

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

oOo

In the matter of Applications 1752 and 2936 of the Temescal Water Company to appropriate from the San Jacinto River in Riverside County for agricultural and domestic purposes, Application 2340 of Lake Hemet Water Company to appropriate from Strawberry Creek, Dry Creek Harthorn Creek and South Fork of San Jacinto River for power purposes; Application 2341 of Lake Hemet Water Company to appropriate from Strawberry Creek, Dry Creek and Harthorn Creek for agricultural and domestic purposes and Application 2317 of Lake Hemet Water Company to appropriate from Strawberry Creek for power purposes.

oOo

DECISION A. 1752, 2340, 2341, 2317, 2936 D - 277

Decided *November 28, 1930*

oOo

APPEARANCES AT HEARING HELD AT RIVERSIDE, JANUARY 9, 1930.

For applicants

Temescal Water Company

Walter S. Clayson

Lake Hemet Water Company

John M. Clayton

For protestants

Perris Valley Conservation District

Walter F. Haas and
H. C. Johnston

Fruitvale Mutual Water Company

Ray W. Bruce

South Elsinore Mutual Water Company and
Elsinore Valley Water Users Association

C. L. McFarland

City of Elsinore

Eugene Best

Nuevo Water Company

H. P. Hibbard

City of San Jacinto)
San Jacinto Valley Water Association)
Howard C. Warren)
Blanche W. Warren)
Paul Reid)
W. P. Reid)

Frazier M. Sallee

Temescal Water Company

Walter S. Clayson

Other protestants

No appearance.

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

OPINION

GENERAL FEATURES OF THE APPLICATIONS

Application 1782

Applicant Temascal Water Company
Date filed April 5, 1920
Source Flood waters of San Jacinto River
Amount 12,000 acre feet per annum.
Period of diversion December 1 to June 1
Point of diversion NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 2, T. 6 S.,
R. 4 W., S. B. B. & M.
Place of use 5,000 acres within Corona Colony
Reservoir capacity (Railroad Canyon Reservoir)
12,000 acre feet.

Protestants

South Elsinore Development Company
Citizens Trust and Savings Bank
Elsinore Womens Club
Elsinore Valley Mutual Water Company
Ella Gates Snyder
G. G. Willsey and 74 other residents and property owners
in Lake Elsinore Valley.

Harry Miller
Thomas Keegan
William Davie
S. H. Burton
L. B. Johnson
E. J. Riskauff
James E. Krotts
T. L. Rush
Horace Beery
R. L. Eddy
Eddy o'Day
Fred A. Lee
A. F. Le Gage
Walter J. Stewart
Annie McIntyre
F. C. Bloodgood
M. E. Miller
J. E. Woodford, guardian for A. W. Woodford
J. H. Woodford
Otto Keehne
G. J. Young

Protestants (continued)

Louise Norton Messing
Clara A. Lowman
S. P. Robb
T. W. Walters
William Sharpe
F. C. and T. S. Lillie
R. K. McVey
Henry Manx
Edwin M. Sherman
J. F. Pratt
W. A. Perry
O. D. Crandall
Fairmont Developing Co.
L. Yates Jr.
W. B. Hoherrhell
H. H. Cone
Clifford F. Smith
James Stewart
H. A. Holton and F. A. Hersey
R. S. Reid and Root Bros.
A. L. Adams
Elsinore Chamber of Commerce
South Elsinore Mutual Water Co.
Fruitvale Mutual Water Co.
Albers Olive Co.
S. A. Stewart
Mrs. Anna F. Burnham
W. G. Anderson
J. A. McLaughlin
Wm. W. Evans
J. C. McIntyre
S. A. Green
F. M. Warner
Flavel Shurtliff and T. J. Ferguson
Lake Hemet Water Company and Fairview Land and Water Co.
Otto E. and Grace V. Beaver
Emil Firth and 93 other property owners and water users
of Perris Valley
Perris Valley Chamber of Commerce
J. T. Crammins and 6 other water users of Perris Valley
E. C. Talbot and 8 other water users of Perris Valley
F. H. and Ida L. Heald
J. L. Greenleaf and 34 other property owners and water
users in Perris Valley.
H. S. Gordon and 47 other property owners and water users
of Perris Valley
Riverside Water Company
Mrs. A. F. Burnham
Perris Valley Conservation District
City of Perris
City of Elsinore

Protestants (continued)

Hibbard and Kleindienst, Attorneys for Nuevo Water Co.
Ladera Irrigation District
Civic Club of Elsinore
Citizens of San Jacinto Valley

Application 2340

Applicant Lake Hemet Water Company
Date filed May 13, 1921
Sources (a) Strawberry Creek
(b) Dry Creek
(c) Harthorn Creek
(d) S. Fork San Jacinto River
Amounts (a) 76 c.f.s. 11,000 a.f. per annum
(b) 3 c.f.s. 800 a.f. per annum
(c) 1 c.f.s. 200 a.f. per annum
(d) 12,000 a.f. per annum
Periods of diversion Direct Diversion - January 1 to December 31
Storage October 15 to June 15
Purpose Power
Points of diversion (a) NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23, T. 5 S., R. 2 E., S.B.M.
(b) NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 25, T. 5 S., R. 2 E., S.B.M.
(c) NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35, T. 5 S., R. 2 E., S.B.M.
(d) SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 7, T. 5 S., R. 3 E., S.B.M.
Place of use SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 28, T. 5 S., R. 2 E., S.B.M.
Fall 1789
Theoretical horsepower 15,450
Point of return To Strawberry Creek within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 28,
T. 5 S., R. 2 E., S.B.M.
Reservoirs Harthorn capacity 7.4 acre feet
Strawberry " 567. acre feet
Dry Creek " 1191. acre feet
Lake Hemet " 24000. acre feet

Protestants

Howard C. and Blanche W. Warren
Citizens of San Jacinto Valley
Temescal Water Company
San Jacinto Valley Water Association
Samuel Poorman Jr., Alice P. Hoyt, Edward Poorman and
Edward McGary
Perris Valley Chamber of Commerce, Board of Trustees, and 12
individual users of Perris Valley
Fruitvale Mutual Water Company

Application 2841

Applicant Lake Hemet Water Company

Date filed May 13, 1921

Sources (a) Strawberry Creek
 (b) Dry Creek
 (c) Harthorn Creek

Amounts (a) 17,000 acre feet per annum
 (b) 800 acre feet per annum
 (c) 200 acre feet per annum

Period of diversion..... October 15 - June 15

Purpose Agricultural and domestic

Points of diversion(a) NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23, T. 5 S., R. 2 E., S.B.M.
 (b) NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 25, T. 5 S., R. 2 E., S.B.M.
 (c) NE $\frac{1}{4}$ S $\frac{1}{2}$ Sec. 35, T. 5 S., R. 2 E., S.B.M.

Place of use12,502.58 acres in the vicinity of Hemet

Storage reservoirsStrawberry capacity 567 acre feet
 Dry Creek " 1,191 acre feet
 Lake Hemet " 24,000 acre feet

Protestants

Howard C. and Blanche W. Warren
 Citizens of San Jacinto Valley
 Temescal Water Company
 San Jacinto Valley Water Association
 Samuel Poorman Jr., Alice P. Hoyt, Edward Poorman and
 Edward McGary
 Perris Valley Chamber of Commerce, Board of Trustees,
 City of Perris and 12 individual water users of
 Perris Valley
 Fruitvale Mutual Water Company

Application 2817

ApplicantLake Hemet Water Company

Date filedApril 11, 1922

SourceStrawberry Creek

Amount76 c.f.s. 11,000 a.f. per annum

Period of diversionDirect diversion - January 1 to December 31
 Storage October 15 to June 15

PurposePower

Point of diversion.....NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23, T. 5 S., R. 2 E., S.B.M.

Application 2317 (continued)

Place of use SW $\frac{1}{2}$ SW $\frac{1}{2}$ Sec. 24, T. 5 S., R. 2 E., S.B.M.
Fall 605 feet
Theoretical horse-power 5,225
Point of return To Strawberry Creek within SW $\frac{1}{2}$ NE $\frac{1}{4}$ Section 28,
T. 5 S., R. 2 E., S.B.M.
Reservoir capacity Strawberry Reservoir capacity 567 acre feet

NOTE: The other reservoir capacities are not given in the application.

Protestants

Howard C. and Blanche W. Warren
Citizens of San Jacinto Valley
Temescal Water Company
San Jacinto Valley Water Association
Samuel Poomman Jr., Alice P. Hoyt, Edward Poomman and
Edward McGary
Perris Valley Chamber of Commerce, Board of Trustees
City of Perris and 12 individual water users of
Perris Valley
Fruitvale Mutual Water Company

Application 2936

Applicant, Temescal Water Company
Date filed July 20, 1922
Source San Jacinto River
Amount 10,000 acre feet per annum
Purpose Agricultural and domestic
Period of diversion December 1 to June 1
Point of diversion SE $\frac{1}{2}$ SW $\frac{1}{2}$ Sec. 9, T. 6 S., R. 4 W., S.B.M.
Place of use 5,000 acres within Corona Colony
Reservoir Lake Elsinore capacity 10,000 acre feet

Protestants

Perris Valley Chamber of Commerce
Ladera Irrigation District
Civic Club of Elsinore
City of Elsinore
Franklin E. and Ida L. Heald
Womans Club of Elsinore
Hibbard and Kleindienst for Nueva Land Co.
Lake Hemet Water Company

PROTESTS

In general it may be stated that all of the protests against the approval of the applications were based upon the grounds that there was no unappropriated water available in the San Jacinto River and its tributaries; that the demand was in excess of the available supply and that the approval of the applications would result in the lowering of the underground water level in the valley.

Protests against the approval of applications 1752 and 2936 of the Temescal Water Company were also based upon the contention that the proposed appropriation would result in the lowering of the water level in Lake Elsinore thereby rendering it valueless as a pleasure resort.

The protest of the Fruitvale Mutual Water Company against the approval of Application 2341 was directed more particularly against any diversion from Strawberry Creek which is one of its principle sources of supply.

HISTORY

In the latter part of 1921 it became apparent to this office that before intelligent action could be taken upon applications then pending before the Division to appropriate from the San Jacinto River and its tributaries, it would be necessary to make a complete and thorough hydrographic investigation as the physical situation was quite complicated and involved underground waters.

The matter was brought to the attention of various interested parties with the result that a co-operative hydrographic investigation of the entire basin was arranged for, the co-operating parties being the Lake Hemet Water Company, Fruitvale Mutual Water Company, the Ferris Valley Conservation District, the Elsinore Chamber of Commerce, The Temescal Water Company and the Division of Water Rights.

The investigation was conducted by this office under the immediate supervision of Mr. S. T. Harding during the seasons of 1921 and 1922 and the results of the investigation were embodied in a report by him to the Division of Water Rights dated January 1, 1923. This report was submitted to the cooperating parties with the request that comment be submitted.

The report indicated that the water supply available was insufficient to meet the proposed demands by the different parties at interest and that the only way in which litigation might be avoided would be by an agreement between the various interests. On the initiative of the cooperating parties a meeting was held in June 1923 to discuss the situation which was followed by another meeting on July 13 at Riverside at which the cooperating parties and the Division of Water Rights were represented. A resolution was passed at the July meeting providing that the question of the allotment of the waters of the San Jacinto River not then being beneficially used be referred to the Division of Water Rights.

A schedule of tentative allotment was then prepared by the Division and submitted to the "users of water on the San Jacinto River" under date of September 15, 1924 for comment and constructive criticism and after several informal conferences a hearing on the tentative allotment was held on June 8, 1927.

Based upon the facts presented at and subsequently to this hearing a form of an agreement was drawn up by the Division setting forth the allotment in its final form and submitted to the interested parties for their approval. This agreement was signed by the Lake Hemet Water Company, the Fruitvale Mutual Water Company and the Perris Valley Conservation District and rejected by the Temescal Water Company and the Elsinore Valley Water Users Association.

As the agreement was not unanimously signed it therefore was invalidated and a hearing became necessary under Section 1a of the Water Commission Act before action could be taken by this office on the pending applications.

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

Applications 1752 and 2936 of the Temescal Water Company and Applications 2817 and 2341 of the Lake Hemet Water Company were completed sufficiently for advertising in accordance with the requirement of the Rules and Regulations of the Division of Water Resources. Application 2340 of the Lake Hemet Water Company was erroneously advertised and not properly completed. Application 2507 of the Perris Valley Conservation District was completed sufficiently for advertising but no proof of publication has been filed. Application 3075 of the Perris Valley Conservation District was completed and advertised. These applications being protested were set for a public hearing in accordance with Section 1a of the Water Commission Act on January 9, 1930 at 10:00 o'clock A. M. in the Council Chamber of the City Hall, Riverside, California. Of this hearing applicants and record protestants were duly notified.

At the request of the Perris Valley Conservation District Applications 2507 and 3075 were not included in the hearing.

GENERAL DISCUSSION

The water supply available for appropriation as indicated by Mr. Harding's report is very much less than the amount which the several claimants seek to appropriate. The final allotment proposed and submitted to the interested parties was prepared with due consideration of the existing rights and the adjustment of those rights to the unappropriated water available,

each party being required to sacrifice a certain amount of water claimed in order that the best interests of the valley might be served under a scheme of comprehensive development. As the allotment was rejected by the Lake Elsinore Interests and the Temescal Water Company, it became necessary to set the matter for a public hearing in accordance with Section 1a of the Water Commission Act before action could be taken upon the several pending applications. As stated above, although Applications 2507 and 3075 of the Perris Valley Conservation District were set for hearing at the same time, by request of the District's attorney they were not considered at the hearing. Action upon the applications of the Temescal Water Company and the Lake Hemet Water Company must necessarily be based upon the amount of unappropriated water available, the priority of the several applications and the feasibility of the projects proposed, due consideration being given to existing rights.

From the "Summary of Supply and Present use of all Drainage Areas above Lake Elsinore" on page 90 of Mr. Harding's report, it appears that if Lake Elsinore were not considered there would be 13,900 acre feet available for appropriation during a year of normal runoff. Table 9 at page 35 indicates that if no water is diverted until Lake Elsinore is at an elevation of 1245 feet above sea level there would be a mean annual flow of 5,300 acre feet available and if no water were diverted until Lake Elsinore is at elevation 1235 feet there would be 7,800 acre feet available for appropriation.

Lake Elsinore is a natural depression in the San Jacinto River at its lower end caused by geological faulting. It is the largest fresh water lake in Southern California and during recent years has become a recreational center of importance. The lands surrounding the lake have taken on an increased value due to its scenic beauty and have been subdivided into lots the sale price of

which is determined by the outlook upon the lake. Beautiful residences have been constructed at considerable expense and the So. California Athletic Club which is apparently the owner of most of the lake up to an elevation of 1236.2 has expended more than \$650,000 for recreational purposes. These improvements have increased the commercial activities within the City of Elsinore. While the studies made by Mr. Harding appear to indicate that there is little or no contribution to the underground waters of Elsinore Valley, from the lake, it is the contention of the Elsinore interests that the evaporation from the surface of the lake is instrumental in preventing the "burning" of the fruits and nuts produced in the valley.

Application 1752 of the Temescal Water Company to store 12,000 acre feet of water in Railroad Canyon was bitterly protested by the Lake Elsinore interests on the grounds that it would result in the lowering of the water surface level in Lake Elsinore. The matter has apparently been satisfactorily settled by virtue of an agreement entered into on October 29, 1927, between the South Elsinore Development Company, the Mariposa Company, Clevelin Realty Corporation, Lake Shore Beach Company, South Elsinore Mutual Water Company and 18 individual water users on the one hand and the Temescal Water Company on the other, which agreement was approved by the Lake Elsinore Water Users Association on the same date. According to the terms of this agreement the Temescal Water Company may only store water in Railroad Canyon at such times as the water level in Lake Elsinore is above an elevation of 1245 feet and the amount of storage limited to 6,000 acre feet unless the water level in the lake is above an elevation of 1250 feet. While all of the Lake Elsinore interests were not parties to the agreement it is the opinion of this office that since the Temescal Water company can not store water until the water

surface in Lake Elsinore is above an elevation of 1245 feet, there can not be any reasonable objection on the part of these interests and their protests are herewith dismissed. As to those protestants who are located on the San Jacinto River above the proposed point of diversion described in Application 1752 the applicant is not in a position either physically or legally to interfere with any rights which they may have and therefore these protests are also dismissed.

Under date of September 27, 1930 this office was advised by the Temescal Water Company that in the event that Application 1752 was approved the Company would consent to the withdrawal of Application 2936 which proposed storage in Lake Elsinore. For this reason no further comment is necessary.

Under Application 924, Permit 468 the Fruitvale Mutual Water Company has the privilege of diverting 200 cubic feet per second from the San Jacinto River and Indian Creek for agricultural and domestic purposes. The points of diversion are located along the channel of the stream between a point on the intersection of the San Jacinto River with the easterly boundary of the north half of Section 10, T. 5 S., R. 1 E., S.B.B. & M. and a point on the easterly boundary line of lot 198 of the lands of the San Jacinto Land Association. The points of diversion are below the junction of Strawberry Creek and the San Jacinto River.

The use of water under Application 924 Permit 468 has not yet been confirmed by the issuance of license and it is possible that the present use may be increased. In any event the Fruitvale Mutual Water Company by virtue of its early priority and position on the stream may divert any water to which it is entitled without interference by any diversion which may be made by the Temescal Water Company.

The proposed diversion from Strawberry Creek, Dry Creek and Harthorn Creek by the Lake Hemet Water Company involves a proposed use not heretofore exercised by the Lake Hemet Water Company.

The diversion from the South Fork of the San Jacinto River by the Lake Hemet Water Company to storage in Lake Hemet Reservoir is apparently limited only by the capacity of the Hemet reservoir under rights initiated prior to the effective date of the Water Commission Act. The Company under Application 2341 now proposes to store waters from Strawberry Creek, Dry Creek and Harthorn Creek in the Strawberry, Dry Creek and Hemet reservoirs. During a season of normal runoff there would apparently be little if any water available for such storage as the amount so diverted would be limited by the capacity of the canal and the prior rights of the lower users. During the period from 1871 to 1922 (51 years) there were seven years during which flood waters would have been available for diversion under Application 2341. It is possible however that the Fruitvale Mutual Water Company and the Lake Hemet Water Company may either consolidate or enter into an agreement whereby the waters stored in Lake Hemet may be exchanged for waters of Strawberry Creek and if by such an agreement the project may be made feasible the Hemet Water Company should be permitted to proceed under its Application 2341. It is the opinion of this office therefore that Application 2341 be approved.

Insofar as Applications 2340 and 2817 are concerned which seek to appropriate water for power purposes it appears, according to the report of Quinton, Code and Hill, prepared after due investigation for the Hemet-San Jacinto Water Company in 1925, that the power plants were not feasible at that time. Moreover according to a letter from the Federal Power Commission dated September 25, 1930, no application had been made to the Federal Power Commission for a permit to cover these developments.

The Lake Hemet Water Company informed this office under date of November 12, 1930 that no data had been submitted to the Federal Power Commission as it was not at the present time in a position to undertake the financing of the power projects under its Applications 2340 and 2817. Furthermore the two applications are deficient in certain respects. It would therefore appear that unless the applicant takes the necessary steps to acquire the approval of the Federal Power Commission and correct the deficiencies in these applications within a reasonable time they should be cancelled.

CONCLUSION

The use to which it is proposed to put the water which the Temescal Water Company seeks to appropriate under Application 1752 is a useful and beneficial one. The reservoir in Railroad Canyon has already been constructed and since it appears that there is unappropriated water in the San Jacinto River which applicant is in a position to utilize, it is the opinion of this office that Application 1752 should be approved.

In the event that Application 1752 is approved the Temescal Water Company has consented to the withdrawal of its Application 2936 and therefore Application 2936 may be cancelled.

The use for which the Lake Hemet Water Company proposes to appropriate the water under Application 2341 is ^a useful and beneficial one. Without the ability to divert water from Strawberry Creek which the Fruitvale Mutual Water Company is entitled to the project is not considered feasible but as stated above it is possible that the matter may be adjusted by agreement between the two companies and with such an agreement the canal would be constructed anyway and the water could then be secured under a permit issued in approval of this application. Application 2341 should therefore be approved.

Action upon Applications 2340 and 2817 should be withheld for a reasonable time in order to afford the Lake Hemet Water Company an opportunity to correct the deficiencies in its applications and to bring the matter before the Federal Power Commission. In the event that the Company does not make a reasonable showing in these respects Applications 2340 and 2817 should be cancelled.

O R D E R

Applications 1752, 2340, 2341, 2817, and 2936 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 Division of Water Resources now being fully advised in the premises:-

IT IS HEREBY ORDERED that Applications 1752 and 2341 be approved and that permits be granted to the applicants subject to such of the usual terms and conditions as may be appropriate, and

IT IS FURTHER ORDERED that Application 2936 be rejected and cancelled upon the records of the Division of Water Resources, and

IT IS FURTHER ORDERED that action upon Applications 2340 and 2817 be withheld until further order is entered.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 28 day of Nov, 1930

EDWARD HYATT, State Engineer,

By Harold Conkling
Deputy.

