

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

*D-File*

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In the Matter of Application 6667 of Hallam C. Stone  
to appropriate water from Campo Creek, tributary  
to Tecate River in San Diego County for  
Irrigation and Domestic Purposes

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DECISION A. 6667 D-303

Decided

*January 8, 1932*

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APPEARANCES AT HEARING HELD AT SAN DIEGO, NOVEMBER 4, 1931

For Applicant

Hallam C. Stone

In Propria Persona

For Protestant

City of San Diego

H. P. Daniel

EXAMINER: Harold Conkling, Deputy in Charge of Water Rights, Division  
of Water Resources, Department of Public Works, State of  
California.

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OPINION  
ESSENTIAL FEATURES OF APPLICATION 6667

Application 6667 was filed on May 2, 1930. It proposes an appro-  
priation of .5 cubic foot per second from Campo Creek, a tributary of  
Tecate River in San Diego County, throughout the entire year for irrigation  
and domestic purposes.

The point of diversion is within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 19,  
T. 18 S., R. 5 E., S.B.B. & M. The place of use is 70 acres within  
Section 19, T. 18 S., R. 5 E., S.B.B. & M. The application was protested  
by the City of San Diego.

### PROTEST

The City of San Diego alleges in effect that the proposed appropriation of Hallam C. Stone would deplete the amount of water which the City of San Diego seeks to store at the Marron Reservoir Site on Cottonwood Creek to which Tecate Creek is tributary, under its prior Application 3236 now pending before the Division of Water Resources, and that the full flow of Cottonwood Creek will be consumed by the City for a municipal water supply as soon as the quantity of the available waters are determined upon and an International treaty is consummated between the United States and Mexico.

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

Application 6667 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 November 4, 1931 at 9:00 o'clock A. M. in Conference Room, Chamber of Commerce, San Diego, California. Of this hearing applicant and protestant were duly notified.

### GENERAL DISCUSSION

Campo Creek, the source of the proposed appropriation is a tributary of Tecate River which in turn is tributary to Cottonwood, a tributary of the Tia Juana River. All of these streams flow through both the United States and Mexico.

During the dry season of the year there is normally no flow at applicant's proposed point of diversion on Campo Creek and in order to obtain water the applicant has excavated a sump in the gravels of the stream bed. During most of the year, however, there is surface flow at the proposed point

of diversion. At the present time applicant is using about one-third of the water applied for under claim of riparian right.

Although the creek from which applicant proposes to divert is in an alluvial valley some half mile in width the creek bed is well defined through his property, being from ten to fifteen feet in width and in the dryest season the water is within about one foot of the bed of the stream.

The applicant's place of use lies within the United States and is entirely within the watershed of Campo Creek. Applicant stated at the hearing that the lands upon which the water was to be applied did not extend more than 500 feet from the stream bed and in his opinion a considerable portion of the water diverted for irrigation purposes would return to the stream.

The protestant has no objection to the applicant diverting such water as he may be entitled to divert under claim of riparian ownership but objects to the initiation of a new right on the grounds that it would conflict with certain rights initiated by protestant prior to the effective date of the Water Commission Act and with its Application 3236. It claims that if the appropriation is allowed it will result in others attempting to secure appropriations and that it might have an effect on the pending negotiations with Mexico to determine the water rights between Mexico and the United States.

The City of San Diego is the successor in interest of the Southern California Mountain Water Company which was formed in 1906 by the consolidation of Mt. Tecate Land and Water Company and the Otay Water Company and the City claims to have acquired the water rights initiated by these companies and proceeded with the development thereunder.

From testimony presented at the hearing it appears that although the City has proceeded with its proposed development on Cottonwood Creek above its junction with Tecate River and diversions have been made at Moreno Reservoir and Barrett Reservoir, no diversions have been made by the City from sources which

would be affected by the proposed diversion by applicant.

The City claims to have acquired the old right of the Mt. Tecate Land and Water Company to construct a dam at the Marron reservoir site which is located at the junction of Tecate River and Cottonwood Creek some eighteen miles below the applicant's proposed point of diversion but aside from the purchase of some land and preliminary hydrographic investigations no development has been accomplished.

In order to remove any existing doubt as to the validity of the old filing Application 3236 was filed by the City of San Diego on January 27, 1923. It proposes an appropriation of 178,000 acre feet per annum of the waters of Cottonwood Creek to be collected to storage throughout the entire year in a reservoir to be constructed at the Marron site described above. This reservoir site is located both in the United States and Mexico and action has been withheld upon Application 3236 pending the clearing up of international phases of the problem involving an arrangement of a treaty with Mexico permitting the City of San Diego to proceed with the construction under Application 3236.

Applicants representative stated at the hearing that whether or not the construction of the Marron reservoir would be completed depended upon the outcome of the international complications and also upon the necessity of the cities of San Diego, East San Diego and Coronado which it is proposed to serve with a municipal supply under Application 3236, for additional water; that it might be a matter of five or ten years or even longer before such water was needed if the growth of the cities did not increase materially; that it was proposed to postpone the Marron development until the supply from the San Diego River was completed which would probably take care of the City's requirements for the next ten years as a minimum and possibly longer.

The construction of the Marron Reservoir and the proposed development under Application 3236 is apparently dependent upon the completion of the

international treaty and the City of San Diego has no assurance that such treaty will ever be consummated. The City has, however, secured from the International Commission a statement ~~xxxxxxxxxxxx~~ that they would divorce the Tia Juana situation from that of the Colorado. It is possible that if the City should obtain a supply from the Colorado River the development of the Marron project would be delayed still further.

In view of the fact that it appears that many years may elapse before the City of San Diego will be in a position to proceed with the Marron development, it is the opinion of this office that at the present time there is unappropriated water in Campo Creek which is subject to appropriation. If, in the future the rights initiated by the City of San Diego are validated and the diversion of the applicant should interfere with the prior rights of the City it would be incumbent upon the applicant to either so regulate his diversion as not to interfere with these rights or abandon his project.

As the amount of water which applicant seeks to appropriate is relatively small we can see no merit in protestant's contention as to possible International complications.

#### O R D E R

Application 6667 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a public hearing having been held and the Division of Water Resources now being fully advised in the premises:

IT IS HEREBY ORDERED that Application 6667 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 *8th* day of *January* 193*2*

EDWARD HYATT, State Engineer

By *Harold Corbly*  
Deputy

WES:MM

Prepared on December 29, 1931  
Typed on January 7, 1932

