

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

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In the matter of Applications 7849 and 7854 of Alexander F. Hansen,  
Application 7855 of Morton B. Machamer and Application 7855  
of J. A. Marchant to appropriate from Sandia Creek in  
San Diego County, Tributary to Santa Margarita River.

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DECISION A. 7849, 7854, 7855 and 8007 D-377

Decided *June 26, 1935*

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APPEARANCES AT HEARING HELD AT LOS ANGELES, MARCH 1, 1935

For Applicants

Alexander F. Hansen  
Morton B. Machamer  
J. A. Marchant

James R. Lineburg  
E. L. Metzler  
E. L. Metzler

For Protestants

Rancho Santa Margarita, a corporation  
Alexander F. Hansen

F. B. Yoakum  
James R. Lineburg

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 APPLICATIONS

Application 7849 was filed by Alexander F. Hansen on February  
14, 1934. It proposes an appropriation of 400 acre feet per annum to be  
collected to storage throughout the entire year from the floodwaters of  
Sandia Creek in San Diego County, a tributary of Santa Margarita River  
for irrigation and domestic purposes. The water is to be diverted at a  
point on Sandia Creek within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 56, T 6 S, R 4 W.

S.B.B.&M. Storage is proposed in a reservoir on Sandia Creek of 400 acre feet capacity and the water is to be rediverted at the same point for the irrigation of 280 acres of land within Section 35, T 8 S, R 4 W, S.B.B.&M. and as required for stock watering and garden irrigation. Application 7849 was protested by Rancho Santa Margarita, a corporation.

Application 7954 was filed by Morton E. Macbarger on May 28, 1934. It proposes an appropriation of 2.5 cubic feet per second by direct diversion from about January 1st to about November 15th of each season from Sandia Creek in San Diego County for agricultural purposes. It is proposed to divert water by pumping at a point within the NW $\frac{1}{2}$  of SE $\frac{1}{2}$  of Section 25, T 8 S, R 4 W, S.B.B.&M. for the irrigation of 168 acres within Section 25, T 8 S, R 4 W, and Sections 30 and 31, T 8 S, R 3 W, S.B.B.&M. Application 7954 was protested by Alexander F. Hansen and Rancho Santa Margarita, a corporation.

Application 7955 was filed by J. A. Marchant on May 28, 1934. It proposes an appropriation of 2.5 cubic feet per second by direct diversion from about January 15th to about November 30th of each season from Sandia Creek in San Diego County for the irrigation of 91 acres of land within the fractional SW $\frac{1}{4}$  of Section 25, T 8 S, R 4 W, S.B.B.&M. It is proposed to divert water by pumping at a point within the E $\frac{1}{2}$  of SW $\frac{1}{4}$  of Section 25, T 8 S, R 4 W, S.B.B.&M. Application 7955 was protested by Alexander F. Hansen and Rancho Santa Margarita, a corporation.

Application 8007 was filed by Alexander F. Hansen on July 3, 1934. It proposes an appropriation of 2.5 cubic feet per second throughout the year from Sandia Creek in San Diego County for irrigation and domestic purposes. It is proposed to irrigate 280 acres of land within Section 36, T 8 S, R 4 W, S.B.B.&M. during the period from about April 1st to about

December 31st of each season. Water will be used for stock watering, garden, and household purposes as required.

There are two points of diversion described in Application 8007 at which applicant proposes to construct concrete and masonry dams and pump the surface water to the place of use. Application 8007 was protested by Rancho Santa Margarita, a corporation.

#### PROTESTS

Rancho Santa Margarita, a corporation, claims rights to the waters of Santa Margarita River by virtue of riparian ownership and court decree and states that at the present time it is inaugurating a program of water development for applying the water of Santa Margarita River to beneficial use. It alleges in effect that as Sandia Creek is tributary to Santa Margarita River the approval of the several applications to appropriate therefrom would deprive it of all of the natural flow of said creek.

Alexander F. Hansen in his protest against the approval of Applications 7954 and 7955 claims riparian rights and alleges in effect that should these applications be approved the use proposed would deprive him of water for domestic and irrigation purposes and destroy the scenic beauty of the canyon.

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

Applications 7849, 7954, 7955 and 8007 were completed in accordance with the Water Commission Act and the Rules and Regulations of the Division of Water Resources and being protested were set for public hearing in accordance with Section 1a of the Water Commission Act on March 1, 1935, at 10:00 o'clock A.M. in Room 803 California State Building, Los Angeles, California. Of this hearing, applicants and protestants were duly notified.

### PHYSIOGRAPHY AND HYDROGRAPHY

Sandia Creek, the source of the proposed appropriations rises about 3 miles south of Murietta in Riverside County at an elevation of about 1500 feet above sea level, flows southwesterly and southerly, a distance of about 10 miles to its junction with the Santa Margarita River in San Diego County at an elevation of about 300 feet above sea level. The watershed of Sandia Creek above its junction with Santa Margarita River has an area of approximately 25 square miles of which about 16.4 square miles lie above all applicants on the stream.

The properties of all applicants are adjacent to each other. The properties of M. B. Machamer and J. A. Marchant lie just south of the southerly line of Rancho Santa Rosa which is also the boundary line between the counties of Riverside and San Diego. The southerly line of the property of J. A. Marchant and a portion of the southerly line of M. B. Machamer comprise the northerly line of the Hansen property.

Sandia Creek enters the Machamer property from a very wide canyon and passes through the northwest corner of his property, the creek bed narrowing somewhat before entering the property of J. A. Marchant. About 500 yards below the point of entry into the Marchant property there is a large natural granite dike across the bed of the creek which causes the subsurface flow to rise and over which water flows throughout the year.

It appears that some 35 years ago the water course through Marchant's property was much narrower but floods have since washed out about ten acres of land forming a basin about 300 yards wide which has become filled with sand and gravel nearly to the surface of the granite dike.

It appears from the testimony presented at the hearing that there is a constant flow of water through the basin, a portion of which is brought to the surface by the dike and a portion passing through the pervious material under or through the dike.

Below the granite dike the canyon becomes much narrower and more rocky and at a point about 1/2 mile below the northerly line of Hansen's property the canyon is not more than 40 feet wide. At this point water flows throughout the year. In fact there are several places through which the water rises and sinks on the Hansen property due to dike formations and at some of these places the water flows throughout the year.

About one-half mile above its junction with Santa Margarita River the channel of Sandia Creek again widens and becomes dry on the surface during the summer months. It appears however that at the junction of the two streams water is flowing in the Santa Margarita River throughout the year.

#### FIELD INVESTIGATION

At the hearing there appeared to be some doubt as to whether the projects proposed under Applications 7954 and 7955 actually came within the jurisdiction of this office as Machamer and Marchant proposed to pump water from wells sunk in the stream channel.

On April 24, 1935, the Examiner visited the site of the proposed diversions and in a memorandum dated April 29, 1935, described Sandia Creek as being a very small stream except during periods of flood flow. It was his opinion that in the late season only a trickle of water passes out of the so called underground basin from which diversions are proposed by pumping; that this basin could hardly be termed an underground basin in the usual sense as the underground flow is apparently part of the surface

stream and that therefore applications to appropriate therefrom would properly come within the jurisdiction of this office.

PROTEST OF RANCHO SANTA MARGARITA

No testimony was presented at the hearing in support of the protest of Rancho Santa Margarita and no basis was established upon which approval of the several applications could be refused.

According to Bulletin No. 48 of the Division of Water Resources entitled "San Diego County Investigation, 1935" the mean seasonal natural runoff of Santa Margarita River during the years 1887 to 1933 above Ysidora was 26,240 acre feet from a drainage area of 743 square miles and 24,050 acre feet from a drainage area of 710 square miles above Deluz, the lowest potential reservoir site.

Table 15 of the same bulletin indicates that during the year 1934 the total area of irrigated crops in the Santa Margarita Basin was 1,493 acres. This area, allowing a gross duty of 1.30 acre feet per acre (water diverted at the source of supply) which allowance is that assumed in the bulletin, would require approximately 2,000 acre feet of water which is less than 8% of the mean seasonal runoff of the entire watershed and less than 9% of the mean seasonal runoff of the Santa Margarita River above the lowest potential reservoir site.

Under the circumstances it would appear that there is a very considerable surplus available for appropriation under Application 7849 because this involves storage only which can be accumulated during flood periods.

As to appropriations proposed under Applications 7954, 7955 and 8007, these are for direct diversion and it has been shown above that dur-

ing the summer months there is no surface connection between the waters of Sandia Creek and the waters of the Santa Margarita River. It is believed that the storms and freshets of a succeeding winter will replenish any waters which may be appropriated under these applications before the effect can be noticed by Rancho Santa Margarita. The Rancho Santa Margarita is apparently more concerned lest the proposed diversions may interfere with proposed development under claim of riparian ownership than with present development. However, it is contrary to the practice of this office to deny applications to appropriate because of prospective future use of a riparian owner.

#### PROTEST OF ALEXANDER F. HANSEN

The protest of Alexander F. Hansen against the approval of Applications 7954 and 7955 was based upon his claim of right as a riparian owner rather than upon any interference with his proposed appropriation under Application 7849. The question as to whether or not he was in a position to claim a riparian right was discussed at some length at the hearing and briefs were submitted by both applicant and protestants in support of their contentions. The fact remains however that even should Mr. Hansen have a valid riparian right to divert water from Sandia Creek, he has used no water from the Creek except very occasionally for domestic purposes when camping on the property and, as stated above, it is contrary to the practice of this office to deny an application to appropriate because of a prospective future use by a riparian owner.

#### CONCLUSION

While it is probably true that the pumping operations as proposed under Applications 7954 and 7955 may lower the water table and create an

underground basin or reservoir which would decrease the water available under Application 7849 to a certain extent it is believed, from figures submitted by applicant Hansen himself, that during a year of normal runoff he will be able to collect the 400 acre feet to storage during the winter and spring months from the flood flows. In fact he has applied for flood flows only, and, with the data before this office, it would be inadvisable to place any restrictions upon the approval of the applications of Machamer and Marchant other than those usually employed.

It is very doubtful if  $2\frac{1}{2}$  cubic feet per second can be obtained by the pumping operations of these applicants. However it appears that the pumping operations of one will interfere but little with the pumping operations of the others as each will probably unwater only a small amount of gravel in his near vicinity which voids will be filled independently by the rainfall and freshets of the succeeding winter before the effect can be felt by lower users.

While Mr. Hansen feels that should Applications 7954 and 7955 be approved there will be no water available for appropriation by him under Application 8007, it is believed that at times such water may be available and can be directly diverted from the surface flow as proposed, thereby augmenting the supply which may be available under Application 7849 during the early irrigation season. In any event, he is below the other applicants on the stream and no injury can inure to them by the approval of Application 8007.

The fact remains that should Mr. Hansen's riparian right be established he will be in a position to use his share of the water from



Sandia Creek in conjunction with all other riparian claimants on the stream including Messrs. Machamer and Marchant and the approval of Applications 7954 and 7955 should in no way be construed as permitting the upstream applicants to appropriate any water which Mr. Rensen may in the future ultimately and rightly claim as a riparian proprietor.

It is the opinion of this office that all protests against Applications 7849, 7954, 7955 and 8007 should be dismissed and that they should be approved subject to the usual terms and conditions.

O R D E R

Applications 7849, 7954, 7955 and 8007 for permits, 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 informed in the premises:

IT IS HEREBY ORDERED that Applications 7849, 7954, 7955 and 8007 be approved and that permits be granted to the applicants 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 26th day of June, 1935.

EDWARD HYATT, State Engineer

BY Harold Conkling  
Deputy

