

Before the Division of Water Resources
Department of Public Works
State of California

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In the Matter of Application 10211 of United States of America
to Appropriate from Salinas River for Domestic and
Municipal Purposes, Application 10216 of City of San
Luis Obispo, a Municipal Corporation, to Appropriate
from Salinas River for Municipal Purposes, and Appli-
cation 10238 of Santa Margarita Land and Cattle Com-
pany to Appropriate from Salinas River for Irrigation
and Domestic Purposes

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Decision A. 10211, 10216, 10238 D. 481

DECIDED *October 9, 1941*

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APPEARANCES AT HEARING HELD AT SAN LUIS OBISPO ON SEPTEMBER 30, 1941.

For Applicants

United States of America

A.I. Winsett
Lt. James C. Orr

City of San Luis Obispo

Fred C. Kimball, Mayor
M.A. Fitzgerald, City Attorney
R.P. Howell, Councilman

Santa Margarita Land & Cattle Co.

Frederick H. Hawkins

For Protestants

Santa Margarita Land & Cattle Co.

Frederick H. Hawkins

City of El Paso de Robles

John J. Hutchins, City Attorney
H.T. Johnson, City Engineer

San Luis Obispo Water Works Dist. #5

R. B. Mann

Albert R. Horstmamm

No appearance

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

O P I N I O N

Essential Features of the Applications

Application 10211 was filed by the United States of America on May 27, 1941. It proposes appropriations of 12.4 cubic feet per second and 45,000 acre feet per annum from the Salinas River in San Luis Obispo County for domestic and municipal purposes at Camp San Luis Obispo and vicinity within T 30 S R 11 E and T 30 S, R 12 E, M.D.B.M. The point of diversion is located within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 8, T 30 S, R 14 E, M.D.B.M. The season of direct diversion is throughout the entire year; the season of diversion to storage extends from November 1 to June 30 of each season.

Application 10216, filed by the City of San Luis Obispo on June 4, 1941, is identical with Application 10211 with the exception that the use is for municipal purposes only and the place of use is described as being the City of San Luis Obispo and vicinity in Sections 25, 26, 27, 34, 35, 36, T 30 S, R 12 E, M.D.B.M.

Application 10238 was filed by Santa Margarita Land and Cattle Company on July 10, 1941. It proposes appropriations of 25 cubic feet per second and 15,000 acre feet per annum from the Salinas River in San Luis Obispo County for irrigation and domestic purposes within the boundaries of the Rancho Santa Margarita. The point of diversion is located within the N $\frac{1}{2}$ of N $\frac{1}{2}$ of Section 8, T 30 S, R 14 E, M.D.B.M. which is the approximate location of the point of diversion named in Applications 10211 and 10216. The application has not yet been completed and has not been advertised.

Protests

Application 10211 was protested by the Santa Margarita Land and Cattle

Company. This protestant claims a right to the use of water from the Salinas River which right is based upon the ownership of Santa Margarita Rancho consisting of some 20,400 acres of land, a portion of which is riparian to the Salinas River below the proposed point of diversion. It alleges in effect that the water of the Salinas River has been used for many years for stock watering and agricultural purposes and claims that the amount of water which applicants seek to appropriate exceeds the flow of the Salinas River in some seasons and that should Application 10211 be approved it would deprive the protestant of water to which it is entitled.

Application 10216 was protested by the following:

Santa Margarita Land and Cattle Company
City of El Paso de Robles
San Luis Obispo Water Works District #5
Albert R. Horstmann

The protest of the Santa Margarita Land and Cattle Company is the same as the protest filed against Application 10211 of the United States of America.

The City of El Paso de Robles claims a present use of 4 acre feet per day of water from the Salinas River under claim of riparian ownership and continuous use since 1889 for municipal, domestic and irrigation purposes. It alleges in effect that the use will increase with the growth of the City and that if Application 10216 is approved it will result in depriving the City of an adequate water supply.

San Luis Obispo Water Works District #5 claims a right to 150 acre feet per annum based upon past use and alleges in effect that the approval of Application 10216 would result in the depletion of its water supply.

Albert R. Horstmann claims a right to 131 acre feet per annum from

the Salinas River from May 1 to November 1 of each year which right is based upon riparian ownership and use. He alleges in effect that the approval of Application 10216 would result in the depletion of his water supply.

Hearing Set in Accordance With
Section 1a of the Water Commission Act

Applications 10211 and 10216 were completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Resources and being protested were set for public hearing on Tuesday, September 30, 1941 at 10:00 o'clock A.M. in the Supervisor's Chambers, Court House, San Luis Obispo, California. Although Application 10238 was incomplete and unadvertised it was also included for hearing at the same time and place with the understanding that the hearing would not be determinative with respect thereto unless all of the interested parties were willing to stipulate to a waiver of further hearing. Of this hearing applicants and protestants were duly notified.

General Discussion

There is on file with the Division of Water Resources much information relative to the existence of unappropriated water in the Salinas River. For many years the U.S. Geological Survey under its cooperative agreement with the State of California has maintained gaging stations on the Salinas River and its tributaries and in 1931 the Division of Water Resources in cooperation with the counties of Monterey and San Luis Obispo made a preliminary investigation of the available water supplies of the river and its tributaries. Since that time the United States Army Engineers have also conducted an investigation and further information as a result thereof has been brought to our attention.

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It appears that an average flow of between 400 and 500/acre feet of water passes into the ocean without having served any useful or beneficial purposes. This water is undoubtedly subject to appropriation under the Water Commission Act.

Application 10211 being the first application filed for the appropriation of this water should therefore be approved. As Application 10216 of the City of San Luis Obispo is in effect the same appropriation sought by the United States of America except that it is for use in the City of San Luis Obispo and vicinity should the United States of America abandon its prior appropriation either in whole or in part, Application 10216 should also be approved. A special clause or condition, however, should be inserted in any permit issued in approval of Application 10216 to the effect that the total amount of water diverted under the application and permit together with that diverted under any permit which may be issued in approval of Application 10211, should not exceed 12.4 c.f.s. by direct diversion and 45,000 acre feet per annum by storage. No further special provisions should be incorporated in the permits to safeguard vested rights as it is assumed that they are fully protected under the standard clause #7 which is a part of each permit issued by the Division on applications to appropriate and which is quoted as follows:

"All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Division of Water Resources in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Under this clause the Division maintains continuing supervision and

a committee of engineers representing the County of San Luis Obispo and County of Monterey, the U.S. Army Quartermaster Corps. and the Division of Water Resources has been charged with gathering sufficient information to enable the Division to lay out an operating program for the reservoir.

Relative to Application 10238 action upon this application should be withheld until further order is entered.

O R D E R

Applications 10211, 10216 and 10238 for permits to appropriate water having been filed with the Division of Water Resources, protests having been filed against the approval of Applications 10211 and 10216, a public hearing having been held and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 10211 be approved and that a permit be issued subject to such of the usual terms and conditions as may be appropriate, and

IT IS FURTHER ORDERED that Application 10216 be approved and that a permit be issued subject to such of the usual terms and conditions as may be appropriate and a special term or condition as follows:

"The total amount of water diverted under this application and permit together with that diverted under Application 10211, Permit , shall not exceed twelve and four tenths (12.4) cubic feet per second by direct diversion and forty five thousand (45,000) acre feet per annum by storage".

and,

IT IS FURTHER ORDERED that action upon Application 10238 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 9th day of October, 1941.

EDWARD HYATT, STATE ENGINEER

BY Harold Conkling
Deputy

