

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

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In the Matter of Application 6720 of Louis Robinson to Appropriate
from Trabuco Creek, Tributary to San Juan Creek in Orange County
for Domestic and Irrigation Purposes.

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DECISION A. 6720 D-305

Decided

January 11, 1932

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APPEARANCES AT HEARING HELD AT LOS ANGELES, NOVEMBER 16, 1931.

For Applicant

Louis Robinson

In propria persona

For Protestants

J. Roy Smith)
R. Y. Williams)
Lizzie D. Williams)
W. B. Williams)
S. M. Bathgate)
William Bathgate)
Robert Scott)
Guy Williams)
Mrs. Ruth Stewart)
C. E. Crumrine)
John Daneri)
Lynn Shrewsbury)
F. D. Plavan, successor in interest of)
Clyde A. Plavan)
Aaron Buchheim)

R. Y. Williams

D. H. Moulds and Chester Smith
Trabuco Water Company
Orange County Waterworks District No. 4
San Juan Water Company

Rancho Santa Margarita

In propria persona
A. W. Rutan
L. A. West
W. G. Irving and
F. C. Drumm
No appearance

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EXAMINER: Everett N. Bryan, Hydraulic Engineer for 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

GENERAL FEATURES OF APPLICATION

Application 6720 was filed by Louis Robinson on July 7, 1930. As amended at the hearing held on November 16, 1931, it proposes an appropriation of 0.75 cubic foot per second from Trabuco Creek by direct diversion and 80 acre feet per annum to be diverted to storage at a rate not to exceed 0.75 cubic foot per second. The water will be stored in 9 small reservoirs each having a capacity of 9 acre feet. The season of diversion for both direct diversion and storage is throughout the entire year. It is proposed to use the water for the irrigation of 132 acres during the period from about April 1st to about October 15th and for domestic, stock watering and garden irrigation. The application was protested by J. Roy Smith, R. Y. Williams, Lizzie D. Williams, W. B. Williams, S. M. Bathgate, William Bathgate, Robert Scott, Guy Williams, Mrs. Ruth Stewart, C. E. Crumrine, John Daneri, Lynn Shrewsbury, Clyde A. Plavan, Aaron Buchheim, D. H. Moulds, Chester Smith, Orange County Waterworks District No. 4, San Juan Water Company and Rancho Santa Margarita.

PROTESTS

R. Y. Williams, Lizzie D. Williams, W. B. William, Guy Williams, S. M. Bathgate, William Bathgate, Robert Scott and J. Roy Smith claim rights by virtue of riparian ownership, use commenced prior to the effective date of the Water Commission Act, and Mission and Pueblo rights. They claim that the first use was made approximately 150 years ago by open ditch from Trabuco Creek which was changed to wells early in the year 1914; that water to the extent of 120 miners inches has been used for the irrigation of approximately 270 acres of land and for domestic use for twelve houses, and

allege in effect that the appropriation as proposed by applicant would deprive them of water to which they are entitled.

Guy Williams, J. Roy Smith, Mrs. Ruth Stewart, C. E. Crumrine, John Daneri and Lynn Shrewsbury claim rights by virtue of riparian ownership, use begun approximately in 1922 and Mission and Pueblo rights and use of the waters of Trabuco Creek made by their predecessors in interest for many years, that their water supply for irrigation of 200 acres of orange and avocado land is obtained from a well in Trabuco Creek and they allege in effect that the appropriation as proposed by applicant would deprive them of water to which they are entitled.

Clyde A. Plavan claims rights by virtue of riparian ownership and use commenced prior to the effective date of the Water Commission Act and Mission and Pueblo rights, that water to the extent of 200 miners inches has been used for many years and for at least twenty years for the irrigation of approximately 143 acres of land and for domestic use and alleges in effect that if applicant were allowed the amount of water applied for the waters of Trabuco Creek would be depleted and there would not be sufficient water during a large portion of the year to furnish water for use in protestant's ditch. Mr. Plavan passed away prior to the hearing and his father F. D. Plavan has succeeded to his interests.

D. H. Moulds and Chester Smith claim rights by virtue of riparian ownership, that D. H. Moulds has been using water from Trabuco Creek for the irrigation of 35 acres of land and for domestic purposes for himself and family and about 100 cabins located on his property, that Chester Smith owns about 25 acres riparian to the stream and in conjunction with D. H. Moulds has developed wells in the bed of the stream and has gone to considerable

expense in preparing to irrigate and plant to citrus fruit said lands owned by him and allege in effect that the proposed appropriation would deprive them of water to which they are entitled.

Trabuco Water Company claims riparian rights and use of water prior to the effective date of the Water Commission Act and alleges in effect that there is no unappropriated water in Trabuco Creek.

Orange County Water Works District No. 4 claims riparian rights, Mission rights and probably Pueblo rights and that it uses sixty miners inches continuously for public use in the town of San Juan Capistrano for domestic purposes and alleges in effect that if the proposed appropriation is allowed it will result in decreasing the supply of water to which it is entitled.

The San Juan Water Company claims an appropriative right under its Application 5304, Permit 3458 and alleges in effect that the appropriation proposed would deprive it of water under its prior appropriative right.

Rancho Santa Margarita claims ownership of certain lands riparian to Trabuco Creek and alleges in effect that the normal flow of said creek is not sufficient to satisfy the needs and requirements of land riparian thereto.

Aaron Buchheim although not a record protestant prior to the hearing claims riparian rights and use of water on 300 acres.

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

Application 6720 of Louis Robinson 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 16, 1931, at 10:00 o'clock A.M. in Room 1026 Associated Realty Building, Los

Angeles, California. Of this hearing applicant and record protestants were duly notified.

HYDROGRAPHY AND PHYSIOGRAPHY

Trabuco Creek, the source of the proposed appropriation, rises on the southwesterly slopes of the Santa Ana Mountains in the Cleveland National Forest at an elevation of about 4500 feet above sea level and flows in a general westerly and southerly direction a distance of about 20 miles to its junction with San Juan Creek just below the town of San Juan Capistrano in Orange County where the waters of the two creeks merge and flow a distance of approximately two and one-half miles to the Pacific Ocean. The total drainage area of San Juan and Trabuco Creeks is approximately 180 square miles of which about 54 square miles contribute to the runoff of Trabuco Creek and 11.5 square miles are above the proposed diversion point of the applicant.

There are no reliable runoff records of these streams available. The Chief Engineer of the Orange County Flood Control District in a report dated April 1929, estimated the average runoff of the San Juan Creek watershed to be 16,000 acre feet and that of the Trabuco watershed to be 9,000 acre feet per annum but directs attention to the fact that during seasons of scant rainfall these may become as small as a few hundred acre feet. Mr. Alan Rowe, engineer for protestant San Juan Water Company estimates the average runoff from the San Juan Creek watershed to be 11,334 acre feet per annum and that of the Trabuco Creek watershed to be 4,690 acre feet per annum, which amounts are considerably less than those estimated by the Chief Engineer of the Orange County Flood Control District.

It appears that during the winter and early spring months there is normally considerable water flowing in Trabuco Creek and there is a continuous surface flow from its headwaters to the Pacific Ocean. In the summer

months, however, the flow is intermittently on the surface and underground.

Normally during the summer months there is always some water flowing at applicant's proposed point of diversion which flows on the surface to a point about one-half mile below where it sinks into the gravels and travels underground for a distance of four or five miles. The water then reappears and flows on the surface a distance of two or three miles to a point where it again sinks and does not appear again for about two miles further down stream. It then reappears and disappears several times until it reaches the highway bridge above the town of San Juan Capistrano where it flows on the surface to the diversion point of Trabuco Water Company just above the town of San Juan Capistrano where most of the surface flow is diverted by that Company. The water again rises and sinks below the Town of San Juan Capistrano in two places. The total distance from applicant's proposed point of diversion to the ocean is approximately 18 miles and throughout about one-half the distance the flow is on the surface during the summer months of a year of normal runoff.

GENERAL DISCUSSION

In the vicinity of applicant's proposed place of use there are several wells which have been sunk into the gravels of the creek bed from which the underflow of Trabuco Creek is pumped, there being normally no surface flow during the irrigation season below a point on Trabuco Creek, one-half mile below applicant's proposed point of diversion to a point some four or five miles below.

The uppermost of these wells is owned by one West who entered no protest against the approval of Application 6720. This well is located about one and one-half miles below applicant's proposed point of diversion and is about 50 feet in depth. Testimony presented at the hearing indicated that

this well did not extend to bed rock. During the spring of 1931 the water in this well was within 20 feet of the surface but by the first of September the well was practically dry. In the year 1930 there were 8 or 10 feet of water in the well at its lowest. It appears that this well has never been pumped to capacity.

The next well in downstream order is owned jointly by protestants D. H. Moulds and Chester Smith. It was excavated about two years ago to a depth of about 40 feet and recently has been deepened by adding 8 feet of 12 inch well casing. It is located in the bed of Trabuco Creek about two miles below applicant's proposed point of diversion. The capacity of this well during the month of September 1931 was about 30 inches and the water pumped therefrom is used for the irrigation of about 30 acres of orange trees. Protestants claim a right to divert this water based upon riparian ownership.

About two and three-quarters miles below applicant's proposed point of diversion there is another well owned by D. H. Moulds which was excavated about six years ago to a depth of about 30 feet. About 40 or 50 inches of water are pumped from this well for two or three days at a time for the irrigation of six or seven acres of oranges and about two and one-half inches are pumped two days out of the week for domestic use at 50 cabin sites. The right to so divert is based upon riparian ownership.

In addition to the wells described above, there are wells on the Rancho Santa Margarita below from which water is pumped for stock watering purposes. The Rancho Santa Margarita was not represented at the hearing and no testimony relative to the use of water from these wells was submitted. In the protest of the Rancho Santa Margarita, the right of the applicant to divert his share of the waters of Trabuco Creek as a riparian owner is recognized but protestant objects to any water being diverted out of the

watershed. The applicant at the hearing amended his application to exclude that portion of his place of use lying outside the watershed of Trabuco Creek and therefore this feature of the protest may be dismissed.

The Flavan ditch takes out of Trabuco Creek at a point on the property of Rancho Santa Margarita about 6 or 7 miles below applicant's proposed point of diversion and about $1\frac{1}{2}$ or 2 miles below the point where surface water reappears in the creek bed during a year of normal runoff. During the last year and a half, due to a dispute between the owners of the Flavan ditch and the Rancho Santa Margarita, the Rancho Santa Margarita has prohibited Flavan from diverting through the ditch and he has been forced to sink two wells about a mile below the intake from which 180 to 185 inches of water are pumped. Protestant Flavan claims that during the last year and a half there was insufficient surface flow in Trabuco Creek to satisfy his requirements even though he had been permitted to divert through the Flavan ditch. He still claims the right to divert the surface flow of Trabuco Creek and intends to do so as soon as the controversy is settled.

The other protestants all obtain their water supply from either wells or surface diversions in the vicinity of the town of San Juan Capistrano. With the exception of the San Juan Water Company which diverts from San Juan Creek below the town of San Juan Capistrano, these protestants divert the waters of Trabuco Creek only.

J. Roy Smith diverts about 120 miners inches from a well about 107 feet in depth for the irrigation of about 75 acres of land.

R. Y. Williams, Lizzie D. Williams, W. B. Williams, Guy Williams, S. M. Bathgate, William Bathgate, Robert Scott and J. Roy Smith own some 240 acres of land which has been planted to orchard. The land is irrigated

by a well 110 feet in depth and about 120 miners inches is used for irrigation purposes and domestic use at twelve houses.

Guy Williams, J. Roy Smith, Mrs. Ruth Stewart, C. E. Crumrine, John Daneri and Lynn Shrewsbury obtain their water supply from a well for the irrigation of approximately 200 acres of land. Water is used to the extent of about 80 miners inches.

There are three wells in the vicinity owned by a Mr. Greening, Mr. Buchheim and Mr. Oryhargable. The amount of water diverted is not known. Mr. Buchheim testified at the hearing that when he pumped for 8 or 10 days at a time the wells of the Orange County Waterworks District No. 4 which furnishes water to the City of San Juan Capistrano would be so lowered that they would have to cease pumping.

The point of diversion of the Orange County Waterworks District No. 4 is located about 1 mile northwest of the mission of San Juan Capistrano. The district diverts from wells and claims to use sixty miners inches.

The Trabuco Water Company supplies about 200 miners inches from the surface flow and underflow of Trabuco Creek for the irrigation of about 400 acres of land owned by its stockholders which it claims is riparian to Trabuco Creek. Its points of diversion are located about one-half mile north of the Town of San Juan Capistrano.

Under Application 5304, Permit 3458 the San Juan Water Company has the privilege of diverting 2000 acre feet per annum throughout the entire year from San Juan Creek to underground storage at a maximum rate of 23 cubic feet per second.

At the hearing held December 4, 1929, in connection with Application 5304 applicant's engineer Mr. E. A. Rowe introduced a hydrographic study of

the San Juan Valley based upon comparison with other Southern California drainage basins. The conclusions reached by Mr. Rowe were as follows:

- (1) Estimated average annual water crop of San Juan Creek and tributaries 16,024 A.F.
- (2) Annual Consumptive use for entire net area of valley fill and present irrigated area outside of the valley fill 4,972 A.F.
- (3) Average annual surplus 11,052 A.F.
- (4) Estimated maximum depletion of ground storage during critical period to yield a continuous draft of 4,972 acre feet per annum 6,600 A.F.
- (5) Estimated average annual waste into the sea under a draft of 4,972 acre feet per annum 12,400 A.F.
- (6) Amount of water per season applied for under Application 5304 2,000 A.F.
- (7) Area of spreading grounds described in Application 5304 220 Acres
- (8) Capacity of applicant's spreading grounds at 1.5 second feet per acre 330 c.f.s.
- (9) Time required for applicant to spread 2,000 acre feet at a rate of 20 cubic feet per second 50 days

The above analysis indicates that during a year of normal runoff the San Juan Water Company would be able to store in less than two months the amount which it is allowed to divert under Application 5304 which amount would be available during the winter and spring months. The analysis also indicates that there is a surplus of flow after all diversions have been accounted for.

The applicant stated at the hearing that the pipe line which he proposed to install was common to both direct diversion and diversion to storage and the total amount diverted would not exceed a continuous flow of 0.75 cubic feet per second. This amount would be equivalent to about 550 acre feet per annum.

At the hearing held November 16, 1931, in connection with Application 6720 Mr. Rowe estimated that the normal contribution of supply from the watershed of Trabuco Creek was approximately 4,700 acre feet per annum or about 30% of the total runoff of the San Juan-Trabuco Creek watershed and that of this amount 3,500 acre feet per annum are supplied from the watershed above applicant's proposed point of diversion. The total amount of water which the applicant proposes to divert is 550 acre feet per annum or approximately 16% of the runoff above his proposed point of diversion. Of this 550 acre feet, 80 acre feet is to be diverted to storage during the flood season and subsequently released for irrigation purposes during the irrigation season which would probably be an advantage rather than a disadvantage to the protestants.

The wells of Smith and Moulds are above a portion of applicant's place of use and would derive a benefit from return waters from only about one-half of the area irrigated. The drainage area above the wells however is approximately 16 square miles as compared with 11.5 square miles above applicant's proposed point of diversion and with proper development it is believed that an ample supply of water could be obtained by them even should Application 6720 be approved. It was definitely stated at the hearing that the well owned by Mr. West which is 50 feet in depth did not extend to bedrock and the well of Smith and Moulds is only 48 feet deep and the well of Moulds is only 30 feet deep. The possibility that pumping costs of these protestants may be increased and that it may be necessary for them to sink their wells to a lower depth is not sufficient reason for the denial of further appropriations upstream. If Application 6720 is approved it would be incumbent on applicant to divert at such times only as not to interfere

with whatever rights these protestants may have acquired.

Most of the testimony relative to diversions of the protestants was based upon the regimen of stream flow during the last two or three years which have been considerably below normal. Testimony was introduced however which indicated that with a return to normal conditions of stream flow there would be considerable waste into the ocean. Mr. Rowe testified that although during the last two years there had been practically no waste into the ocean there was a large amount of waste in a flood year (Transcript page 109); that with a return to anything like normal conditions there would be considerable waste into the ocean during flood seasons (Transcript page 111); that unquestionably there were years during which the applicant could appropriate at times of flood without injury to the protestants (Transcript page 115); that there was no question as to there being unappropriated water in the basin; that the average water crop is three times what it has been during the last three years and that during the winter and early spring months water flowed on the surface throughout the entire length of the creek (Transcript page 135)

Mr. Robinson stated that in his opinion the rate of underground flow was approximately one mile per month based upon the fact that the water surface in a well just below his property commenced raising a month before the water surface in a well a mile below showed any signs of raising and maintained that the effect of his diversion would not be noticed by the lower protestants as the amount diverted by him would be more than replenished by the storms of the succeeding winters. Mr. Eowe estimated the rate of underground flow to be approximately 750 feet per month but stated that in his opinion the storms of the succeeding winters would not maintain the underground flow due to the fact that water rises at certain points indi-

cating that there is a moving water table and in his opinion the effect of any diversion from the creek would not be so much from the amount of water diverted as from the loss by transmission of pressure.

It appears that should the water which applicant seeks to divert actually find its way into the underground basin from which the protestants derive their supply, only a relatively small proportion of the water would actually be reclaimed. By the proposed diversion of applicant all of the water diverted except that lost by evaporation and seepage would be applied to beneficial use and it would appear that the only effect which such diversion would have in a year of normal runoff would be a slight lowering of the underground water plane. It is doubtful however that the small quantity of water diverted would have an appreciable effect.

CONCLUSION

The uses to which applicant proposes to put the water are useful and beneficial and it appears that during a year of normal runoff there is sufficient unappropriated water in Trabuco Creek to justify the approval of Application 6720. It should be approved subject to the usual terms and conditions and subject also to a special term or condition to the effect that the combined diversions for immediate use and storage shall not exceed a maximum rate of 0.75 cubic foot per second because applicant stated at the hearing that the combined diversions for immediate use and to storage would not exceed that rate.

ORDER

Application 6720 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 6720 be approved and that a permit be issued to the applicant subject to such of the usual terms and conditions as may be appropriate and subject also to the following special term or condition, to-wit:

The total "Combined diversions to storage and for immediate use shall not exceed a maximum rate of 0.75 cubic foot per second."

WITNESS my hand and the seal of the Department of Public Works of the State of California, this *11th* day of *January*, 1932.

EDWARD HYATT, State Engineer

BY *Harold Conkling*
Deputy

