

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 11852 by Russell Thibodo to Appropriate
Water from Buena Vista Creek Tributary to Pacific Ocean in San Diego
County for Domestic Purposes and Irrigation.

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Decision A. 11852 B. 719

Decided September 17, 1951

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APPEARANCES AT HEARING HELD AT SAN DIEGO ON AUGUST 3, 1950:

For the Applicant

Russell Thibodo

George Crosswell

For the Protestants

Robert E. Overell

Hosp Eucalyptus Forest Company

Buena Vista Lagoon Association

Claud J. Fennel

Phil D. Swing

Mrs. Kenyon Keith

J. C. & Elizabeth T. Clark

Florine M. Massena

Carroll R. Kelly

For the Protestants (cont.)

Jessie B. Hayes	(Ferdinand T. Fletcher (A. L. Sonderegger
Abraham Marron	Grandall Condra
National Audubon Society	Mrs. J. H. Comby
Los Angeles Audubon Society	Mrs. Alice Lewis
Calif. Audubon Society	Mary F. Coble
Army and Navy Academy	Dr. C. Atkinson
Mrs. Roger De Loach) In Person
Laura A. Kemmer	
James R. Weisner	
C. F. Hammond	
Mrs. John P. Speiger, Soila B. Ames Ida Benson Juanita De Wilde) John A. Speiger

EXAMINER - GORDON ZANDER, Principal Hydraulic Engineer, Division of
Water Resources, Department of Public Works, for A.D. EDMONSTON, State
Engineer.

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OPINION

General Description of the Project

The application (as amended) contemplates an appropriation of 600 acre-feet per annum from Buena Vista Creek in San Diego County for domestic purposes and irrigation. The proposed point of diversion is described as lying within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, T 11 S, R 4 W, SBB & M. The collection season is to extend throughout the year and the collected water is to be stored behind an earth dam 37 feet high by 200 feet long in what is to be known as Russell Reservoir; the latter to be 48 acres in surface area and 600 acre-feet in capacity. The project includes a 300 gallon-per-minute pump and 20,000 lineal feet

of 6-inch welded steel pipe line, rising a total of 300 feet. The place of use is described as being located within Section 31, T 11 S, R 3 W, SBB & M. Two hundred acres of orchard are to be irrigated, the irrigation season extending from about May 1 to about November 30. Domestic use is to include service to 20 one-half acre home sites, at which 75 persons and 40 head of livestock in all are to be supplied. No other water right or source of water supply is claimed.

Protests

Florine M. Massena while disclaiming actual use of water from the source filed upon states that the water surrounding her property (presumably meaning Buena Vista Lagoon) has been a refuge for wild life and a source of great beauty; that she is building a residence at great expense; that certain of her neighbors have done likewise; that a dry lagoon would not only deflate the value of abutting property but would be disastrous to wild life and would endanger public health. She states it to be her understanding that diversions by Applicant Thibodo during 1947 caused the lagoon to go completely dry and that as a result all wild life disappeared.

J. C. and Elizabeth T. Clark state that due to the drying up of Buena Vista Lagoon the value of their residential property representing an outlay of over \$35,000 will be materially lessened; that their residence is situated on the shore of the lagoon which is beautiful but will become an unsanitary mud flat if Application 11852 is approved; that use by them of water from the source in question consists of property value enhancement; and that their protest may be disregarded if sufficient water can be maintained in the lagoon at all times.

Jemie B. Hayes asserts that there is no water in Buena Vista Creek subject to appropriation over and above the requirements of riparian owners and other vested rights; that the proposed dam will cut off the entire flow of Buena Vista Creek upon which she and her lands are dependent; that she bases her claim of a water right upon riparian ownership. She claims to have used water from this source since 1936 for the domestic needs of one family, the operation of a small dairy, the irrigation of pasturage and stock watering. Since November 1, 1945, she states, 60 acres of pasturage have been irrigated and 40 to 60 head of cattle watered, her conduit heading in Buena Vista Creek about one mile west (downstream) from the applicant's proposed point of diversion.

Robert E. Overall, et al., protest that the applicant's proposed diversion will result in the drying up of Buena Vista Lagoon which they assert to be 200 acres in extent and a valuable asset to the communities of Oceanside, St. Malo and Carlsbad. They assert that all established homes and properties in the vicinity would depreciate seriously if the lagoon should dry up. They state that the waters of Buena Vista Creek have been used beneficially for over eight years in maintaining the lagoon as a bird sanctuary and that expensive pipe installations have been made to so control the water level therein as to provide a feeding ground and safe refuge for wild fowl. They apprehend that the drying up of the lagoon will give rise to unsanitary conditions. They represent that the lagoon, a large, safe body of smooth water, suitable for pleasure boating, is a valuable recreational asset. The 17 signers

of the protest represent themselves to be owners of property adjacent to Buena Vista Lagoon and or citizens of Oceanside, St. Malo and Carlsbad.

Hosp Eucalyptus Forest Company alleges that the proposed appropriation will dry up or greatly diminish the size of Buena Vista Lagoon thereby converting the lagoon, a beautiful body of water and valuable as such to adjacent property owners, into an unsightly and unhealthful mud-hole, to the detriment of property values and the health and comfort of residents. It alleges that the value of the lagoon as a wild life refuge and bird sanctuary would be impaired and its aesthetic value as a park and recreational area lessened. It alleges that this protestant would sustain heavy financial loss due to the depreciation of its property, purchased in reliance upon the continued existence of the lagoon. It asserts that it plans to improve its property and for that purpose is currently digging a well. It represents that the lagoon operates as a fresh water barrier against salt water intrusion.

Buena Vista Lagoon Association protests that the project in question would diminish in size if not dry up entirely the Buena Vista Lagoon, to the detriment of Association members and abutting property owners. It predicts that the lagoon would become an unsightly and unhealthful mud hole and that property values as well as the health and comfort of residents would suffer in consequence. It alleges that impairment if not destruction of the lagoon as a wild life refuge and bird sanctuary, for which purpose it has been officially reserved and dedicated, destruction of the lagoon as a park and recreation facility, now enjoyed by both local citizens and the general public, and serious depreciation of property values will result if Application 11852 is

approved. This protestant claims a right to the water in question by virtue of riparian ownership and littoral and prescriptive rights. It asserts use for over ten years of the annual flood waters and natural flow of Buena Vista Creek over and above present use by riparians, stating such use to have been the maintenance of water level in the lagoon. It asserts ownership of six parcels of land comprising 28.75, 8.13, 1, 19, 3, and 24.17 acres, respectively, and describes its diversion point as being located within Section 32, T 11 S, R 4 W.

Carroll R. Kelly represents that the proposed diversion will substantially reduce, if not entirely cut off, the surface and sub-surface flow of Buena Vista Creek, the principal source of supply of the underground waters from which, by means of a well on his own property, he obtains water for domestic purposes and stock watering. He represents further that the proposed diversion will destroy or substantially reduce the effectiveness of the fresh water barrier between his property and the salt water of the ocean and of the lagoon, and will permit the intrusion of salt water under his lands and into his well. He claims to pump 1000 gallons per day from his well, located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T 11 S, R 4 W, SBB & M.

Claud J. Fennel, et al., and Mrs. Kenyon Keith, et al., filed group protests bearing 42 and 13 signatures, respectively. These protests contain allegations substantially identical with those contained in the protest by Robert E. Overall, et al., already summarized.

No formal answer to any of the protests was submitted by the applicant.

Besides the protests above summarized, some 182 communications -- telegrams, letters and postcards -- have been received in

opposition to the proposed development. One hundred thirty-six of them are based upon the allegedly adverse effect of the proposed diversion upon the wild life heretofore frequenting Buena Vista Lagoon, 29 contain objections based upon the allegedly adverse effect upon property values, 13 complain of the loss to the locality that the threatened impairment of its attractiveness to visitors would cause, and the remainder register objections for miscellaneous or unstated reasons.

Hearing Held in Accordance with the Water Code

Application 11852 was completed in accordance with the Water Code and the Rules and Regulations of the Division of Water Resources and, being protested, was set for public hearing under the provisions of Article 13, Section 733(a) of the California Administrative Code on Thursday, August 3, 1950, at 10:00 A.M. in the Chamber of Commerce Auditorium, San Diego, California. Of the hearing the applicant and the protestants were duly notified.

Motion to Dismiss

At the hearing of August 3, 1950, Attorney Fletcher (representing Protestant Hayes) moved (page 68 of transcript) that the application be dismissed on the ground of insufficiency of evidence that there is any surplus water available for appropriation. Attorney Condra (representing Protestant Marron) joined in Attorney Fletcher's motion to dismiss (page 69 of transcript).

Discussion

The following appearances, included also in the listing of appearances on page 2 supra, were made by or on behalf of parties who had not filed formal protests prior to the hearing:

Crandall Condra, Attorney at Law, for Abraham Marron
Mrs. J. H. Comby, for the National Audubon Society
Mrs. Alice Lewis, for the Los Angeles Audubon Society
Mary F. Coble, for the California Audubon Society
Dr. C. Atkinson, for the Army and Navy Academy
Mrs. Roger De Loach, for herself
Laura A. Remer, for herself
James R. Meisner, for himself
C. P. Hammond, for himself
John A. Speiger, for Mesdames John P. Speiger, Soila B. Ames, Ida Henson and Juanita De Wilde

As a preliminary to the presentation of his case the applicant (through his representative, Engineer Cromwell) amended the application by reducing the amount stated therein from 2035 to 600 acre-feet per annum, reducing the acreage to be irrigated from 600 to 200 acres and scaling down related elements of the application accordingly.

In presenting the applicant's case Engineer Cromwell stated in substance that the applicant seeks only to appropriate flood waters which flow into Buena Vista Lake and become unfit for agricultural or domestic use, that the drainage basin tributary to the proposed reservoir is 14 square miles in extent, that 7 additional square miles are tributary to

Buena Vista Lagoon and that that lagoon is brackish. Taking the stand, Engineer Cromwell testified on the basis of analyses that the salt content of the water in the lagoon is approximately one-fourth that of ocean water, that the introduction of fresh water into the lagoon is not a beneficial use of such water since commingling therein with salt water makes it unfit for agricultural or domestic use, that its present stagnant condition makes the lagoon a breeding place of mosquitos and water gnats, that that undesirable condition could be remedied by opening the lagoon to tidal action, that the local fresh water supply is limited but the salt water supply is limitless, and that while salt water will not grow crops water fowl would use salt water ponds as a refuge. On cross examination Engineer Cromwell testified that he (and/or the applicant) intended to settle or come to an agreement with downstream water users, that no provisions are being made by him and/or by the applicant for the maintenance of the lagoon, that he and the applicant expect to have to release the summer flow and a portion of the winter flow of the creek, that the applicant's 306 acres of riparian land are entitled to a share of the natural flow, that under the application permission is sought to export flood waters out of the watershed, that some 300 to 350 acres of downstream riparian land deserve to share in the natural flow of the stream, that the amount of water to which that acreage is entitled has not been estimated, that it is his belief that 300 acre-feet of flood waters have occurred in every recent dry year, and that the applicant's Exhibit No. 2 shows what they believe the tributary runoff at the dam site to have been for a number of years.

Other relevant items of testimony at the hearing are as follows: Applicant Thibodo testified (Pages 30 and 31 of transcript) that he acknowledges his responsibility to downstream riparian owners. Dr. Brody testified (Page 38 of transcript) that he owns land within Buena Vista Lagoon, that he thinks the lagoon is a detriment, that there are algae over all of his land excepting a dike that is itself covered with vegetation conducive to the growth of mosquitos and other pests, that it would benefit the community if the lagoon were filled with salt water instead of with the present mixture. Frank Thibodo (the applicant's father) testified (page 45 of transcript) that he does not know what the normal flow of the stream is but believes that as a result of reducing the amount applied for there is plenty of water for everybody. Applicant Thibodo testified (page 49 of transcript) that it is agreeable to him to measure the amount of water going through his land during the summer months and let that same amount of water flow past his dam. Engineer Cromwell testified (page 52 of transcript) that all water that would be used in summer (by downstream users) might total 300 acre-feet. Witness Williams testified (page 54 of transcript) that in his opinion wild fowl will use that reservoir as freely as they would use Buena Vista Lagoon; that bird flights commence in late August and early September and extend through the winter, that birds prefer shallow to deep water, and that reservoir fluctuation does not deter birds from using a reservoir. Engineer Cromwell further testified (page 59 of transcript) that the area of the proposed reservoir under the application as amended will be 48 acres, that gross evaporation at the reservoir site is about 56 inches, that mean rainfall in the locality is about 16 inches, that the annual evaporation loss from the reservoir would probably amount to 100 acre-feet.

Engineer Cromwell testified (page 61 of transcript) that his estimate of runoff at Russell reservoir site is based upon records of runoff from the Henshaw watershed which is 205 square miles in extent, some 50 miles distant, some 2500 feet more elevated. He explains that runoff within the coastal basin averages 70 acre-feet per square mile as compared with 150 acre-feet per square mile above Henshaw and that a 5% allowance representing his judgment in the matter has been made for return water from Vista Irrigation District, entering the Russell Reservoir watershed. He states that there are no continuous records of runoff within Buena Vista watershed, that a weir was installed, that some observations were recorded but that it was impossible to maintain the weir. He terms his estimate an intelligent guess and states "that is what you have to do in a case like that because you don't have anything better." In that connection he mentions having had 45 years experience in such matters.

At that juncture in the proceedings Attorney Fletcher made his motion that the application be dismissed for insufficiency of evidence of the existence of unappropriated water. The showing made on behalf of the applicant while neither exhaustive nor conclusive nevertheless points to the probability that runoff from the watershed exceeds irrigation and domestic requirements. This office is of the opinion that a presentation by the protestants is essential to a proper determination of the issues and therefore denies the motion.

Witness A. L. Sonderegger, a consulting engineer, next testified (page 71 et seq. of transcript) that he undertook on behalf of Protestant Hayes a study of the Buena Vista Creek watershed, that his study indicates that Buena Vista Creek is a perennial stream, that the flow of that stream

measured 63.35 miner's inches on May 13, 1948, 31 miner's inches on October 31, 1948, and 19.3 miner's inches on July 26, 1950. He concluded that the estimate contained in applicant's exhibit No. 2 is rather high. He states that in his opinion runoff in dry years would be about enough to satisfy downstream riparian rights. He testified that the logical result of impounding flood waters would be to lower the water table underlying downstream lands and to allow salt water to intrude.

Witness Fred Hayes (husband of Protestant Jennie Hayes) testified (page 91 of transcript) as to use of water on the Hayes property, mentioning domestic consumption in the amount of some 4200 gallons per day, irrigation of from 40 to 45 acres and stock watering. He testified that he might irrigate up to 150 acres if the water supply permitted and that he was contemplating the filing of an application to appropriate.

Witness Abraham Marron testified (page 99 of transcript) that his land lies just west of Applicant Thibodo's and that he irrigates 30 acres.

Witness John Steiger testified (page 107 of transcript) that his family owns 100 acres downstream from the proposed dam, that water on that property has always been insufficient even for domestic purposes.

Witness Laura Kemmer testified (page 110 of transcript) that she recently purchased a \$35,000 home fronting the lagoon, that she chose it because she liked the location, and that if the lagoon is dried up her property will be damaged greatly.

Mrs. Kenyon Keith testified (page 118 of transcript) that she owns a tract at St. Malo Beach, facing the lagoon, that she and her husband bought the tract largely because of the existence of the lagoon which was an inducement to people to buy lots into which the tract was being subdivided. She testified that if the lagoon dries up the market value of her 12 remaining lots will drop substantially, that her \$25,000 home will drop at least 50 per cent. She testified that there are five large drainage pipes with gates at the mouth of the lagoon, installed about 1936, operated when the water in the lagoon gets too high but not operated for the last two or three years, the lagoon being too low to require it.

Elizabeth T. Clark testified (page 125 of transcript) that she and her husband live "on the lagoon," that their home was purchased in 1947, that it cost \$35,000, that its value depends in part upon its slight view of the lagoon, that without the lagoon its value would be substantially lessened. She testified that there are no unpleasant odors or gnats or mosquitos.

C. P. Hammond testified (page 128 of transcript) that he owns 1350 feet of lagoon frontage which he bought in 1947 and is subdividing, that it is valuable mainly because it is a desirable water location, that its value would diminish 40 per cent or more if the lagoon is diminished in size or in freshness, that contractors have estimated that facilities for the maintenance of water level in the lagoon by introducing ocean water would cost \$250,000.

Claud J. Fennel testified (page 134 of transcript) that the Buena Vista Lagoon Association owns property on the lagoon, that the

Hosp Eucalyptus Forest Company does also, that within that area is a public picnic ground and recreational area, having a view of the lagoon and the birds thereon and that it is a very pleasant spot, much frequented by the public. He testified further that property facing the lagoon is much more valuable than property not so facing, that the lagoon is not in good condition now because of drouth conditions of the last three or four years and that real estate activity has slowed down correspondingly. Mr. Fennel stated the apparent attitude of the home owners of the locality in testifying (page 145 of transcript):

" . . . we don't want what water nature does provide to come down there taken away. Otherwise we would be dry all summer. The conditions which give us some water now are the rains in the winter time which are impounded there by a high dike on the ocean front which we would not have if the water were all taken and stored in a dam above us. These dry years make it much more important to have some runoff water than we do in wet years when the tubes that Mrs. Keith spoke of have to be opened to let the excess water out."

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" . . . these properties . . . have an inherent right in this water long before there was any thought of this or any other dam that would take this water away. Investments have been made based upon these values. Why should those values not be considered the same as a project to use the water up the canyon on a commercialized basis. It may be for agriculture. We feel we have a substantial value there which should not be disturbed."

Mrs. J. H. Comby on behalf of the National Audubon Society testified (page 149 of transcript) that that society is interested in preserving all places in the United States where wild life may flourish, that some fresh water should be kept in Buena Vista Lagoon, that the lagoon is the only natural lagoon south of San Luis Obispo, that the lagoon is a benefit in many ways, that its usefulness would be impaired if it were a salt water lagoon, and that it is important to sportsmen as a resting place for water fowl. Mrs. Comby presented a letter stating in effect that the Fish and Wild Life Commission will attempt to secure funds necessary for the establishment of the lagoon as a sanctuary and resting place for bird life.

Mrs. Neil Lewis, representing the Los Angeles Audubon Society protested (page 153 of transcript) that the sanctuary (the lagoon) would be destroyed by the diversion of the fresh water supply. The natural food supply for birds would be destroyed and the water table if lowered would permit salt water intrusion.

Mary F. Coble, treasurer of the California Audubon Society and acting editor of Phainopepla, testified (page 156 of transcript) that the lagoon as a sanctuary is a valuable resource, that it is oil-free, that it is an excellent nesting place for birds.

The estimate of runoff from the watershed above the applicant's proposed dam, as set forth in Applicant's Exhibit No. 2, cannot be regarded as accurate, based as it is upon a comparison of watersheds. Engineer Sonderegger in his testimony considers it somewhat high, yet ventures no estimate of his own. Engineer Cromwell frankly terms it an "intelligent guess." In the absence of a record based upon measure-

ments of the flow of Buena Vista Creek the deduced figures of Applicant's Exhibit No. 2 are accepted as a reasonable though rough approximation of true conditions.

Objections to the diversion proposed by the applicant are based upon two main reasons, viz., interference with diversions for irrigation and domestic purposes by riparian owners located below the proposed dam, and interference with the outflow from Buena Vista Creek watershed, allegedly necessary to prevent intrusion of ocean water underground and to keep Buena Vista Lagoon filled with fresh water.

The applicant in effect professes willingness to pass through his proposed reservoir such portion of the natural flow of Buena Vista Creek as is necessary to satisfy the rights of lower riparian users for irrigation and domestic purposes; and according to his Exhibit No. 2 and to his estimate of the requirements of the riparians he believes that Buena Vista Creek yields enough water to enable him to do this and to impound the water that he has applied for, too, in most of the years that his estimate covers.

As to the passage downstream of sufficient water to maintain Buena Vista Lagoon as a fresh water body, or to prevent contamination of wells by salt water intrusion the applicant apparently feels no obligation.

Objection to tampering with the flow of Buena Vista Creek expressed by the filing of formal protests, by the submittal of the 162 communications referred to in an earlier paragraph and by the appearance of interested parties other than formal protestants, at the hearing, is very strong. Many of the objectors contend that Buena Vista

Lagoon possesses advantages as a bird refuge that make it valuable to a considerable segment of the population, including particularly sportsmen, nature lovers and students of aquatic wild life. Other objectors contend that inasmuch as the lagoon makes the locality a pleasant place to live and many people have seen fit to locate there and build expensive homes in reliance upon the maintenance of the lagoon in status quo, the investments of these property owners should be protected against depreciation that would result from the loss of the lagoon's fresh water supply. Still others object to interference with the runoff of Buena Vista Creek which tends to prevent contamination of wells resulting from ocean water intrusion.

The Water Code provides (in Section 106) that it is established policy that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation. But the Code also declares (in Section 105) that the protection of the public interest in the development of the water resources of the State is of vital concern to the people of the State and that the State shall determine in what way the water of the State, both surface and underground, should be developed for the greatest public benefit. The Code also provides (in Section 1255) that the department shall reject an application when in its judgment the proposed appropriation would not best conserve the public interest.

In view of the Code provisions cited, the apprehension expressed by the protestants and numerous other objectors and the nature of the various objections, it is the conclusion of this office that action upon Application 11852 should be based upon consideration of public interests involved as well as upon the merits of the application itself.

That surpluses sometimes occur in Buena Vista Creek, there can be no doubt. "Five large drainage pipes with gates" were installed at the mouth of the creek, about 1936, to release water when the lagoon gets too high, according to testimony (page 121 of transcript). The capacities of the pipes and the quantities passed by them are unreported. Witness Keith testified, however, (on page 124 of transcript) "We don't always operate all five, we usually operate two or three at a time if necessary," and Witness Fennel's testimony (page 145 of transcript) implies that the pipes function in wet years only. Witness Fennel also testified (page 144 of transcript) "for the last three possibly four years we have had a drouth condition which has lowered our water level. . ." Applicant's Exhibit No. 2 shows runoff for the four most recent seasons (at Russell Reservoir Site) to have been respectively 960, 830, 950 and 800 acre-feet as compared with a 25-year mean of 1351 acre-feet. It is concluded that surpluses in the opinion of the people who operate the drainage gates, occur only in wet years, and, during such years, only at times of flood crests. It is concluded further that in the opinion of the protestants and other objectors water that is not released by the opening of the drainage gates serves a useful purpose in maintaining the status quo of the lagoon and is not to be considered surplus.

The testimony reflects a strongly expressed and widespread insistence by representatives of various interests upon the undisturbed inflow of Buena Vista Creek into Buena Vista Lagoon. The utilization of the flow of Buena Vista Creek to maintain the surface of the lagoon at a level satisfactory to the residents along its shore, to the wild life interests and to the general public is deemed a beneficial use. The appro-

priation for another purpose of water so used is plainly contrary to the public interest.

The frequency of occurrence of surpluses above the amounts needed to maintain a satisfactory water level in the lagoon cannot be evaluated exactly from the available data. Applicant's Exhibit No. 2, which shows the estimated total runoff at Russell Reservoir site for each season from 1925-26 to 1949-50 both inclusive, is termed by its author "an intelligent guess." Engineer Sonderogger in his testimony (page 72 of transcript) states as his opinion that the estimated figures in that exhibit are "rather high." However, whether the figures in question are relatively high or low, no reason is seen to doubt that they are consistent among themselves and if as testified by Witness Fennel (page 144 of transcript) surpluses were non-existent during the seasons of 1946-47, 1947-48, 1948-49 and 1949-50 it is probable that surpluses were non-existent in at least 13 of the 25 seasons covered in Applicant's Exhibit No. 2.

Summary and Conclusions

The entire flow of Buena Vista Creek is beneficially used throughout most seasons for domestic and irrigation purposes and for the maintenance, substantially full, of Buena Vista Lagoon as a fresh water body. That such maintenance of the lagoon is a beneficial use, follows from the testimony that if the lagoon is not so maintained salt water will intrude into irrigated areas, values of property fronting the lagoon will depreciate and the recreational value of the lagoon to the public and its unique value as a bird refuge will both be impaired. Surpluses of water beyond the requirements for the purposes enumerated occur occasionally but in the minority of seasons. Such surpluses constitute an inadequate, because too intermittent, supply for the utilization proposed in Application 11852. In view of all the circumstances it is the opinion of this office that Application 11852 should be denied.

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ORDER

Application 11852 having been filed with the Division of Water Resources as above stated, protests having been filed, a public hearing having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 11852 be rejected and cancelled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 17th day of September , 1951.

A.D. Edmonston
State Engineer

SCW AD