

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

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In the Matter of Application 4752 of the Palm Valley  
Water Company to appropriate from Snow Creek, a  
tributary of the Whitewater River in River-  
side County for Domestic Purposes.

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DECISION A. 4752 D 260

Decided

*June 19, 1930*

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APPEARANCES AT HEARING HELD AT RIVERSIDE, MARCH 26, 1930

For Applicant:

Palm Valley Water Company

C. L. McFarland

For Protestants:

Nevada-California Electric Securities Co. Henry Coil

Southern Pacific Co. and

Southern Pacific R.R. Co.

Frank Thunen

Southern Sierras Power Company

No appearance

EXAMINER: Harold Conkling, Deputy 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 4752 was filed August 27, 1925 by the Palm Valley Water  
Company. As presented to us at this time it proposes an appropriation of  $1\frac{1}{2}$   
cubic feet per second throughout the entire year from Snow Creek, a tributary  
of the Whitewater River in Riverside County for domestic purposes at the  
community of Palm Springs.

As originally filed and advertised it proposed an appropriation of  $1\frac{1}{2}$  cubic feet per second from Falls Creek and  $3\frac{1}{2}$  cubic feet per second from Snow Creek. It was protested by the Coachella Valley County Water District which agreed to withdraw its protest provided that the applicant eliminate Falls Creek as a source of supply and reduce the amount of water applied for from Snow Creek from  $3\frac{1}{2}$  cubic feet per second to  $1\frac{1}{2}$  cubic feet per second. This protest was withdrawn on May 6, 1929, apparently following the execution of an agreement whereby the Coachella Valley County Water District waived its priority over the waters of Snow Creek to the extent of 1.5 cubic feet per second under Application 4752 and Application 4752 was amended to its present form.

Southern Sierras Power Company claimed riparian rights and rights initiated for power purposes under Applications 2079 and 2090, Permits 1008 and 1009 but its riparian lands have been acquired by the Nevada California Electric Securities Company and Applications 2079 and 2090, Permits 1008 and 1009 have been revoked at the request of the Power Company. Therefore this protest may be dismissed.

The only protests therefore that need be considered are the protests of the Nevada California Electric Securities Company, the Southern Pacific Company and the Southern Pacific Railroad Company.

#### PROTESTS

The Southern Pacific Company and the Southern Pacific Railroad Company claim appropriative rights to the use of water from Snow Creek and allege in effect that any appropriation under Application 4752 would be prejudicial and detrimental to their vested rights as established in the Whitewater Adjudication proceedings.

The Nevada California Electric Securities Company claims riparian rights to the waters of Snow Creek and alleges in effect that the proposed point of diversion is located upon its lands and therefore applicant has not acquired right of access thereto. It also alleges that there is no surplus water in Snow Creek over and above existing appropriations and the amount required for use on its lands.

HEARING HELD IN ACCORDANCE WITH SECTION 1a  
OF THE WATER COMMISSION ACT

Application 4752 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 a public hearing in accordance with Section 1a of the Water Commission Act on March 26, 1930, at 10:30 o'clock A.M. in the Council Chamber of the City Hall, Riverside, California. Of this hearing applicant and protestants were duly notified.

DISCUSSION

On April 23, 1928, an order determining and establishing the several rights by appropriation to the use of the waters of the Whitewater stream system was entered. By this order the Coachella Valley County Water District was allotted 8,000 acre feet per annum, the Southern Pacific Company and the Southern Pacific Railroad Company 2.0 cubic feet per second and the Southern Sierras Power Company 50 cubic feet per second from Snow Creek. The Southern Sierras Power Company has however relinquished its rights by virtue of the withdrawal of its applications and permits on file with this office as noted above.

By virtue of the agreement referred to above between the Coachella Valley County Water District and the applicant, the Water District has ap-

parently waived its priority in favor of the applicant and therefore the applicant is entitled to divert at such times as there is in excess of 2 cubic feet per second flowing in Snow Creek, the right to the 2 cubic feet per second being vested in the Southern Pacific Company and the Southern Pacific Railroad Company as indicated in the order of determination.

Records of runoff obtained at the Snow Creek gaging station which is located on Snow Creek just above the Southern Pacific Company's diversion dams and contained in the "Report on the Water Supply and Use of Water from the Whitewater River Stream System" by Mr. Gordon Zander of this office, dated November, 1923, clearly indicates that flow in Snow Creek above all diversions is in excess of 2.0 cubic feet per second. The record is not complete but the mean monthly flows shown are as follows:

<u>Season</u>	<u>Oct.</u>	<u>Nov.</u>	<u>Dec.</u>	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>
1920-21											5.53	5.21
1921-22	6.13	4.67	(Flood washed out register Dec. 18)		26.67	17.21	11.31	9.25				
1922-23	6.90	8.19	16.37	9.10	10.34	9.33	15.62	13.99				

The U. S. Weather Bureau records at Indio and Mecca indicate that the rainfall during the years 1922 and 1923 was below normal and consequently it may be assumed that the runoff for these years was below normal. It is therefore concluded that during a year of normal runoff there is water available for diversion by the applicant over and above the amount which has been allotted to the Southern Pacific Company and the Southern Pacific Railroad Company. The protest of these companies may therefore be dismissed.

The Nevada-California Electric Securities Company proposes to dispose of its riparian lands for resort purposes and claims that it is entitled to divert water for resort and recreational uses. Little or no use has as

yet been made however and it has not been the practice of the Division to deny an application because of a prospective future riparian use. The riparian rights of protestant have not been established but if such exist any diversion by applicant would be made subject to vested rights. In any case it appears that any use which may be made by the Securities Company for recreational purposes would be very limited.

The Securities Company claims ownership of the land upon which applicant's proposed point of diversion and proposed pipe lines are located. The applicant is a public utility however and may procure right of access by condemnation if it cannot be procured otherwise.

The protest of the Nevada-California Electric Company may therefore be dismissed.

The Palm Valley Water Company at the present time is serving water to the unincorporated town of Palm Springs and surrounding territory for domestic purposes from Chino Canyon which is about four miles northwesterly of the original townsite. The supply from Chino Canyon has been developed to its practical and economic limit and with the increasing growth of Palm Springs it is imperative that an additional water supply be obtained. The logical source of this supply is Snow Creek.

The use to which applicant proposes to put the water under Application 4752 is a useful and beneficial one, the necessity for an immediate additional supply has been shown, the applicant is apparently in a position to proceed with the project upon approval by this office and as there is sufficient unappropriated water in the source to justify the proposed diversion, it is the opinion of this office that Application 4752 be approved.

O R D E R

Application 4752 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 said Application 4752 be approved and that a permit be granted to the applicant 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 19<sup>th</sup> day of June, 1930.

EDWARD HYATT, State Engineer

BY Harold Corbly  
Deputy

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