

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

In the Matter of Application 10661 of California Water and Telephone Company to Appropriate from Sweetwater River in San Diego County for Domestic, Irrigation, Industrial, and Municipal Purposes.

cOo

Decision A. 10661 D. 507

Decided: Dec. 2, 1943

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APPEARANCES AT HEARING HELD AT SAN DIEGO ON NOVEMBER 1, 1943:

For Applicant

California Water and Telephone Co. }

Tadini Bacigalupi  
P. S. Thacher

For Protestants

Joseph L. E. Bennett and Mary Bennett  
Warren T. Myers

Fred O'Farrell  
In propria persona

Examiner

Harold Conkling, Deputy State Engineer 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

Application 10661 of California Water and Telephone Company was filed with the Division of Water Resources on June 17, 1943. It proposes appropriations from the Sweetwater River, tributary to San Diego Bay, of an amount of water not to exceed 30.94 cubic feet per second for diversion throughout the year to be directly applied to beneficial use without storage and of an amount of water not to exceed 27,700 acre-feet per annum to be diverted throughout the year to storage in the proposed Sweetwater Falls Reservoir

(capacity 27,700 acre-feet) and to be subsequently released and applied to beneficial use. The water is to be diverted at the Sweetwater Falls Dam to be constructed within the SW 1/4 of NE 1/4 of Section 17, T. 16 S - R. 2 E. S.B.B.& M. and rediverted at the present Sweetwater Dam, which is located about 18 miles below, for domestic, irrigation, industrial and municipal uses at Chula Vista, National City and unincorporated territory contiguous thereto in Rancho de la Nacion comprising some 5,000 acres.

#### Protests

Joseph L. E. Bennett and Mary Ida Bennett claim a right to the use of the waters of Sweetwater River which right is based upon riparian ownership and continuous use for irrigation and stockwatering purposes since 1895, to the extent of 1500 gallons per minute. They own two tracts of land, one containing 10 acres of land upon which two wells have been sunk and one containing 72.54 acres upon which one well has been sunk. These tracts are on the Sweetwater River about 10 miles below the proposed point of diversion of the applicant. They allege in effect that all of their land is susceptible of irrigation and that about one-half is now being irrigated and that if Application 10661 were approved it would deprive them of water to which they are entitled.

Warren T. Myers also claims a right to the waters of the Sweetwater River by virtue of riparian ownership and use commenced prior to December 19, 1914, the effective date of the Water Commission Act. His point of diversion (well) is located about 8 miles below the site of the proposed Sweetwater Falls Dam. The water is used for the irrigation of 20 acres of land. He alleges in effect that the proposed diversion by the applicant would deplete the underground water from which he pumps, causing the water to recede to a dangerously low level during dry cycles, and permit the growth of brush in the river channels which would cause the river to overflow its banks in flood periods.

Hearing Held in Accordance with Chapter 5 of the Water Code

Application 10661 was 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, was set for public hearing in accordance with Chapter 5 of the Water Code, on Monday, November 1, 1943, at 1:30 P.M. in the Court Room of the District Court of Appeals, Fourth Appellate District Electric Building, San Diego, California. Of this hearing, applicant and protestants were duly notified.

General Discussion

It appears entirely clear from the testimony and exhibits presented at the hearing, and from the records of this office, that there is sufficient unappropriated water in Sweetwater River to justify the approval of Application 10661.

Exhibit 3 of applicant indicates that from the upper end of the proposed reservoir to San Diego Bay there are 23,808 acres of privately owned riparian land of which the owners of only 846 acres still exert their riparian claims and the owners of 114 acres only have objected to the approval of Application 10661.

The lands of the protestants, W. T. Meyers, Joseph L. E. Bennett and Mary I. Bennett, are located in Jamacha Valley from eight to ten miles below the site of the proposed Sweetwater Falls Dam. This Valley extends along the Sweetwater River from a point about 2 miles east of Sweetwater Reservoir to the confluence of the Sweetwater River and its north fork, a distance of about 11 miles. The valley fill varies in width from 200 feet to 1400 feet and has a surface area of some 1030 acres. The drainage area above the lower end of this valley and below Sweetwater Falls Dam is approximately 70 square miles. At the present time there are only approximately 380 acres in the valley which are being irrigated, although as many as 800 acres have been under irrigation.

C. H. Lee, in U. S. G. S. Water Supply Paper 446, page 154 (also shown in Applicant's Exhibit 2) estimates the safe annual yield of the Jamacha Valley Basin (Sweetwater, upper) as being 1870 acre-feet. In computing this safe yield Mr. Lee determined the volume of water that was normally held in the valley fill and that could be extracted during a 3-year period, it being assumed that no replenishment took place during this period, that adequate replenishment would take place during the next year and that complete replenishment would take place before the occurrence of another 3-year drought. This volume was estimated as being 5620 acre-feet.

Mr. P. E. Magestadt, engineer for the Sweetwater Water Corporation, predecessor of the applicant, during the year 1930 conducted an investigation of the water supply of the Jamacha Valley, as a result of which he concluded that the volume of water which was extractible from the basin was 10,400 acre-feet. (See Applicant's Exhibit 2)

While there is a marked difference between these estimates, it would appear that the proposed appropriation would have little if any effect on protestants' water supply. Although there is a possibility that their pumping costs may be increased by a lowering of the ground water table, it has been the well established policy of the Division that protestants have no right to insist upon maintenance of water level for the sole purpose of facilitating pumping, but must yield to the public policy and welfare declared in Chapter 1, Division 1, of the Water Code.

To what extent the proposed diversion of the applicant would affect the pumping operations of the protestants can only be determined by keeping records of the fluctuation of the ground water levels in the valley together with rainfall and runoff records. To this end applicant has agreed to supply quarterly measurements of the water levels at 8 different wells in the Valley and also rainfall and runoff records at Sweetwater Dam and at Sweetwater Falls Dam.

From these records the Division will be in a position to determine the extent of any injury which may result to the protestants as a result of the appropriation and to take such steps as may be necessary to remedy the condition. The protestants apparently concurred with the arrangement and Application 10661 may, therefore, be approved.

In order that this arrangement may be made a part of the permit, the following term or condition should be incorporated in the permit.

On issuance of this permit the permittee shall cause records to be taken of the elevation of the ground water levels at quarterly intervals in such wells as will in the judgment of the State Engineer furnish an adequate determination of the effect of this diversion on the behavior of the water table underlying Sweetwater River Valley; shall keep accurate rainfall records at Sweetwater Dam and at Sweetwater Falls Dam; shall maintain records of discharge of Sweetwater River at Sweetwater Dam and at Sweetwater Falls Dam; and shall furnish copies of all such records annually or on demand to the State Engineer.

#### O R D E R

Application 10661 for a permit 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 informed in the premises:

IT IS HEREBY ORDERED that Application 10661 be approved and that a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to the following special term or condition, to wit:

On issuance of this permit the permittee shall cause records to be taken of the elevation of the ground water levels at quarterly intervals in such wells as will in the judgment of the State Engineer furnish an adequate determination of the effect of this diversion

on the behavior of the water table underlying Sweetwater River Valley; shall keep accurate rainfall records at Sweetwater Dam and at Sweetwater Falls Dam; shall maintain records of discharge of Sweetwater River at Sweetwater Dam and at Sweetwater Falls Dam; and shall furnish copies of all such records annually or on demand to the State Engineer.

WITNESS MY HAND and the seal of the Department of Public Works of the State of California, this 2 day of Dec 1943.

EDWARD HYATT, STATE ENGINEER

By Harold Conkling  
Deputy State Engineer

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