and 4886 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 Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Applications 4523, 4468, 4758 and 4886 be approved and that permits be granted to the applicants subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this 18th day of March, 1927.

(Edward Hyatt, Jr.)  
CHIEF OF DIVISION OF WATER RIGHTS

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