

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

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In the Matter of Revocation of Permit 2743 Heretofore
Issued upon Application 3364 of Geary Rich to Ap-
propriate from Lindsay Slough, Tributary of
the Sacramento River in Solano County
for Municipal Purposes.

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DECISION A. 3364 - D 235

Decided: *July 29, 1929*

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APPEARANCES AT HEARING HELD AT SACRAMENTO, June 18, 1929.

For Permittee
Geary Rich Estate

A. J. Rich, Jr.

EXAMINER: Harold Conkling, Chief of the Division of Water Rights,
Department of Public Works, State of California.

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O P I N I O N

On March 15, 1927, Application 3364 of Geary Rich was approved by
the issuance of Permit 2743, which granted the privilege of diverting 10
cubic feet per second of direct diversion and 356 acre feet per annum of
diversion to storage from Lindsay (or Linda) Slough throughout the entire
year to be sold at Cordelia for municipal purposes in Vallejo, Benicia,
Suisun, Fairfield and adjacent territory in the County of Solano.

According to the terms of the permit actual construction work
was to have been commenced on or before August 1, 1927, to have been com-
pleted on or before July 1, 1929, and water was to be completely applied to
beneficial use on or before December 1, 1930.

Although some preliminary examinations and engineering work were accomplished and negotiations were made toward the financing of the project, actual construction work was not commenced according to the permit terms and an extension of time was requested for such commencement but as insufficient cause for granting the extension was shown, action in the matter was delayed in order to afford the permittee the opportunity of making a definite showing of progress in the engineering investigations and financing since permit was issued commensurate with the magnitude of the project.

On October 27, 1928, Mr. Geary Rich, applicant, died and this office was informed that the financing of the project would have to be delayed pending the probate and distribution of the estate.

As it appeared that construction had not commenced within the time prescribed and good cause had not been shown for an extension of time to commence construction work under Permit 2743, the matter was set for hearing in accordance with Section 20 of the Water Commission Act to consider the revocation of the permit on the grounds of non-compliance with the terms thereof. After two postponements the hearing was finally held on June 18, 1929 at 10:00 o'clock A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing the Geary Rich Estate was duly notified and Mr. A. J. Rich, Jr. appeared on its behalf.

From the facts presented at the hearing it appears that no actual construction work has been commenced, although at the time of Mr. Rich's death he was about to build a pipe line to some of the cities to be served without having entered into any contract for the sale of water. No consumers have been signed up because each consumer fears that should he sign up for the water, he would be bound by the permittee who would not be able to proceed until other consumers were signed up.

A. J. Rich, Jr. was advised that on or before July 8, 1929, a brief should be submitted in support of his request for further extension, but that if no better showing was made this office would have no alternative but to revoke the permit.

Apparently in lieu of the brief, this office received a letter from Mr. A. J. Rich, Jr. on July 16th, together with letters addressed to him from Roberts, Carpenter & Company, investment brokers and Thomas H. Means, consulting engineer. From this correspondence it appears that just before the death of Mr. Geary Rich he had been actively engaged in promoting the water company and had arranged with an underwriting house toward the financing of the project, that Alfred J. Rich, a brother of the decedent was the residuary distributee and would succeed to Geary Rich's interest in the permit, that it was his intention to continue negotiations for the organization of the Water Company but that he was touring Europe at the present time and was not expected to return before March 1, 1930. It also appears that before the financing of the project can be completed there are certain legal obstacles to be cleared up, one of which was the matter of the probate of the estate of Geary Rich. Mr. Thomas H. Means consulting engineer, advised Mr. A. J. Rich, Jr., under date of June 12, 1929, that all preliminary work had been done so far as it was possible until the estate of Mr. Geary Rich had been settled after which he was convinced that a project could be carried out for the utilization of the water.

CONCLUSION

In view of the above it appears that nothing further can be accomplished toward the engineering or financing of the project until the return of Mr. A. J. Rich from Europe on March 1, 1930, or until after the estate of Geary Rich has been probated. Even then it appears that considerable pre-

liminary work would have to be done before the permittee could proceed with actual construction work. The permittee has failed to produce sufficient good cause for extension and in fact the project has apparently not advanced beyond the visionary stage. Apparently no contracts have been entered into with any of the proposed consumers and the project more than six years after its inception and more than two years since issuance of permit has not been financed. It is therefore the opinion of this office that Permit 2743 should be revoked on the grounds of non compliance with the terms thereof.

O R D E R

Permit 2743 having heretofore been issued in approval of Application 3364 which allowed time within which to commence and complete construction work and use therein proposed, it appearing to the Division of Water Rights that due diligence was not being exercised by the permittee and that said permittee had failed to comply with the terms and conditions of the permit, a hearing having been held at which permittee was afforded an opportunity to show cause why permit should not be revoked for failure to comply with the terms and conditions of the permit and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said Permit 2743 heretofore issued upon Application 3364 be revoked and cancelled upon the records of the Division of Water Rights.

Dated at Sacramento, California, this 29 day of July, 1929.

Harold Conkling

(Harold Conkling)
CHIEF OF DIVISION OF WATER RIGHTS

WES:MP

E.M.B.

Jul 29 1929