

Southern Pacific Company

Los Angeles, California

March 1, 1971

IN REPLY PLEASE REFER TO

WSF Dept.

State Water Resources
Control Board
Room 1140, Resources Bldg,
1416 - 9th, Street,
Sacramento, California
95814

Attention: Mr. A. P. Cummings
(916) 445 9434

SUBJECT: Southern Pacific Transportation Company's Rights to divert from natural or developed flow or springs arising in Millard Canyon near the center of Section 32, Township 2 South, Range 2 East, S. B. B. & M., in the County of Riverside, State of California, water at the rate of .28 cubic feet per minute under following Applications and License numbers:

Application 553, License 659, 0.16 cu ft/Sec, 13 acres irrigation
and

Application 554, License 660, 0.12 cu ft/Sec, 19.5 acres Domestic, Stock watering and irrigation.

As per telephone conversation, 10:00AM February 23, 1971, we have completed and are enclosing Report of License for the years 1968, 1969 and 1970 on Application 553, License No 659. The reason for the telephone call was to ascertain why we had not received similar request & form for Application 554, License No 660 covering 0.12 cu ft/Sec.

Your records revealed Application 554, License No 660 had been erroneously transferred to the Cabazon County Water District with whom we have a conditional agreement covering water rights. Further, Reports required on that application and license are reportable on different three year periods. You advised that after the error has been corrected, the three year reporting period for Application 554, License No 660 could be changed to match that of Application 553 License No 559. This arrangement would be most desirable and would tend to eliminate future errors since both would become due and arrive at the same time. To enable you to effect this desired change, we have made additional Xerox copies of the report covering application 553 on which we have entered proper description covering application 554 after crossing out all information pertaining to 553. This has been done in red to preclude

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possibility of confusion. In accordance with your telephone instructions this enclosed report only covers the year 1970 for Application 554, License 660. Your records will reveal you already have on file reports covering years of 1968 and 1969, probably erroneously filed by Cabazon County Water District.

In order that there will be no doubt in your mind regarding proper ownership of rights to divert .12 cu ft per second under Application 554, License 660, we have made Xerox copy of our Agreement with Cabazon County Water District and are enclosing same for your ready reference. Our original rights totaled .78 cubic feet per second, & this conditional agreement is the only one which would effect those rights.

You will note on page 1, paragraph 2, the full legal description of our rights to divert water in amount .50 cubic feet per second. This right was conditionally conveyed to Cabazon County Water District in paragraph 5, 1. (a) at bottom of page 2, and continuing on page 3 through 1 (c).

The full legal description to divert an additional .28 cubic feet per second is contained on page 1, paragraph 3 which ends at the top of page 2. These are the rights covered by Application 553, License 559 and Application 554, License 660. They were not conveyed to the Cabazon County Water District. On the contrary, paragraphs (d) and (e) on page 3, reserves to our Company the right to divert .28 cu feet per second for domestic, stock watering, irrigation and other purposes for use on Section 32.

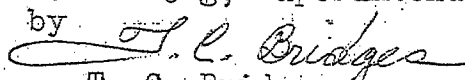
Since you advise there has been considerable correspondence in the past regarding Application 554, License 660, we can only conclude the error, if any, was of clerical nature, and not the intent of Management.

We trust the foregoing factual information places your offices in position to correct Water Resources Records, properly restoring Application 554, License 660 to Southern Pacific Transportation Company. Please advise on subject request. If additional information is required, please contact the undersigned.

Very truly yours

J. H. Long, Superintendent

by



T. C. Bridges
Water & Fuel Supervisor
2800 Kerr Street,
Los Angeles, Cal., 90039
Area code 213, 624 6161
Exts 44345 or 44634

Encls: 553, 68, 69, 70
554, 70
Copy of Agreement
dated 8-18-1961

cc: JHL
RW-DBM
JWZ
File (3)

March 24, 1971

Mr. J. H. Long, Superintendent
Southern Pacific Company
610 South Main Street
Los Angeles, California 90014

Attention: Mr. F. C. Bridges
Water and Fuel Supervisor

Subject: Licenses 659 and 660 (Applications 533
and 534) Millard Canyon, Riverside County

Dear Mr. Long:

This will reply to your letter of March 1 signed by Mr. Bridges concerning the Southern Pacific Company's rights to divert water from Millard Canyon.

Our information agrees with yours that the company was originally entitled to divert a total of 0.78 cfs by a combination of old appropriative rights dating back to 1877 and applications filed in 1917, all of which were included in the Whitewater River adjudication, Case No. 18935, and Certificates Nos. 667 and 668 issued pursuant thereto. We also agree that the company has retained the right to divert 0.28 cfs; however our records do not indicate that the company retained any interest in License 660.

In 1961 the company conveyed to Calaveras County Water District 0.50 cfs from its aforesaid adjudicated rights (paragraph 1(e) of the agreement dated August 18, 1961), leaving 0.28 cfs in the company's ownership. The conveyance to the district recognized the company's continued right to 0.28 cfs by reserving to the company the right to use such water and to maintain and use the facilities necessary to collect, divert and transport that water from the springs to Section 32 (paragraphs (d) and (e) on page 3 of the agreement). However, we interpret these provisions to refer to the 0.28 cfs which the company owned in addition to the 0.50 cfs which it conveyed to the district. Since the priorities are the same, we see no disadvantage to the company as the result of our interpretation. That this was the interpretation given by

Mr. J. H. Long,
Superintendent

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the company to the 1961 agreement is evidenced by the fact that in 1964 the company assigned License 660 for 0.50 cfs to the district. The company still owns License 659 for 0.16 cfs plus an additional adjudicated right to 0.12 cfs, making a total of 0.28 cfs, the quantity confirmed by Certificate No. 668.

Since this matter involves a legal interpretation of the agreement, I suggest that if you have any further questions you refer the documents to your attorneys for their review and opinion. A copy of this letter is being sent to Tobin and Gassner, attorneys for the Cabazon County Water District with a request that they inform us of the district's position.

Sincerely yours,

Gavin M. Craig
Chief Counsel

cc: Cabazon County Water District
Box 297
Cabazon, California 92230

Mr. T. C. Bridges
Water and Fuel Supervisor
2800 Kerr Street
Los Angeles, California 90039

Tobin and Gassner
Attorneys at Law
846 W. Foothill Boulevard, Suite N
Upland, California 91786