

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

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IN THE MATTER OF APPLICATION NUMBER 1529 BY LUTHER HILL
FOR A PERMIT TO APPROPRIATE WATER FROM SAWMILL CREEK LAKE
IN INYO COUNTY, FOR AGRICULTURAL PURPOSES

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DECISION NO. 1529 - D 40

Decided February 13, 1925

APPEARANCES AT HEARING HELD December 13, 1923

For Applicant, Luther Hill -	V. G. Preston, Attorney at Law, Bishop, Calif.
For Protestant, City of Los Angeles -	Trent G. Anderson, Attorney at Law, Los Angeles, Calif.
For Division of Water Rights -	Spencer Burroughs, Attorney at Law, Sacramento, Calif.

EXAMINER - Gordon Zander, Hydraulic Engineer, Division of Water Rights,
for H. A. Kluegel, Chief of Division of Water Rights.

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O P I N I O N

On November 20, 1919, Luther Hill filed application Number 1529 for a permit to appropriate unappropriated water from Sawmill Creek Lake, in Inyo County, tributary to Sawmill Creek. The project contemplates the creation of storage capacity to the extent of 322.5 acre-feet by the construction of a dam, 12 feet high and 114 feet long, across the outlet of the lake, and the utilization of the same for the

purpose of conserving flood waters which occur during the winter months. The water so stored would be released into the natural channel of Sawmill Creek during the summer months, and rediverted through existing ditches for use as a supplemental supply to that now obtained from the natural flow of Sawmill Creek, for the irrigation of 1040 acres of land on the Eight Mile Ranch.

The application was duly advertised, and a joint protest against the same was filed by the City of Los Angeles and the Board of Public Service Commissioners of the City of Los Angeles. The protest is based upon the following contentions:

1. That the waters of Sawmill Creek Lake are tributary to Sawmill Creek, which, in turn, is tributary to Owens River, and that the protestants have a prior right, by appropriation and use, to all of the waters of Owens River and its tributaries, including the flood waters of Sawmill Creek.

2. That there was pending a prior application, Number 600, filed by the protestants for a permit to appropriate 10 cubic feet per second of the waters of Sawmill Creek for power purposes, the proposed point of diversion of which being below Sawmill Creek Lake, and that the protestants would be deprived of their right to proceed with the project contemplated under said prior application if a permit were granted on the Luther Hill application.

Thereafter it appeared probable that the differences between the applicant and protestants could be amicably settled through their entering into an agreement as to the use of the waters of Sawmill Creek and Sawmill Creek Lake, and at the request of attorneys representing

both applicant and protestants action upon the application was held in abeyance pending the working out of an agreement which would permit the consummation of the projects contemplated under both Applications 600 and 1529.

On November 2, 1923, it then appearing to the Division of Water Rights that a very liberal period of time had been allowed for the working out of an agreement between the applicant and protestants, and no such agreement having been entered into, the application was set for a public hearing in the Court Room of the County Court House at Independence, California, at 11:00 A.M. on December 13, 1923. Applicant and protestants were duly notified of the hearing.

The hearing was called to order at 9:00 A.M. on December 13, 1923 instead of at 11:00 A.M. on that day, attorneys for both applicant and protestant having stipulated that the time of hearing might be so changed. The examiner was then advised that a stipulation had been reached by the applicant and protestants, allowing the applicant to proceed with the construction of the reservoir prior to the construction of the protestants' power project, and to store and utilize the waters of the stream system as he may desire for use on the Eight Mile Ranch until the completion of the protestants' power plant, after which the applicant shall have the right to store water only at such times as there will be a surplus over and above 7 cubic feet per second to be furnished to the protestants for their use for power purposes. This stipulation was dictated into the record by the attorney for the applicant, and was agreed to by the attorney for the protestants; the latter stating that the stipulation automatically withdrew the protest.

The attorney for the protestants then made a plea for a liberal allowance of time by the Division for the completion of the project, after which, there being nothing further to present, the hearing was closed.

Subsequent to the hearing, the protestants' application Number 600 was cancelled, after which the Division was advised by letter from the attorney for the protestants that they were no longer interested in the inclusion of any special terms in any permit to be issued on application Number 1529.

As the protestants entered into a stipulation which would allow the issuance of a permit on the application provided only that their rights to the development of power on Sawmill Creek under their prior application were amply protected, it is apparent that they were of the opinion that their rights in and to the waters of Owens River would not be affected by the storage of water in Sawmill Creek Lake. Furthermore, as said prior power application has since been cancelled, there no longer remains any necessity for the inclusion of any special terms in the permit to protect the protestants' power rights on Sawmill Creek.

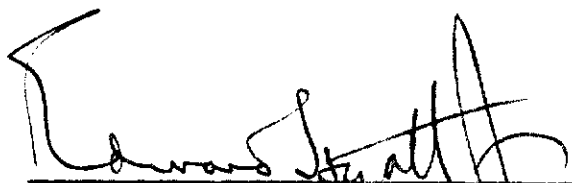
It is therefore found that there is unappropriated water available for storage under the application, and that the issuance of a permit to the applicant, without the inclusion therein of any special clause as contemplated in the stipulation entered into at the hearing, would in no way result in injury to the protestants.

O R D E R

Application Number 1529 for a permit to appropriate unappropriated water having been filed with the State Water Commission, predecessor of the Division of Water Rights, a protest against the same having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said application Number 1529 be approved, and that a permit be granted to the applicant, subject only to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this 13th day of February, 1925.



CHIEF OF DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA