

STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS  
BEFORE THE STATE ENGINEER AND  
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Applications 2432 and 7721 by Sierra Land and Water Company to Appropriate Water from Rush Creek, Silver Lake and Leevining Creek in Mono County for Irrigation, Stockwatering and Domestic Purposes.

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Decision A. 2432, 7721 D.                     

Decided OCT 27 1955

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DECISION

Description of the Projects

Application 2432 as amended contemplates a direct diversion of 500 cubic feet per second from April 15 to September 15 of each season and a diversion of 22,708 acre-feet per annum to be collected throughout the year and temporarily stored. Both Rush Creek and Silver Lake through which Rush Creek flows are named as sources. Both the storage dam and the canal intake are to be located within the  $W\frac{1}{2}$   $NE\frac{1}{4}$  of Section 4, T2S, R26E, MDB&M. The storage dam, a concrete structure, is to be 70 feet high by approximately 240 feet long; it is to create a reservoir some 649 acres in surface area and 22,708 acre-feet in capacity. The diversion dam is to be 8 feet high by 56 feet long and of timber-crib type with rock and gravel filling. The main conduit is to be an earth canal 40 feet wide at water line by 5 feet deep and some 5.8 miles long. The proposed place of use is described as being 32,755 acres in extent and lying within T1S R27E, T1N R27&28E and

T2&3N R27,28&29E, MDB&M. Domestic use including stockwatering and the watering of small gardens is contemplated to the extent of 15 cubic feet per second. Irrigation is to extend from about April 15 to about September 15.

Application 7721 as amended contemplates year-round diversions of 150 cubic feet per second from Leevining Creek at a point within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 9, T1N R26E and 75 cubic feet per second from Rush Creek at a point within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 26 of the same township. Diversion is to be effected by rock and concrete dams, both 14 feet high, the one at the Leevining site 75 feet, the other 60 feet, long. The main conduit is to be an earth canal, 20 feet wide at water line by 3.5 feet deep and approximately 34 $\frac{1}{4}$  miles long. The water is to be used for domestic purposes, irrigation and stockwatering within a net area of some 12,000 acres skirting the southern, eastern and northeastern shores of Mono Lake. Irrigation is to extend from about April 1 to about September 30.

#### Protests

Application 2432 was protested by the Cain Irrigation Company, Nevada-California Power Company, L. S. Amiot, and City of Los Angeles. Application 7721 was protested by Cain Irrigation Company, Nevada-California Electric Securities Company, California Municipal Water Supply Company, Ltd., Thomas G. and Kate Watterson and June Knapp, City of Los Angeles, Harry S. Brown and Archibald Farrington.

The Cain Irrigation Company asserts ownership of several thousand acres of land adjoining Rush Creek including extensive riparian holdings. It also asserts ownership of reservoirs on the headwaters of Rush Creek and of extensive water rights pertaining thereto. It refers to Judgment and Decree in the matter of Cain Irrigation Company v. J. S. Cain, et al.,

Mono County Superior Court No. 2091. It declares that the applicant's proposed development will encroach upon its existing vested rights.

Protest of the Nevada-California Electric Securities Company is based upon alleged ownership of lands riparian to the lower reaches of Rush Creek, within Sections 13, 23, 24, 25, 26 and 35 of T1N R26E, MDB&M.

The protest of California Municipal Water Supply Company, Ltd., is based upon claimed interference with Applications 7055 and 7056 (7056 has since been canceled).

The interests of Cain Irrigation Company, Nevada-California Electric Securities Company, and California Municipal Water Supply Company, Ltd., have been assigned to the City of Los Angeles. Of the other protestants, only the City of Los Angeles was represented at any of the seven hearings which were held in 1938 and thereafter. The controversy thus has narrowed to one between the applicant and the City, since failure to appear at a hearing of which due notice has been given, in the absence of statement of good cause for nonappearance, is interpreted as abandonment of interest in the matter at issue.

Opposition by the City of Los Angeles, acting through its Department of Water and Power, is grounded upon anticipated interference with rights which it acquired by purchase and by applications and permits to appropriate water pursuant to the Water Commission Act. The City asserts that during normal years it will require the entire flow of both Rush Creek and Leevining Creek. It states that its diversions from those streams head respectively within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 20, T1N R26E and within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 15, T1S R26E, MDB&M. It claims that it has used or that its predecessors have used water from Rush Creek and from Leevining Creek since 1890. It contends that the appropriation proposed by applicant will

deprive it of the water necessary to meet its various demands. The City asserts rights under Application 7053, 7055, 8042 and 8043, upon each of which a permit has been issued by this office. It states that construction of its own project is in progress but that water has not yet been completely put to beneficial use.

#### Hearings

The earliest hearings of the matter of Applications 2432 and 7721 were those held at Los Angeles on February 6 and 7, 1923, at Independence on September 22 and 23, 1938 and at Bridgeport on November 17, 1938. Of these three hearings the first was limited to a consideration of Application 2432, the second gave consideration to both Applications 2432 and 7721 as well as to certain other applications to appropriate at other points in the same locality and the third was a continuation of the second. Decision 455, dated April 11, 1940 was issued as the result of these hearings; it directed that action be withheld on Applications 2432 and 7721 of Sierra Land and Water Company until further order, "pending further showing as to the acquisition of necessary rights of way and easements and a formulation of its plans for the use of water under existing conditions". As to protests against the application by the City of Los Angeles, Decision 445 states:

"The protests of J. B. Clover and Sierra Land and Water Company may be dismissed as the City has a preferential right under its applications to appropriate from Rush and Leevining Creeks and there is insufficient unappropriated water in those sources for appropriation by the Company, should the City proceed with its proposed development."

Subsequent hearings of the matter of Applications 2432 and 7721 were held on May 22, 1942, on September 10, 1942, on January 28 to

February 2, 1943 and on March 28, 1945. These hearings were all held at Los Angeles. Of each hearing the parties were duly notified.

Exhibits were introduced at one or another of the hearings as follows:

Applicant's Exhibits

- #1 - Statement as to character of soil.
- #2 - Statement as to crops which are economically feasible.
- #3 - Statement as to duty of water.
- #4 - Letter dated August 29, 1942 from H. V. Peterson to J. B. Clover discussing character of material through which canal building is contemplated.
- #5 - Statement (by Lynch) as to soil, crops, and duty of water.
- #6 - Statement as to legal status of lands in proposed place of use.
- #7 - Statement as to legal tie between applicant and land on which use is proposed.
- #8 - Statement as to acreage to be served.
- #9 - Statement as to price per acre per year which users will pay for water.
- #10 - Map of Leevining - Rush Creek Canal.
- #11 - Water Available to Project of Sierra Land and Water Company - an engineering report by Henry B. Lynch, Consulting Engineer.
- #12 - Irrigation in San Fernando Valley - a tabulation of acreages irrigated each year from 1933 to 1940, segregated as to crops.
- #13 - Map of Rush Creek Irrigation Project.
- #14 to #18 - Maps showing changes in legal status of lands.
- #19 - Letter dated November 25, 1941 from Fred W. Johnson to George R. Wickham with reference to the withdrawal of certain lands.
- #20 - Resolution by Board of Water and Power Commissioners, Los Angeles, December 5, 1933.
- #21 - Statement as to status of lands within project.
- #22 - Crop data, Mono Basin and Pumice Valley.
- #23 - Photographs.
- #24 - Tabulation entitled "Discharge into Owens Lake".
- #25 - Tabulation entitled "Spill from Los Angeles Aqueduct between Haiwee and Upper San Fernando Reservoir".
- #26 - Report: "Temperatures around Mono Lake" - Lynch.
- #27 - Report: "Soils and Crops Adaptation, Lands of Rush Creek Irrigation Project" - Zinn and Guernsey.
- #28 - Report: "Water Available to Project of Sierra Land and Water Company" - Lynch.
- #29 - Maximum and Minimum Temperatures at Mono Lake, 1944.

Protestant's Exhibits

- A - Statement in reply to certain questions asked by Division of Water Resources.
- B - Land Classification Map.
- C - Map of Leevining - Rush Creek Canal with Land segregations colored.
- D - Ancillary Report, City of Los Angeles.
- E - Discharges of Rush, Walker and Leevining Creeks, 1904 to 1944.
- F - Diversions for Irrigation.
- G - Makes or Losses in Rush Creek.
- H - Quantities supplied to City of Los Angeles by Metropolitan Water District, 1941 to 1944.
- I - Report - Agriculture and Irrigation, Mono Lake Area, by Fruit Growers' Laboratory, Inc.

Division of Water Resources' Exhibits

1. San Fernando Valley Basins, an extract from Division of Water Resources bulletin on water supply of basins of South Coastal basin.
2. Report on Owens Lake to State Lands Commission and State Attorney General - Division of Water Resources.
3. Temperatures in San Luis Valley, Cain Ranch and Lundy Lake.
4. Volume 1, Part VI - Upper Rio Grande - a report by National Resources Committee.
5. Road Map of California.
6. Wild Hay Management - Bulletin 679, University of California Agricultural Experiment Station.
7. Data on Mountain Irrigation Districts as originally organized.
8. Irrigation Districts in California - Bulletin 21, Division of Engineering and Irrigation.
9. Flow in California Streams - Bulletin 5, Division of Engineering and Irrigation.
- 10, 11, 12 and 13. Uses of Land, Farm Mortgages, Enterprises and Value of Farm Products - Census publications.

Incidents Subsequent to Hearings

A document entitled "Memorandum of Applicant, Sierra Land and Water Company, in Support of its Applications Nos. 2432 and 7721" reached the Division of Water Resources on May 6, 1943. A reply memorandum by the City of Los Angeles was received on June 7, 1943 and a reply memorandum to the protestant city's reply memorandum is date-stamped July 2, 1943.

A document entitled "Report to Senate Committee on Local Governmental Agencies Pursuant to Committee Resolution Adopted November 25, 1947" was prepared under direction of the State Engineer and submitted to the State Water Resources Board on April 2, 1948. The report contains matter relating among other things to water rights, water supply and water utilization within Mono and Inyo Basins. Copies of the document were furnished to Sierra Land and Water Company and to the Department of Water and Power, City of Los Angeles.

An application by Sierra Land and Water Company, for joint use and occupancy and for change in point of diversion, all in connection with Application 2432 and considered during the hearing of September 10, 1942, was withdrawn by resolution of the board of directors of the applicant company on August 24, 1950.

Supplemental information was submitted by the protestant City by letters dated April 30, 1951, May 10, 1951 and August 22, 1952. The applicant's comment upon said supplemental information was submitted by letters dated June 6, 1951 and September 30, 1952.

A document entitled "Supplementary Information re Applications 2432 and 7721 of Sierra Land and Water Company", dated November, 1954, was prepared by the Division of Water Resources. It extends and assembles



information relative to land ownership, water quality, underground water supply and soil conditions within the locality under discussion. Copies of the document were furnished to Sierra Land and Water Company and to the Department of Water and Power, City of Los Angeles.

Status of Certain Applications by City of Los Angeles

Applications 3211 and 3212, one time partial bases of objection against Applications 2432 and 7721, were withdrawn by the applicant City and were subsequently canceled by Department order dated April 11, 1940.

Applications 7053 and 7055 were approved by the order of April 11, 1940 and permits were duly issued. Permit 5553 (Application 7053) provides, without limitation as to time of collection, for the appropriation for domestic and other municipal purposes of 14,000 acre-feet per annum from Leevining Creek, the water to be diverted at a point within Section 16 of T1N R26E, MDB&M at a rate not exceeding 20 cubic feet per second. Permit 5554 (Application 7055) provides, with the same freedom as to time, for the appropriation, for the same purposes, of 36,000 acre-feet per annum, from Rush Creek, the water to be diverted at a point within Section 26 of the same T1N R26E at a rate not exceeding 50 cubic feet per second. The time within which to complete construction and application of water to beneficial use under approved Applications 7053 and 7055 has been extended to December 1, 1957.

Applications 8042 and 8043 were also approved by the order of April 1, 1940 and permits duly issued. Permit 5555 (Application 8042) provides, without limitation as to time of diversion, for the appropriation, for municipal purposes, of 200, 100, 75 and 200 cubic feet per second,

respectively, from Leevining, Walker, Parker and Rush Creeks, diversions from these sources, simultaneously, not to exceed 200 cubic feet per second. It also provides for the appropriation of 32,000, 7,740, 5,800 and 48,000 acre-feet per annum from the same sources, respectively, for diversion, without restriction as to time, to storage. Permit 5556 (Application 8043) provides for the appropriation of the same amounts at the same points of diversion, for power. Permits 5555 and 5556 both contain provisions to the effect that altogether, under the two permits, direct diversions shall not exceed 200 cubic feet per second and that diversions to storage shall not exceed 93,540 acre-feet per annum. The time within which to apply the water to beneficial use under these approved applications has been extended to December 1, 1958.

#### Water Supply Data

The only available records of the flow of Leevining, Walker, Parker and Rush Creeks, of exportations of such flow and of fluctuations of storage in the reservoir (Grant Lake) which regulates exportations, appear to be those accumulated by the City of Los Angeles and furnished by that city both to the Division of Water Resources and to the Sierra Land and Water Company. Those records enable a calculation to be made of excesses that have existed in the flows of the streams mentioned, beyond usage, thus far, by the City of Los Angeles, it being apparent that the combined flow of those four streams minus exportations, minus requirements under vested rights in Mono Basin, minus evaporation losses in Grant Lake plus or minus a correction for gain or loss of storage in Grant Lake represents the excess that has occurred in any particular year of record.

According to figures set forth on page 28 of Protestants' Hearing Exhibit "D" - figures that have not been contradicted by the applicant - total diversions within Mono Basin from Leevining, Walker, Parker and Rush Creeks have averaged 49,059 acre-feet per annum. In the following table the 2nd, 3rd, 4th and 5th columns contain figures supplied by the City of Los Angeles, the figures of the 6th column result from the relationship above stated and the figures in the 7th column are obtained by subtracting 49,059 - the average annual diversion from those streams in Mono Basin - from the corresponding figures of the preceding column. The figures of the 8th column are calculated excesses remaining after a constant release of up to 90,000 acre-feet per annum, a figure well within the amount that may be exported when rights under the City of Los Angeles permits are exercised in full.

Year (Oct. 1 to Sept. 30)	: Combined* :		Grant Lake :		: Apparent excesses		
	: discharge of :	: Storage :	: Evaporation :	: Net yield :	: After :	: After :	
	: Leevining, :	: on lst :	: from :	: available :	: releases :	: releases :	
	: Walker, :	: of year :	: reservoir :	: for Mono :	: of :	: of up to :	
	: Parker and :	: surface :	: export :	: Basin :	: record :	: 90,000 :	
	: Rush Creeks :					: acre-feet	
1905-06	233,014	49,300	3,670	0	229,344	180,285	90,285
06-07	204,870	49,300	3,670	0	201,200	152,141	62,141
07-08	104,031	49,300	3,670	0	100,361	51,302	0
08-09	180,611	49,300	3,670	0	176,941	127,882	37,882
09-10	156,803	49,300	3,670	0	153,133	104,074	14,094
10-11	185,558	49,300	3,670	0	181,888	132,829	42,829
1911-12	114,121	49,300	3,670	0	110,451	61,392	0
12-13	91,615	49,300	3,670	0	87,945	38,886	0
13-14	190,655	49,300	3,670	0	186,985	137,926	47,926
14-15	165,786	49,300	3,670	0	162,116	113,057	23,057
15-16	157,208	49,300	3,670	0	153,538	104,479	14,479
16-17	163,013	49,300	3,670	0	159,343	110,284	20,284
17-18	191,289	49,300	3,670	0	187,619	138,560	48,560
18-19	124,081	49,300	3,670	0	120,411	71,352	0
19-20	125,533	49,300	3,670	0	121,863	72,804	0
20-21	164,294	49,300	3,010	70,100	106,861	57,802	37,902
1921-22	181,221	33,623	3,060	28,500	133,984	84,925	23,425
22-23	94,035	49,300	3,670	0	90,365	41,306	0
23-24	68,506	49,300	2,710	90,627	21,905	0	0
24-25	91,685	2,564	100	94,149	0	0	4,149
25-26	92,884	0	0	92,884	0	0	0
26-27	124,025	0	1,340	52,491	20,894	0	0
27-28	99,211	49,300	3,290	70,800	39,567	0	0
28-29	74,659	34,854	2,800	98,600	0	0	0
29-30	76,166	8,113	160	84,119	0	0	0
30-31	58,452	0	0	58,452	0	0	0
1931-32	110,687	0	510	110,177	0	0	0
32-33	83,145	0	570	77,620	0	0	0
33-34	60,845	4,955	140	65,660	0	0	0
34-35	115,487	0	690	74,960	0	0	0
35-36	130,695	39,837	3,350	49,300	68,582	19,523	0
36-37	109,572	49,300	3,370	49,300	56,902	7,843	0
37-38	192,271	49,300	3,670	0	188,601	139,542	49,542
38-39	88,552	49,300	3,670	0	84,882	35,823	0
39-40	127,559	49,300	3,670	0	123,889	74,830	0
40-41	162,356	49,300	3,670	0	158,686	109,627	19,627
1941-42	159,008	49,300	3,670	0	155,338	106,279	16,279
42-43	156,393	49,300	3,670	0	152,723	103,664	13,664
43-44	106,174	49,300	3,670	0	102,504	53,445	0
44-45	140,321	49,300	3,670	0	136,651	87,592	0
45-46	129,209	49,300	3,670	0	125,539	76,480	0
46-47	90,919	49,300	3,670	0	87,249	38,190	0
47-48	94,190	49,300	3,670	0	90,520	41,461	0
48-49	94,584	49,300	2,720	68,859	23,005	0	0
49-50	95,365	49,300	3,020	78,025	28,906	0	0
50-51	114,141	34,714	2,930	53,958	42,667	0	0
1951-52**	103,263	49,300	2,230	0	101,033	51,974	0
Median	115,487	49,300***					

\* Unit: acre-feet throughout

\*\* Data for 1951-52 extend to June 30 only

\*\*\* Storage on July 1, 1952

## Supplemental Information

The report entitled "Supplemental Information re Applications 2432 and 7721 of Sierra Land and Water Company" is based upon information collected during and subsequent to October, 1953 by representatives of the geological, water right and soil classification functions of the Division during field visits to the Mono Lake area; the University of California, College of Agriculture, Agricultural Experiment Station, collaborated in the matter of greenhouse and laboratory tests of soils. The report contains a list of landowners, also a map showing in color the acreages variously held. The map indicates that the project area of some 30,000 acres includes roughly 8,685 acres in private ownership, 6,820 acres owned by the City of Los Angeles, 1,280 acres owned by the State of California and 1,950 acres of national forest, the remainder apparently being unentered public domain. The report sets forth that limited sampling of water indicates that surface waters, spring waters and well waters of the locality range in quality from "excellent" to "good", that the geology and topography of the locality are generally favorable to the projected development, that the soils are of volcanic origin, very light in texture, pumiceous to the south of Mono Lake, arenaceous to the north and north-east. The report quotes from an earlier report upon a reconnaissance survey of the soils of Mono Basin by Clarence W. Dorsey, in 1916, as follows:

"Briefly, it may be stated that the soils are generally fertile, well drained, easy to cultivate and well adapted to such crops as are usually grown in a north temperate climate where summers are short. The valley in common with all large bodies of land has some waste land due to the occurrence of sand dunes, excessive alkali content and rough, uneven surface ..."

The report of the Division of Water Resources also quotes from a report upon a soil survey of the applicant's project area conducted by the C. Jack Zinn Soil Laboratory, in 1943, as follows:

"The general characteristics of the soils on the slopes and benches of the area are ....

"Friable structure - easily tillable.

"Light to medium texture.

"Deep profiles readily permeable to roots and water. No hardpan or serious compaction.

"Excellent surface and subdrainage.

"Freedom from alkali. No danger of alkali accumulation ....

"On much of these soils, particularly to the south and east of the lake, the light pumice material which lies on the surface forms a natural mulch. This undoubtedly ... would be an important factor in conserving soil moisture ....

"Gentle slopes. Extensive acreages have exceptionally smooth surface. In part the surfaces are irregular.

"Reaction of all surface soils within the pH preference range of the majority of commercial crops.

"Reaction of subsoils usually slightly acid or slightly to moderately basic .... Acidity always within the pH preference range of the majority of commercial crops. In some phases the reaction of the subsoils is basic beyond the pH preference range of many crops. Application of sulphur or other neutralizing agents is indicated. The excellent drainage conditions obtaining, minimize the importance of this condition."

The report of the Division of Water Resources finally contains an account of tests performed at the University of California at Berkeley upon soil samples collected by investigators of the Division at points on lands within the project area, the object of these tests being a determination of the inherent fertility level of the soils of the project area. At the University greenhouse studies were conducted, also laboratory tests, the latter to determine the apparent density, the moisture equivalent and the

base exchange capacity of the soils in question. The greenhouse studies indicated nitrogen and phosphorus deficiencies ranging from slight to severe, also slight deficiencies in potassium and sulphur. The values of moisture equivalent and exchange capacity emphasized the small amount of clay present, an indication of a low fertility level and of the likelihood of difficulties in irrigation. The low water-holding capacity that the tests revealed may require frequent irrigations and may entail some loss of fertilizers by leaching. The portion of the report relating to soil tests at the University of California ends with the following statement:

"In view of the small number of samples, taken, this investigation should not be regarded as necessarily conclusive although it is believed that the samples were representative of the area and indicate what may be expected."

Sections of the Water Code that appear especially applicable to the matter under consideration read as follows:

105. It is hereby declared that the protection of the public interest in the development of the water resources of the State is of vital concern to the people of the State and that the State shall determine in what way the water of the State, both surface and underground, should be developed for the greatest public benefit.

1253. The department shall allow the appropriation for beneficial purposes of unappropriated water under such terms and conditions as in its judgment will best develop, conserve, and utilize in the public interest the water sought to be appropriated.

1255. The department shall reject an application when in its judgment the proposed appropriation would not best conserve the public interest.

#### Discussion

Under State policy and procedure as set forth in the Water Code, the water resources of the State should be put to beneficial use to the

fullest extent possible, the State shall determine in what way the water of the State should be developed for the greatest public benefit, use of water for domestic purposes is the highest use of water and use for irrigation the next highest, the right of a municipality to acquire and hold rights to the use of water should be protected to the fullest extent necessary for existing and future uses, the application for a permit by a municipality for the use of water for the municipality or the inhabitants thereof for domestic purposes shall be considered first in right irrespective of whether it is first in time, the department shall reject an application when in its judgment the proposed appropriation would not best conserve the public interest.

The excesses that might have been available under an appropriation based upon Applications 2432 and 7721 appear from the 7th column of the tabulation on page 12, supra, to have ranged from 180,000 acre-feet down to zero. In contrast it is sought under Application 2432 to appropriate 500 cubic feet per second, 5 months of each year, plus 22,708 acre-feet, both from Rush Creek; and it is also sought, under Application 7721, to appropriate 150 cubic feet per second, year-round, from Leevining Creek and 75 cubic feet per second, year-round, from Rush Creek. It is thus sought under the two applications to appropriate some 217,500 acre-feet to be diverted directly during each irrigation season, plus 22,708 acre-feet per annum, the latter amount to be accumulated in storage. These amounts total roughly 240,000 acre-feet. The sufficiency of 240,000 acre-feet per annum for the irrigation of some 30,000 acres may itself be questioned, in view, for example, of canal lengths and soil porosity. But only a minor fraction of 240,000 acre-feet appears usually to have been available; and in 15 of the 47 seasons of record -- and 12 of those 15 seasons were consecutive -- no appropriable water appears to have existed at all. Moreover, as



the last column of the same tabulation indicates, excesses available for utilization within Mono Basin will diminish materially both in amount and in frequency of occurrence as demand under Applications 7053, 7055 and 8042 increases and stabilizes, that column indicating that if up to 90,000 acre-feet had been exported in each of the years of record, supply available to an appropriator relying upon Applications 2432 and 7721 would in no year have exceeded 90,285 acre-feet and, except in 17 of the 47 years considered, supply to such an appropriator would have been non-existent. Manifestly a project such as proposed under Applications 2432 and 7721 is gravely handicapped. Such a project offers little promise as a means of putting to beneficial use the limited amount of excess water that appears in the locality to have temporarily existed.

The existence of approved Applications 7053, 7055 and 8042, under which the City of Los Angeles may appropriate, for domestic and/or municipal purposes, amounts which aggregate more than the combined, average discharge of Leevining, Walker, Parker and Rush Creeks, constitute a grave obstacle to the approval of Applications 2432 and 7721. While the City of Los Angeles applications are all junior in time to Application 2432 and Application 8042 is junior in time to Application 7721, the City of Los Angeles applications are all prior in right, under Section 1460 of the Water Code. If and when rights under Applications 7053, 7055 and 8042 are fully exercised it is evident that little if any unappropriated water will be left in the streams affected. The time when rights under those applications will be fully exercised cannot be foretold definitely. However, essential construction appears to be complete, use of water has commenced, diligence is being exercised and the rapidly mounting water

requirements for domestic and other municipal purposes within the City of Los Angeles are matters of common knowledge and may be presumed a strong incentive toward vigorous exploitation of that city's available resources.

Conclusion

The information points to the conclusion that while unappropriated water has existed and may exist currently in the sources from which the applicant seeks to appropriate, the amount thereof is not commensurate with the requirements of a development of the type and magnitude proposed by the applicant; furthermore that such unappropriated water as may currently exist is in process of appropriation for municipal purposes under Applications 7053, 7055 and 8042, which applications must be accorded precedence over Applications 2432 and 7721 under a provision of the Water Code. In view of these conclusions it is the opinion of this office that the approval of Applications 2432 and 7721 or either of them is unwarranted and that those applications should therefore be denied.

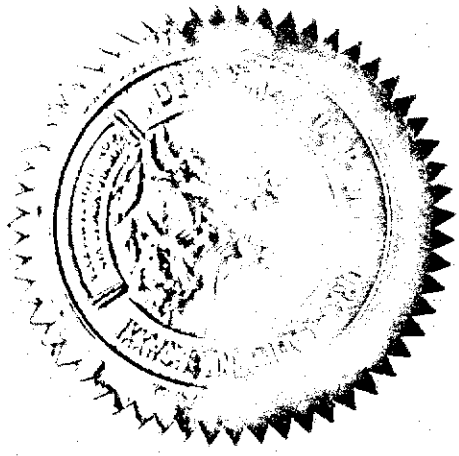
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ORDER

Applications 2432 and 7721 for permits to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, public hearings having been held and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 2432 and 7721 be rejected and canceled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works  
of the State of California this OCT 27 1955



*A. D. Edmonston*  
A. D. Edmonston  
State Engineer