

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

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In the Matter of Application 6649 of Southern California  
Water Supply Company to appropriate from Sweetwater  
River in San Diego County for Irrigation and  
Domestic Purposes.

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DECISION A 6649 D-340

Decided *April 3, 1933*

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APPEARANCES AT HEARING HELD AT SAN DIEGO, JUNE 15, 1931, and  
CONTINUED TO SEPTEMBER 29, 1932, and NOVEMBER 12, 1932.

For Applicant

Southern California Water Supply Company

Chickering & Gregory by  
W. C. Fox and Philip Thatcher  
Racigalupi, Elkus & Salinger by  
Frank B. Austin

For Protestants

City of National City and  
City of Chula Vista

Hunsaker & Cosgrove by  
T. B. Cosgrove

City of National City  
City of Chula Vista, et al.  
Sefton Investment Company

J. W. Puterbaugh  
C. C. Ludwig  
Stearns, Luce & Forward by  
A. J. Lee and F. W. Stearns  
Jack Killam

Eliza M. Winterstein  
M. S. Sutliff  
Joseph L. E. and Mary Ida Bennett

H. D. Sutliff  
Gray, Cary, Ames & Driscoll by  
Seymour W. Wurfel  
A. Haines

Warren T. Meyers

In propria persona

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

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## O P I N I O N

### GENERAL FEATURES OF APPLICATION 6649

Application 6649, filed by Southern California Water Supply Company on April 19, 1930, proposes an appropriation of 13.6 cubic feet per second for direct diversion throughout the entire year and 40,000 acre feet per annum for storage to be collected throughout the entire year from Sweetwater River in San Diego County for irrigation and domestic purposes within National City, Chula Vista, Coronado and unincorporated areas in the vicinity. Water will be sold under contract to owners of land within the area designated, either directly by the applicant, or through lease or contract with existing corporations now distributing water therein. The total area within the place of use contains 29,871 acres of land of which it is estimated that 26,046 acres will eventually demand and use water when the territory is fully developed. Applicant claims that approximately 5,000 acres within the total service area will be supplied with the waters sought to be appropriated under this application. The applicant proposes to construct a dam across the Sweetwater River at a point within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 17, T 16 S, R 2 E, S.B.B.&M. which will be used for both direct diversion and storage. The storage reservoir is designated in the application as "Lake Loveland" with a capacity of 35,250 acre feet.

Application 6649 was protested by Warren T. Meyers, Mary Ida Bennett, Joseph L. E. Bennett, Sefton Investment Company, Eliza M. Winterstein, City of National City, City of Chula Vista, et al. and M. S. Sutliff.

### PROTESTS

The protestants may be divided into two classes as follows:

Class I. Those protestants who own land in Jamacha Valley between

the proposed Lake Loveland Reservoir of the applicant on the east and Sweetwater Reservoir on the west. This class includes protestants Sefton Investment Company, Eliza M. Winterstein, Joseph L. E., and Mary Ida Bennett, and Warren T. Meyers, who base their claims of right solely upon riparian ownership and allege in effect that should applicant be permitted to proceed with its development as proposed by Application 6649 it would result in shutting off or restricting the present underground flow in the Jamacha Basin from which they pump their irrigation and domestic water supply.

Class II. Those protestants who own land in the Sweetwater Valley below the Sweetwater Reservoir who are at the present time being served by the Sweetwater Water Corporation. This class includes protestants City of National City and the City of Chula Vista and 116 individual protestants including M. S. Sutliff, who are interested in and eager for the development of an additional water supply which they believe may be made possible by the construction of the Loveland Reservoir, but object to any plan of the applicant to deliver water to points without the watershed such as the City of Coronado and adjacent territory.

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

Application 6649 was completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested was set for a public hearing in accordance with Section 1a of the Water Commission Act on June 15, 1931, at 10:00 o'clock A.M. in Conference Room, Chamber of Commerce, San Diego, California, reconvened and continued on September 29, 1932, at 10:00 o'clock A.M. in Supervisors Room, Court House, San Diego, California, and again reconvened and continued on November 12, 1932, at 10:00 o'clock A.M. in Extra Sessions Court Room, Court House, San Diego,

California. Of these hearings applicant and record protestants were duly notified.

#### PHYSIOGRAPHY AND HYDROGRAPHY

Sweetwater River, the source of the proposed appropriation rises just east of Cuyamaca Peak in San Diego County and flows in a general south-westerly direction, a distance of approximately 55 miles to the Pacific Ocean. Before reaching the open country it passes through a mountainous area for a distance of approximately 32 miles.

Sweetwater dam behind which water is stored by the Sweetwater Water Corporation is constructed across a gorge where the river passes through San Diego County almost parallel to the coast and at the head of Sweetwater Valley. The dam is approximately nine miles from the coast as measured along the course of the river. The watershed above the Sweetwater dam comprises an area of approximately 184 square miles and varies in elevation from about 200 to about 6,000 feet above sea level. About nineteen miles further upstream is the site of the proposed Lake Loveland dam of the applicant. The watershed area above this dam site is approximately 98 square miles.

Records of measured runoff reported by the applicant and the U. S. Geological Survey indicate that for the seasons 1888 to 1932, inclusive, the average runoff of the Sweetwater River at the Sweetwater dam for this 44 year period is approximately 17,650 acre feet per annum.

Between the Sweetwater dam and the proposed Lake Loveland dam there lies Jamacha Valley which originally was a mountain canyon but has been filled in with rock and silt varying in depth from about 60 or 70 feet at the upper end of the valley to zero at the lower end, forming an underground reservoir which is filled and replenished from the waters of the Sweetwater River which

pass the proposed dam of the applicant.

The water level in Jamacha Valley is very close to the surface in the early spring months during the season of rainfall; later in the year the water level recedes after the cessation of the stream flow to within about five feet below the ground surface depending upon the season. The Jamacha Valley property owners derive their water supply by pumping from the gravels along the stream bed.

Since its original construction, Sweetwater reservoir has been enlarged twice, the last addition to the dam having been completed in 1911. The present capacity of the reservoir is approximately 31,000 acre feet or almost twice the average annual yield of the watershed above the dam, thereby providing a means for holdover storage.

In order to provide for additional storage, the applicant proposes to construct the Lake Loveland Reservoir with a capacity of approximately 35,000 acre feet.

#### USE OF WATER BY THE PROTESTANTS

##### Sefton Investment Company

Monte Vista Ranch, the property of the Sefton Investment Company is located in the eastern portions of the Rancho Jamacha, about ten miles below the site of Lake Loveland. The ranch contains some 38,000 acres of which it is claimed about 2,030 acres are irrigable and of which only about 272 acres have actually been irrigated and 1310 acres cleared. Water is obtained entirely by pumping from the underground gravels, the irrigating season extending throughout the entire year. Pumping records submitted by the protestant indicate that during the seasons 1926-27 to 1930-31 the average amount of water pumped was 1,546 acre feet per annum. For the 272 acres irrigated the

duty is apparently quite low. In a report to the Company dated October 23, 1930, its engineer assumed the average duty of water to be one acre foot per acre per annum and that the probable total requirements of the Company would not exceed 2,000 acre feet per annum.

Eliza M. Winterstein

The property of Mrs. Winterstein is entirely surrounded by the property of the Sefton Investment Company. It contains about 206 acres of land of which approximately 160 acres are tillable and 120 acres are under cultivation requiring about 240 or 300 acre feet per annum. She has always had plenty of water and admits that there is a large amount of water wasting into the ocean during flood years.

Joseph L. E. and Mary Ida Bennett

These protestants own an undivided interest in approximately 83 acres within the Rancho Jamacha lying east of and adjacent to the property of the Sefton Investment Company. Of the 83 acres, about 66 acres have been irrigated and it is intended to increase this area to approximately 70 acres. Besides irrigation these protestants use water for about 37 head of stock and for domestic purposes. The water supply is obtained from wells and it is estimated that they are using about 12 or 15 hundred gallons per minute for 10 hours each day during the irrigation season. Water flows in the stream bed past their property during the winter and spring months and it appears from testimony presented at the hearing that during the years 1916 and 1927 extraordinary floods passed down to the ocean.

Mr. Bennett claims that if the normal flow was decreased it would allow timber to grow in the stream bed which would tend to divert the flood waters into new channels. He admits that during the period of low flow the

willows grow anyway but claims that the growth would not be so extensive if the normal floods were allowed to pass down.

W. T. Meyers

Mr. Meyers owns 30.5 acres of land in the Jamacha Valley of which about 25 acres are irrigable and 18 acres have actually been irrigated. His water supply is derived from three wells sunk on his property and he claims that 100 miners inches are used intermittently. His wells have never been pumped dry and he has always had plenty of water even when it failed to flow on the surface. A small amount of water has always passed his property every winter and even during the low flow of 1928 the basin filled.

Mr. Meyers also claims that the proposed dam of the applicant would result in checking the minor freshets or flows which tend to clear the channel of willows thereby allowing the larger flows to pass through his property without spreading over his lands.

City of National City and City of Chula Vista  
City of National City  
City of Chula Vista, et al.  
M. S. Sutliff

These protestants are served with water for irrigation and domestic purposes by the Sweetwater Water Corporation from the Sweetwater system. They are all located in Sweetwater Valley below the Sweetwater Reservoir. The commercial draft on the Sweetwater system during the years 1925 to 1932 inclusive has averaged 6,943 acre feet per annum according to information presented by the applicant at the hearing (Exhibit 5).

The total area now irrigated by the protestants in Jamacha Valley is approximately 500 acres of which about 272 acres have been irrigated by the Sefton Investment Company.

Although the record indicates that the average duty for the 272 acres of the Sefton Investment Company as obtained from the pumping records was 5.6 acre feet per acre per annum, this duty is apparently very low and in all probability there was a large return flow to the stream. Testimony presented at the hearing indicates that the commonly recognized duty under the Sweetwater system is 1.0 acre foot per acre per annum and the manager for the Sweetwater Water Corporation testified at the hearing that, based upon his observation during the past five years, it was his judgment that the duty of water on lands between the present Sweetwater dam and the proposed Lake Loveland dam would not exceed by 50% the duty of water under the Sweetwater system. (See page 107 of transcript.) Even the protestant's engineer in his report to the Sefton Investment Company referred to above assumed the average duty of water in this locality to be 1.0 acre foot per acre per annum.

The present beneficial use of water by all protestants may therefore be assumed to be the present draft on the Sweetwater system by the lower users (7,000 acre feet per annum as shown above) plus 750 acre feet beneficially used by the upper protestants, assuming a duty of 1.5 acre feet per annum or a total of 7,750 acre feet per annum.

THERE IS UNAPPROPRIATED WATER IN THE SWEETWATER RIVER

That there is at times, flood water in the Sweetwater River which if not conserved by adequate storage facilities would flow to the ocean without serving any useful or beneficial purpose is clearly indicated by the testimony presented at the hearing.

It has been shown above that the average annual runoff of the Sweetwater River at the Sweetwater dam for the 44 years last past is approxi-



mately 17,650 acre feet of which amount less than one-half has been applied to beneficial use. The total irrigable area of the protestants in the Jamacha Valley appears to be approximately 2,235 acres which, assuming a duty of 1.5 acre feet per acre per annum on the basis shown above, will ultimately require 3,427 acre feet per annum, which amount if added to the amount of water now used by the lower protestants under the Sweetwater system would make a total of 10,427 acre feet per annum. This amount if subtracted from the average annual runoff of the Sweetwater River at Sweetwater dam would indicate that there would be approximately 7,000 acre feet a large part of which could be made available to the lower users provided that adequate storage facilities were provided.

Certain of the protestants in the Jamacha Valley are concerned lest further regulation of the flood flows would result in growth of willows and other timber which would tend to divert the water from its natural channel. Whether or not a right to such an enjoyment of the natural flow of the river may be claimed in view of the provisions of Article XIV, Section 3 of the Constitution of the State of California, there is grave doubt. In any case relief should be sought, if any is to be had, by recourse to the courts rather than by denial of the application.

As to the protestants who are located in the Sweetwater Valley and who use water under the existing Sweetwater system, it may be said that statements made at the hearing on their behalf, strengthen rather than weaken the cause of the applicant. That there is unappropriated water in the Sweetwater River which may be made available by the proposed project of the applicant is admitted. They do not oppose the granting of the permit in approval of Application 6649 and even go so far as to admit that even with the proposed development, there would still be surplus water in the Sweetwater River.

Apparently their only concern is the possible utilization of water by the City of Coronado and other territory lying outside of the watershed thereby depriving them of an adequate supply in years of deficient runoff.

It appears that the responsible administration of the affairs of both the Sweetwater Water Corporation and the Southern California Water Supply Company are controlled by the same interests and that the two reservoirs may be operated in such a way as to best serve the interests of the lower users. If so operated as to interfere with the service which the water users are now enjoying and are entitled to under the present Sweetwater system relief is available through the Railroad Commission of the State of California or the courts. This is a matter in connection with which the Division of Water Resources has no authority to grant relief.

#### CONCLUSION

The purposes to which applicant proposes to apply the water under Application 6649 are useful and beneficial. The dam site is on vacant government lands within the Cleveland National Forest and patented lands in the forest reserve have been purchased and application has been made to the Department of the Interior for an exchange of these patented lands for the vacant lands at the point of diversion. The applicant has obtained the approval of the supervisor in charge of the Southern District and on September 18, 1930, the application was before the Department of the Interior for final action.

Appropriate application has been made for approval of the plans for the dam and applicant has been allowed until July 1, 1933, to submit revised plans.

All conditions prerequisite to the issuance of a permit are apparently satisfied and it is our opinion that Application 6649 should be approved.

O R D E R

Application 6649 of Southern California Water Supply Company for a permit to appropriate water having been filed with the Division of Water Resources, as above stated, protests having been filed, public hearings having been held and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that said Application 6649 be approved and that a permit be issued to the applicant subject to such of the usual terms and conditions as may be appropriate.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this *Third* day of *April* 1933.

EDWARD HYATT, State Engineer

BY *Harold Conkling*  
Deputy

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