

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

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In the Matter of Application 10027 of Mrs. Minnie Davis,  
Application 10040 of W.M. Litchfield and Application 10041  
of Alvin S. McCollom to appropriate from La Paloma Canyon  
Canyon Tributary to Big Tujunga River in  
Los Angeles County for Domestic Purposes

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Decision A. 10027, 10040 and 10041 D.- 475  
Decided *March 27, 1941*

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APPEARANCES AT HEARING HELD MARCH 17, 1941, AT SACRAMENTO, CALIFORNIA.

For Applicants

Mrs. Minnie Davis  
W. M. Litchfield  
Alvin S. McCollom

No appearance  
No appearance  
No appearance

For Protestants

Department of Water and Power of  
City of Los Angeles

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

General Description of Projects

Application 10027 was filed by Mrs. Minnie Davis, W. M. Litch-  
field and Alvin S. McCollum on October 5, 1940 for the appropriation of  
water for domestic purposes on three lots owned separately by the appli-  
cants. As each party had a separate lot they were informed under date of  
October 9th that in order to comply with our Rules and Regulations, each  
party should have a separate filing and it was suggested that Application

10027 be assigned to one of the parties and that new applications be filed for each of the other two parties and that if desired, an agreement could be entered into between all parties whereby the three applications might have an equal priority. Consequently the interests of W. M. Litchfield and Alvin S. McCollum in Application 10027 were assigned to Mrs. Minnie Davis and Applications 10040 and 10041 were filed on October 17, 1940 by W. M. Litchfield and Alvin S. McCollum respectively with the understanding that the three applications would have an equal priority.

Each application is for the appropriation of 200 gallons per day to be diverted from La Paloma Canyon throughout the entire year for domestic purposes as follows:

<u>Application</u>	<u>Place of Use</u>
10027	Lot 53, Big Tujunga Special Use Tract within SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 3, T 2 N, R 13 W, S.B.B.& M.
10040	Lot 70, Big Tujunga Special Use Tract within SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 3, T 2 N, R 13 W, S.B.B.& M.
10041	Lot 72, Big Tujunga Special Use Tract within SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 3, T 2 N, R 13 W, S.B.B.& M.

#### Protest

All three applications were protested by the Department of Water and Power of the City of Los Angeles on the grounds that the proposed appropriation would interfere with its prior diversion and use under the paramount rights of the City of Los Angeles. Specifically protestant alleges in effect that it would deprive the Department of water flowing from La Paloma Canyon into Big Tujunga River and thence down Big Tujunga River to protestant's collecting gallery and pumping plant above Sunland, or the Van Owen wells in North

Hollywood, or flowing from the Big Tujunga River into the Los Angeles River to the Headworks gallery and wells, or the Crystal Springs gallery and wells, for the municipal uses of the City of Los Angeles.

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

Applications 10027, 10040 and 10041 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 17, 1941 at 10:00 A.M. in Room 401 Public Works Building, Sacramento, California. Of this hearing applicants and protestants were duly notified.

General Discussion

At one time the City of Los Angeles felt it necessary to protest each and every application which was filed for the appropriation of water which might eventually reach the City's intakes irrespective of the amount of water which applicants sought to appropriate. These protests resulted in numerous hearings many of which resulted in decisions adverse to the City as it appeared that many of the small flows, if not all, were lost by evaporation before reaching the City's intakes.

Later it was agreed that instead of appearing at a public hearing and presenting testimony or examining witnesses, the City would file with the Division a written statement of its position and that the hearing might be set at Sacramento with the understanding that no appearances need be made by either the applicants or the City.

Still later the Department of Water and Power of the City of Los Angeles agreed that it would not protest the approval of small domestic use applications as there was no certainty that such uses would actually result

in depriving the City of water to which it was entitled.

The protest of the Department of Water and Power against the approval of Applications 10027, 10040 and 10041 reverts to the original practice of the City to protest every application to appropriate from sources which are now or may in the future be required for the City's water supply and to the end that the policy of the Department not to protest applications for small domestic use might be re-established the matter was taken up with the Department by correspondence which resulted in the Department tentatively agreeing to file no protests against the approval of applications for small domestic use and small irrigation use for summer house sites and leaving the matter entirely to the judgment of the Division as to whether such applications should be granted (see letter received from protestant on March 3, 1941).

Prior to the tentative arrangement the matter of Applications 10027, 10040 and 10041 was set for public hearing at Sacramento with the understanding that protestant would not appear and the applicants were advised that it would therefore be unnecessary for them to appear. Decision therefore must be based upon the information now before us.

The Department bases its protest against the approval of Applications 10027, 10040 and 10041 upon possible interference with the paramount pueblo rights of the City of Los Angeles. The pueblo right declared in favor of a City however though paramount to all other rights, is not exclusive of other rights and until such a time as the City actually needs the water, that water may be appropriated by others. The Department under date of February 13, 1941 admits that there is no immediate necessity by the City for the water which applicants seek to appropriate and therefore applicants should be granted the privilege of using this water pending the need for such water by the city.

Furthermore the upper collecting gallery of the City near Sunland is some six or seven miles below the proposed diversion point of the applicants and it appears entirely possible that little if any of the water which applicants are seeking to appropriate would be available for diversion by the City on account of losses due to evaporation, transpiration and deep percolation.

It appears also from the answers to the protests filed by Mrs. Davis and Mr. McCollum that these applicants have been using the water which they are now seeking to appropriate for a number of years and that the approval of these applications will not materially affect existing conditions.

It is the opinion of this office that Applications 10027, 10040, and 10041 be approved subject to prior vested rights.

ORDER

Applications 10027, 10040 and 10041 for permits 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 now being fully informed in the premises:

IT IS HEREBY ORDERED that said applications 10027, 10040 and 10041 be approved and that permits be issued 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 27 day of *March* 1941.

EDWARD HYATT, State Engineer

By HAROLD CONKLING Deputy

(Seal)  
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