

April 5, 1916.

Mr. O. C. Merrill,
Chief Engineer U.S. Forest Service,
Washington, D. C.

Dear Mr. Merrill:

I wish at this time to direct your attention to a matter which, although not at the moment actively before the Forest Service, is nevertheless one which vitally affects the Cleveland National Forest. That Forest was created and is administered almost entirely because of the resultant beneficial effect upon stream flow conditions. The southern portion of the Forest is, therefore, maintained and administered because of its effect upon the four principal watersheds of the region. The development of one of these watersheds - that of the San Diego River - will be greatly influenced by the final decision of a controversy which is now being waged for the right to construct the so-called El Capitan Reservoir. While the Forest Service will be most affected by the final decision, the controversy has so far been almost wholly before the Department of the Interior, Land Office. This is because most of the lands involved in the reservoir site are within the Capitan Grande Indian Reservation, a reservation which is surrounded by the Cleveland National Forest. However, some National Forest land is involved (see photostatic copy of Protestant's Exhibit "A") and for this reason Mr. H. P. Dechant, Assistant to the Solicitor of the Department of Agriculture, attended two of the three sessions which constituted the recent hearing before the Local Land Office at Los Angeles. This hearing was on the application of the City of San

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Diego, as assignee of W. B. Hamilton, for a reservoir site. The transcript of testimony of this hearing comprises some 1157 pages of typewritten matter and approximately one hundred exhibits. In the evidence, much technical engineering data was introduced at considerable expense by the City of San Diego; by Cuyamaca Water Company, protestant; and by the U. S. Office of Indian Affairs. The exhaustive record of this hearing will very soon be forwarded to Washington and will be available in the office of the Commissioner of the General Land Office. The Office of Indian Affairs also has much available data, particularly since its engineers appeared under the direction of a Special Agent of the U. S. Land Office at the recent hearing.

In order to properly understand the present controversy, it is necessary to review some past history of developments on San Diego River, and to consider existing rights within the watershed:

Cuyamaca Water Company is the successor in interest of the San Diego Flume Company. This latter Company began the construction of a diverting dam and flume for conveying water from the San Diego River in 1886. Diversion by this Company and its successors has been continuous since 1888. Until 1906, water was supplied to the City of San Diego for domestic consumption. By that time the San Diego Flume Company had allowed its structures to deteriorate and its service to become correspondingly affected. At this time the City of San Diego began obtaining its municipal supply from the Southern California Mountain Water Company's system, which system it has since purchased. The system of the San Diego Flume Company which, in the meantime, had been operating in the hands of receivers, was purchased in 1910 by a

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co-partnership, which has since been doing business under the name of Cuyamaca Water Company. The new owners at once made new appropriations covering all of the flow of the San Diego River which it is economically practical to utilize, and have since been continuously developing a system which will utilize all of this flow. This system will eventually consist of a series of mountain reservoirs, including a reservoir at the site applied for by the City, but which will be small enough to cause no material damage to the Capitan Grande Indian Reservation. The Company has already practically doubled the capacity of 99-1/2% of its flume; has raised its diverting dam; has built Murray Hill Reservoir; has installed Chocolate, Sand Creek and Monte Pumping Plants; has purchased lands, including the dam site of the reservoir under consideration; in all, has spent more than \$600,000., exclusive of the purchase price of the system. (All of this development work was enumerated at the recent hearing at Los Angeles by the Company's chief engineer, Mr. Wm. S. Post.) By its continuous development work on a large scale, the Company has maintained its water rights in accordance with the State Law. I am enclosing for your information a copy of the Company's drawing #2449A, which is a general map showing the Company's present and proposed development, together with service areas. This same map was introduced as protestant's Exhibit "U" at the recent hearing.

Careful hydrographic studies by Mr. Charles H. Lee, Consulting Engineer of Los Angeles, show that, if the Company's system had been completed during the past 23 years, all normal and flood flows of the San Diego River which it is economically practical to utilize, would have been so utilized. In fact, for a period of seven successive

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years no surplus water over the demands of the completed system and of the lower riparian owners on the stream would have existed. Mr. Lee has made investigations which show that the evaporation losses for this region on exposed reservoir surfaces average about 72" per annum. Under these circumstances, it is physically impossible to effectively store water over periods of seven years, during which there would not even be run-off to replenish evaporation and seepage losses. For your information, I am enclosing a photostatic copy of a summary prepared by Mr. Lee and introduced at the recent hearing, as protestant's Exhibit "W", to show the result of his studies. I am also enclosing for your consideration a photostatic copy of the Company's study #10 by Mr. Lee, dated Jan. 5, 1915. This latter study was not introduced as an Exhibit at the recent hearing, as it is simply the detailed work by which the results shown in Exhibit "W" were obtained. From these studies it is apparent that, when the vested rights of Cuyamaca Water Company are satisfied, there will be no additional safe yield for municipal water supply.

Subsequent to the beginning of Cuyamaca Water Company's enlargement of its system, one W. B. Hamilton made an appropriation at a point below the Company's diversion dam and, at the same time, applied to the U.S. Department of the Interior for the right to flood certain lands in the Capitan Grande Indian Reservation. It was found that this flooding would necessitate the abandonment of the entire Reservation and the application was accordingly denied. Thereupon, any interests which W. B. Hamilton might still possess were transferred to the City of San Diego. It is upon this revived application that the recent hearing before the Land Office was held.

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The original Hamilton application was made to "obtain the benefits of the Act of February 1st, 1905, 33 Statutes at large 628; Act of February 15th, 1901, 31 Statutes at large 710; Act of May 11th, 1898, 30 Statutes at large 104; Act of March 3rd, 1891, 22 Statutes at large 1105, and all other laws of the U.S. relative to said matters and I further certify that the right of way herein described is desired for the main purpose of irrigation". The City of San Diego, as assignee of W. B. Hamilton, has requested and was granted by the Department of the Interior the right to have the whole case reopened. In granting this request, the Department required from the City ~~for the first filing~~^{an} election of one of the various Acts under which the original application was made. At the opening of the recent hearing, the City filed such document, electing the Act of February 15, 1901, (31 Stat. 790) and in the same document requested that the application be made to include ^{either} lands within the Indian Reservation or within the Cleveland National Forest. Certified copy of this document is on file with the District Forester at San Francisco. The City has, so far not placed its application before the Forest Service. In addition to the application which the City, as assignee of W. B. Hamilton, is urging before the Department of the Interior, a Bill H. R. 11540 was introduced by Congressman Kettner, on February 15, 1916, and referred to the Committee on Public Lands. This Bill, if passed, would grant to the City the same site.

Any water rights which the City may have acquired from Hamilton are subordinate to those of Cuyamaca Water Company. Probably for this reason, City Attorney T. B. Cosgrove has advanced a claim of so called Pueblo Water Rights for the City of San Diego, and has pre-

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4/5/16.

pared a pamphlet setting forth his opinion in support thereof. This claim dates back to Mexican History of California. No less an authority than W. B. Mathews, attorney-at-law, who won a similar claim for the City of Los Angeles to the Los Angeles River, absolutely disagrees with Mr. Cosgrove (also Judge Andrews former city attorney of San Diego). Other attorneys of marked ability also disagree with Mr. Cosgrove, and in so doing do not find the claims of San Diego in any way parallel to those of Los Angeles. An interesting bit of Spanish and Mexican history is involved, and I have found it very interesting. Mr. H. B. Dechant, Assistant to the Solicitor, has become interested in this question and has given it considerable thought. I presume that, if the City should acquire a right of way grant, the question of water rights could only be authoritatively determined in the Courts. Congress should not make grants which will provoke needless litigation and I contend that the City has not sufficient claim to a water right to entitle it to consideration of its right of way applications to the Executive Departments.

The cities of El Cajon, La Mesa and East San Diego, together with the surrounding territory, are absolutely dependent upon the system of the Cuyamaca Water Company for their water supply. These cities and the surrounding communities are limited in their growth only by the extent of their water supply. At present they are growing with the increase of the Cuyamaca Water Company's system. At the present time, the City of San Diego has far more water per capita in storage than have these cities. They have organized the La Mesa Lemon Grove and Spring Valley Irrigation District, which is under contract to purchase the Cuyamaca system at a price fixed by the State Railroad

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Commission (i.e. \$745,000.). Several matters have prevented the final consummation of this sale - not the least of which is the City's endeavor to gain an adverse claim on San Diego River. I admit that provision for an adequate water supply for the future growth of the City would be a wise provision; but I contend that undue haste in the settlement of a controversy as important as this one, is not necessitated by any existing shortage in the water supply at the present time. Although Lower Otay Dam has failed, Morena Reservoir is filled. The City has, therefore, in storage a supply of fifteen billion gallons, exclusive of that held in Upper Otay and smaller reservoirs. I am enclosing herewith for your consideration a photostatic copy of a curve of water consumption prepared by the City Engineer of San Diego and introduced at the recent hearing, as the City's Exhibit "10". From this you will note that the present consumption is a little more than three billion gallons per annum. Thus the City now has on hand a five years' supply, if during these five years the run-off from all available sources is only sufficient to replenish losses by seepage and evaporation. Under these conditions, the fullest investigations should be made by the Executive Departments before reaching a final conclusion in approving or denying the applications before them, or before reporting to the Public Lands Committee on H.R.11540. (I assume that full reports will be demanded by the Committee before passing upon that measure.)

The San Diego flume was constructed and has been continuously operated on an easement granted by the Secretary of the Interior by authority of an Act of Congress. Congress should not at this time

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grant a right of way for a reservoir which will flood a portion of the right of way already granted under its authority. Such grant can only provoke legal controversy. A mere permissive right, such as that for which the City is applying to the Executive Departments, could hardly be superior to such an easement. You will note that H. R. 11540 provides that, under no circumstance shall the City of San Diego pay more than \$100,000 to compensate the Mission Indians located on Capitan Grande Indian Reservation. At the recent hearing in Los Angeles, a carefully prepared statement, verified under oath, by Messrs. McCormick and Bauer (the latter a civil engineer) of the U.S. Office of Indian Affairs, placed the damages to the Indians at \$216,516. Mr. McCormick also stated that he did not think it would be possible to move these Indians without using force. Thus H.R. 11540, as it now stands, amounts to a direct grant from the Mission Indians to the City of San Diego of \$116,516 and, in addition, will necessitate an Indian eviction. It is here interesting to note that Mr. Schenck, a civil engineer of the Office of Indian Affairs, testified that he considered the ultimate development proposed by the Cuyamaca Water Company as more feasible than that proposed by the City on the San Diego River; that he found it would utilize all of the waters of the San Diego River which it is economically practical to utilize and that, since the Cuyamaca development does not necessitate the abandonment of Capitan Grande Indian Reservation, he does not think the Government should permit the City's development.

At the hearing at Los Angeles a number of witnesses for the City testified that the leakage from the proposed dam would be sufficient to provide for riparian owners further down the stream. Principal among these witnesses was Mr. Harris, the engineer who had charge of

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the construction of Lower Otay Dam which has since failed. At the hearing Mr. Harris attempted to verify his contention by testimony as to the large amount of leakage that took place from Lower Otay Dam. The lower riparian owners were not in sympathy with the theory of leaky dams and view this contention with considerable alarm. They are of the opinion that a properly constructed dam would not allow for the taking care of their needs by leakage.

The total cost of construction proposed by the City was variously assumed at the hearing at from \$2,000,000 to \$4,000,000. No estimates were available, because the depth of bedrock at the proposed dam site is not known and no surveys have ever been made of a conduit line to reach the City. It seemed to be generally admitted that the cost would be not less than \$2,000,000, and in this assumption I do not believe that the cost of moving the Indians and of caring for the riparian owners was included. A certified copy of a document from the proper City official was introduced to show that the present bonding margin of the City is \$1,641,000. Since that time, Lower Otay Dam has failed and must be rebuilt before new sources are sought. Thus the City is not financially able to proceed with the construction of the reservoir, if it is granted the right of way.

I earnestly ask that you verify the facts that I have called to your attention in this letter and that you cause a full investigation before taking official action on the City's application which is now before your Department, since the City has elected to prosecute its application for National Forest Lands in accordance with the Act of February 15, 1901 (31 Stat. 790), and before reporting to the Public Lands Committee on H.R. 11540. I would be glad to supply any further

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data which you may desire, although I think you will find the case fully presented in the official record which is probably available to you through the Department of the Interior.

Very Truly,

WLH:OH

W. L. Huber

April 5,
1916.

Mr. O. C. Merrill,
Chief Engineer U.S. Forest Service,
Washington, D. C.

Dear Mr. Merrill:

I am informed that Senate Bill 5081 is a duplicate
of H.R. 11540. I have not send a copy of the Senate Bill.

Very Sincerely,

WLH:OH

WZ Huber

COPY.

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WASHINGTON

Address Reply to
The Forester
and Refer to:

CE
Cleveland, Water Power,
City of San Diego.

April 14, 1916.

Mr. Walter L. Huber,
First National Bank Bldg.,
San Francisco, Calif.

Dear Mr. Huber:

I am in receipt of your letter of April 5, with enclosures. The application of the City of San Diego for rights of way for a reservoir within the Cleveland National Forest and the Capitan Grande Indian Reservation, under the Act of 1901, has not been received in this office. I do not know whether it has even been filed with the District Forester. A copy of the proposed bill granting such rights of way by Act of Congress has, however, been submitted to this Department for report.

It seems to me that a great deal of your letter and of the data accompanying it deals with matters over which the Federal Government has no jurisdiction, and about matters which in particular do not concern the Department of Agriculture. As you are probably aware, but four small areas in Sections 8 and 9, T. 15 S., R. 2 E., aggregating about 150 acres, are within the Cleveland National Forest. The major part of the lands involved are in the Capitan Grande Indian Reservation. The National

Mr. W.L.H.

Forest interests, therefore, are comparatively slight.

It is to be presumed that the Indian Service in the Department of the Interior will be fully able to take care of the rights of the Indians upon the Reservation, and that it will not be necessary for the Forest Service to concern itself upon this feature of the case. Practically every other matter involved in your letter has to do with the question of water rights which are determinable either by the State Water Commission or by the Courts of California. None of the Departments of the Federal Government have assumed to pass judgment upon questions of conflicting water rights secured under the laws of the State of California, or would have the means for arriving at a conclusive judgment should they attempt to do so. Next, that is, less than half of the runoff for the 21 years shown. You appear to rest your case almost wholly upon the assumption that since the Cuyamaca Water Company has outlined a scheme which it is believed will, if carried to completion, utilize the entire runoff of the San Diego River, the fact that the Company has developed a small part, - and it is only a small part - of the completed plan, is sufficient to maintain indefinitely water applications made six years ago and which may not be put to full use for many years in the future. It is my understanding that the Company proposes a scheme of eight storage reservoirs on the watershed of the San Diego River, only one of which has yet been constructed, and that one many years

Mr. W.L.H.

ago. While I cannot say what action the courts might take upon such a situation I should doubt whether any one company would be allowed to withhold from use an entire watershed on the showing of development that the Cuyamaca Water Company apparently has made.

You have included in your letter a table prepared by Mr. Lee, showing the proposed method of utilization of the runoff of the San Diego River by means of the proposed reservoirs of the Cuyamaca Water Company. It is of course not possible to check this tabulation without use of the original data and it is not clear in many cases just how Mr. Lee reaches the results shown in his table. I note, however, that the scheme proposed will utilize an average of 6600 acre feet a year and will waste 7600 acre feet, that is, less than half of the runoff for the 21 years shown upon the table would have been utilized had the Cuyamaca system been fully constructed and used during the period. Whether the waste water could be practically used or not depends upon the character of the reservoir in which it might be stored, and mainly upon the depth of the storage. The loss by evaporation during the seven years drought, if no water at all reached the reservoir, would be approximately 50 feet. I note that four of the proposed reservoirs of the Cuyamaca Company have sufficient depth to leave approximately 100 feet of depth of water in storage under such conditions, providing they were filled at the beginning of the drought. In such a situation it does not

Mr. W.L.H.

seem to me that the proposition is so entirely impracticable as you have stated in your letter. It has been my understanding that the reservoirs, particularly the Morena Reservoir, for the City of San Diego, were designed by Mr. O'Shaughnessey with the clear intention of providing for a seven years' shortage. Why could not this be done at the El Capitan Reservoir, even if it should be assumed that the only waters available for storage would be those not utilized by the Cuyamaca Company's complete system?

There are several other points in your letter which I need not discuss, but upon which I could not entirely agree with you. It seems to me, however, that these matters are entirely without the province of this Department for determination. No right to occupy the land which might be secured by the City of San Diego either through permit from the Department or through grant by Act of Congress could adversely affect any water rights which the Cuyamaca Water Company actually possesses under the laws of California. If the City of San Diego believes it has rights on the San Diego River as good or better than those of the Cuyamaca Water Company it does not seem to me that the Department would be justified, merely on the exparte showing of the Company, in a course of action which would prevent the City from asserting such rights; or, even if it be assumed that the Cuyamaca Water Company has rights to store water to the limit set forth in Mr. Lee's table, that the Federal Government should prevent the Company from securing the right to store the surplus which

Mr. W.L.H.

the Cuyamaca Company cannot use, if the City of San Diego considers it practicable to store such surplus.

This Department will probably call the attention of the Senate Committee to the possible conflict in water rights between the City of San Diego and the Cuyamaca Water Company, but it will also probably state that in so far as the few acres of National Forest lands are concerned, it would have no objection to a grant to the City of San Diego under the terms of the Senate Bill. The question most at issue, as far as the Departments are concerned, is the use of the Indian Reservation lands and since the Interior Department has held extended hearings upon this question, it will no doubt present the evidence, or its conclusions from the evidence, to the Committee.

Very sincerely yours,

(Signed) O. C. MERRILL,

Chief Engineer.

WALTER LEROY HUBER
CIVIL ENGINEER

O. J. Merrill

4.29.16.

the Capitan Grande Indian Reservation, which are included in the
Hamilton Reservoir Application except possibly an area of approx-
C E
Cleveland, Water Power April 29, 1916.
City of San Diego in the SE 1/4 of SW 1/4 of Section 21, T. 14 S.,
Assignee of W.B. Hamilton.

in the words of the Act of January 12, 1891
(26 Stat., 712), which is a Special Act for the relief of Mission
Mr. O.C. Merrill,
Chief Engineer U.S. Forest Service,
Washington, D. C.

Dear Mr. Merrill:

I have your letter of April 14. I agree with you
that many of the matters enumerated in my letter of April 5 are
not directly under the jurisdiction of the Department of Agricul-
ture, but my purpose was to describe the situation in detail in
order to fully inform your Department of all features, including
matters pending in other Departments, so that you would fully
realize their importance and would act only after a thorough in-
vestigation had been made.

However, since my letter was written important facts
have come to my attention which greatly affect the disposition of
the whole matter. These again affect only that part of the proposed
reservoir site within the Capitan Grande Indian Reservation and,
therefore, nominally within the jurisdiction of the Department of
the Interior, but I hope you will bear with me while I enumerate
them although I fully realize that they do not directly influence
action by your Department.

On March 10, 1894 a patent to the Capitan Grande band
of Indians was issued in accordance with the Act of Congress
approved January 12, 1891 (26 Stat., 712) covering all lands within
some evidence of water right as a portion of the requirements of

the Capitan Grande Indian Reservation, which are included in the Hamilton Reservoir Application except possibly an area of approximately 9.83 acres in the SE 1/4 of SE 1/4 of Section 21, T. 14 S., R. 2 E., S. B. M. In the words of the Act of January 12, 1891 (26 Stat., 712), which is a Special Act for the relief of Mission Indians, "the United States does and will hold the land thus patented, subject to the provisions of Section Four of this Act, for the period of twenty-five years, in trust, for the sole use and benefit of the band or village to which it is issued, and that at the expiration of said period the United States will convey the same or the remaining portion not previously patented in severality, by patent to the said band or village, discharged of said trust, and free of all charge or encumbrance whatsoever".

In accordance with this Act the lands embraced in the Hamilton application are held in trust at the present time for the sole use of the Indians and, as title has not yet passed from the United States, the State laws of eminent domain do not apply. It would, therefore, appear that the only lands subject to the Act of February 15, 1901 (31 Stat., 790), under which the City of San Diego has elected to prosecute the Hamilton application, are the three pieces of National Forest land (aggregating approximately 150 acres), unless possibly the area of 9.85 acres previously mentioned, out of a total area of 1165.67 acres.

Of course the conflict of water rights on San Diego River can only be authoritatively adjudicated by the State Courts of California. However, as both departments of the government require some evidence of water right as a portion of the requirements of

application, as the City of San Diego has apparently doubted the validity of the Hamilton appropriations and has fallen back upon its so-called pueblo rights and as these are very unusual in character and seriously questioned, I have assumed that some investigation along this line would be necessary. While this is not a subject which the federal government has authority to pass upon, could it not be properly investigated by the State Water Commission upon request from a department of the federal government? However, as the application is not being actively prosecuted before your department I suppose no action of this kind is in order at present. My purpose in stating the conflict was more to give a full report for possible use in reporting upon the bills before Congress (H.R. 11,540 and S. 5,081). While it is commonly assumed (an assumption with which I do not entirely agree) that Congress has no authority to effect the disposition of waters within a State it has, as in the Hetch Hetchy grant to the City of San Francisco, enacted legislation which aspires to do so and, fearing that similar legislation might be enacted in behalf of the City of San Diego, I felt constrained to fully report the serious conflicts on San Diego River. I now fully appreciate the propriety of your action as an executive officer in simply reporting the conflict to Congress without opinion or commendation and leaving any investigation to the Committee if it considers such proper.

I regret that I did not more completely enumerate the development work which Cuyamaca Water Company has continuously prosecuted in accordance with its definite plan since initiating its appropriations of 1910 but I find that instead I have simply

referred to the testimony of the Company's Chief Engineer, Mr. William S. Post, at the recent hearing at Los Angeles, which testimony I presume is not yet available to your office. The Company's development is in all respects a progressive development similar to several being made by permission of the Department of Agriculture under permits providing for progressive development. While the total magnitude of its completed project is less, its development work has been equal in magnitude and more nearly continuous than that of Southern California Edison Company under its progressive permit on Kern River. I do not mean this statement as adverse to the theory of permits for progressive development or as a contention that Southern California Edison Company has not maintained its water rights but I do feel that Cuyamaca Water Company's rights have been maintained and that its development work has been, considering the relative magnitudes of the completed projects, more commendable and more nearly continuous than that of Southern California Edison Company. The nature of this development work will be apparent when you have Mr. Post's testimony above referred to.

Hydrographic studies for Cuyamaca Water Company have all been handled by Mr. Lee who has had long familiarity with hydrographic conditions peculiar to Southern California, including the watershed of San Diego River, and who is now also employed on hydrographic studies by the City of San Diego, by the City of Los Angeles and by the City of San Francisco. I have not personally followed this work closely, but from your letter I infer that your judgment of the degree of utilization proposed for San Diego does

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O.C.Merrill

4.29.16.

not include vested rights of riparian owners, of necessary losses in the completed Cuyamaca system, etc. The conclusion which Mr. Lee draws from his studies is that the proposed fully developed system would have utilized, including an allowance for lower riparian owners, an average of 18,000 acre feet annually for the period of record (Exhibit "W"). This amount constitutes 70% of the total run-off of the watershed tributary to El Capitan Reservoir and, as Mr. Lee testified, would represent a higher degree of utilization than has been obtained on any of the highly developed streams of Southern California.

"Q. From this study what conclusion of any have you reached relative to the degree of utilization of the water available from the Cuyamaca Water Company's complete system?

"A. The degree of utilization of the stream and its run-off above the El Capitan dam site would be above the average under the development here proposed for highly developed streams of Southern California, the Santa Ana River, which is one of the most highly developed streams in California, has but fifty-eight per cent of its water utilized. The San Gabriel river, another highly developed stream, has but thirty-six per cent of its water utilized; the proposed development by the Cuyamaca Water Company would utilize seventy percent." (Transcript page 657a)

Mr. Lee's testimony as to the amount of water which will be utilized by the proposed Cuyamaca Water Company's system remained uncontroverted by any evidence introduced in the recent hearing. The degree of utilization proposed is more than is obtained by the City of San Diego for the watershed of its present municipal system, even including Lower Otay Reservoir which is temporarily not in use. I believe it is true that Mr. O'Shaughnessey made calculations on the Southern California Mountain Water

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O. C. Merrill

4.29.16.

Company's system storing water over a period of drought of seven years but not a seven year period with no run-off whatever to replenish even losses by evaporation and seepage as shown by the fourth column of Exhibit "W".

I entirely agree with you that your Department should not be governed merely by an exparte showing of the Company. I had the same thought in mind in closing my letter of April 5 when I earnestly asked that you verify the facts. I presume that if the application is finally pressed before your Department that you will then have access to the voluminous record of the Land Office which pretty thoroughly covers the whole case. Until then I do not suppose further consideration will be given unless in reporting upon the two measures before Congress.

Very sincerely,

W. L. Huber

COPY

May 6, 1916.

CE
Cleveland, Water Power
San Diego, City of

Mr. W. L. Huber, Civil Engineer,
San Francisco, Cal.

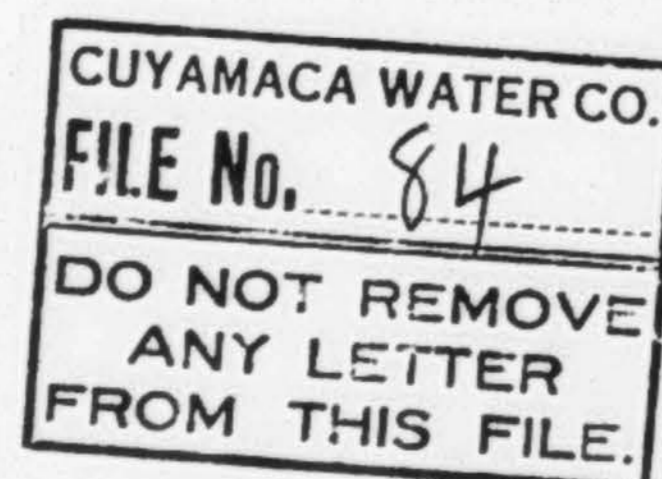
Dear Mr. Huber:

I have your letter of April 29 with further information concerning the application of the City of San Diego for reservoir rights within the Capitan Grande Indian Reservation. This application has not been referred to the Department other than in the matter in which you have presented it in your two letters. If it does come before the Department for action upon the application, I shall be glad to give full consideration to everything which you have presented, or further care to present, in connection with the case.

Very sincerely yours,

(Signed) O. C. MERRILL,

Chief Engineer.



SECRETARY OF WAR, CHAIRMAN
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE

O. C. MERRILL, EXECUTIVE SECRETARY

ADDRESS REPLY TO
EXECUTIVE SECRETARY
AND REFER TO

E

Projects, Cal. (#217)
Ed. Fletcher.

FEDERAL POWER COMMISSION
WASHINGTON

May 24, 1921.

Mr. Ed. Fletcher,
920 Eighth Street,
San Diego, California.

Dear Sir:

Your application for preliminary permit involving a power project on Boulder Creek is received by reference from the Forest Service.

The application has been examined and is accepted as substantially complete in accordance with the Regulations. It is being referred to the Forest Service for investigation and report, and it is requested that you cooperate with the representative of the Forest Service in his investigations in so far as practicable.

Action is being initiated looking toward the advertisement of your application for eight consecutive weeks in the "Union" at San Diego, San Diego County, California.

Very truly yours,

Executive Secretary.

SECRETARY OF WAR, CHAIRMAN
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE

O. C. MERRILL, EXECUTIVE SECRETARY

ADDRESS REPLY TO
EXECUTIVE SECRETARY
AND REFER TO

FEDERAL POWER COMMISSION
WASHINGTON

May 24, 1921.

E
Projects, Cal. (#217)
Ed. Fletcher.

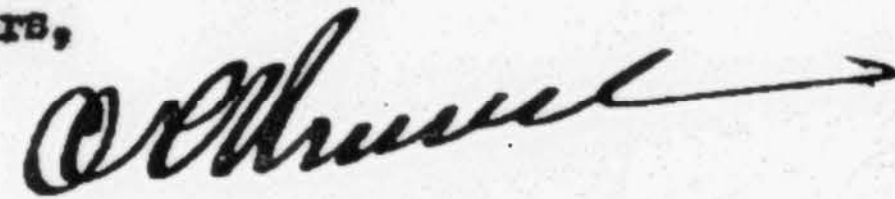
County Board of Supervisors,
San Diego County,
San Diego, Cal.

Gentlemen:

Mr. Ed. Fletcher, 920 Eighth Street, San Diego, California, has
filed an application covering power development on Boulder Creek
approximately from a point in Section 15, T. 14 S., R. 3 E., to a point
in Section 12, T. 14 S., R. 2 E., S. B. M.

Any objections to or comments on this proposed project should be
addressed to this Commission not later than July 30, 1921.

Very truly yours,



Executive Secretary.

SECRETARY OF WAR, CHAIRMAN
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE

O. C. MERRILL, EXECUTIVE SECRETARY

ADDRESS REPLY TO
EXECUTIVE SECRETARY
AND REFER TO

FEDERAL POWER COMMISSION
WASHINGTON

Oct. 5, 1921.

E
Projects, Cal. (#252)
Fletcher, Ed.

Mr. Ed Fletcher,
920 Eighth Street,
San Diego, California.

Dear Sir:

Your application for preliminary permit covering a proposed power
project on Santa Ysabel and Black Canyon Creeks is received by reference
from the Forest Service.

It appears that the proposed Sutherland Reservoir constitutes a
part of the power project for which you are making application. Accord-
ingly, it is requested that you file an additional tracing and five blue
prints showing this reservoir in accordance with the requirements of
Sections 8 and 9 of Regulation 3. A copy of the regulations is inclosed
herewith. In order to expedite action on your application, it is suggested
that the above material be filed through the District Forester at San
Francisco.

It is also noted that you state that you are already doing some
grading for the proposed conduits, and that you contemplate continuing
such work under the preliminary permit for which you are applying. In
this connection I have to inform you that actual construction work of
this nature can be authorized by this Commission only under license, except
that such construction work as may be necessary to maintain water rights
under State law, or as may be desirable in preparation for the construction
of project works may be authorized under preliminary permit upon a satis-
factory showing of the reasons therefor. Accordingly, if you wish to
pursue such actual construction activities on your project, it is suggest-
ed that you prepare and file an application for license rather than for
preliminary permit; or, if this is impracticable, that you promptly file
a showing of the reasons why authorization for the desired construction
work should be granted under preliminary permit.

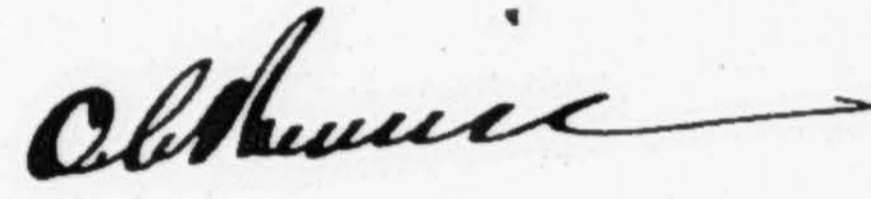
Your application is being referred to the Forest Service for in-
vestigation and report, and I should be very glad if you will cooperate

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with the representative of the Forest Service in his investigations in so far as practicable.

Your application will be advertised in the near future for eight consecutive weeks as required by law in the "Union" at San Diego, California.

Very truly yours,



Executive Secretary.

Inclosure--1838
(Copy R. and R.)

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Office Oct. 10, 1921

Mr. King:

Please get out this information for me
(Re: Federal Power Commission letter Oct. 5th)

E.F.

BA

E. & M. L. HOW CO.

FITCHER-SPENCER INVESTMENT COMPANY

Oct 26, 1921 227
Federal Power Commission

In compliance with the Federal Water Power Act (41 Stat., 1063) notice is hereby given that Mr. Ed Fletcher, 920 Eighth Street, San Diego, California, has filed application covering power development on Santa Ysabel Creek and tributaries approximately from a point in Section 23, T. 12 S., R. 1 E., to point in Sections 23 and 17, T. 12 S., R. E., S. B. M., on Santa Ysabel and Black Canyon Creeks, respectively. Any objection to such application request for a hearing thereon, together with any briefs, reports, other data for which consideration desired, should be submitted to the Executive Secretary, Federal Power Commission, Washington, D. C.

UNITED STATES MARSHAL
SALE

Southern District of California.
By virtue of an Order of Sale issued out of the United States District Court for the Southern District of California, on the 17th day of October, 1921, notice is hereby given that I will sell by public auction, for cash, on Monday, the 14th day of November, 1921, at 10 o'clock a. m., at San Diego, Calif., in front of the Post Office:
1 Chandler automobile bearing California State License No. 367-569, Engine No. 51622.

SECRETARY OF WAR, CHAIRMAN
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE

O. C. MERRILL, EXECUTIVE SECRETARY

ADDRESS REPLY TO
EXECUTIVE SECRETARY
AND REFER TO

FEDERAL POWER COMMISSION

WASHINGTON

October 11, 1922.

E
Projects, Cal. (Nos. 217 & 252),
Fletcher, Ed.

Mr. Ed. Fletcher,
920 Eighth St.,
San Diego, Cal.

Dear Sir:

There are inclosed herewith drafts in duplicate of preliminary permits for Projects Nos. 217 and 252 which were authorized for issuance at the last meeting of the Commission.

If the terms of the permits are acceptable to you, it is requested that you sign in duplicate the acceptance forms found on the last pages of the permits. The four copies should be returned to me. The original copies will be returned to you after execution by the Commission.

You will be allowed sixty days from the date of this letter in which to accept and return the permits.

Very truly yours,

2 Inclosures 5309.



Chief Engineer.

In the absence of the Executive Secretary.

November 29, 1922.

Federal Power Commission,
Washington, D. C.

Gentlemen:

Enclosed find original and duplicate of Preliminary Permit, Project No. 217, California, Ed Fletcher, signed and witnessed by two parties as requested. When this Permit has been granted, please return one copy to me.

Yours very truly,

EF:KLM

RECEIPT FOR REGISTERED ARTICLE NO. 6676 1129-191
class post paid.

From: Ed + Telch
Addressed to: Federal Power Commission
Return receipt desired _____
Delivery restricted { To addressee in person _____
To addressee or order _____ Postmaster, per _____

San Diego
Returns requested

Dec. 19, 1921.

O. C. Morrill, Executive Secretary,
Federal Power Commission,
Washington, D. C.

Dear Sir:

Referring to your file---

E

Projects, Cal. (#252)
Fletcher, Ed.

In answer to your letter of Oct. 5th, 1921:

The original map marked "Exhibit H" filed through the Forest Service showed the Sutherland Reservoir at the upper end of the Sutherland-Ramona pipe line. However, in order to comply with your request, I am sending under separate cover a contour map of the reservoir.

It is impracticable at this time to file an application for a license, as the details of the project are not completely worked out. The construction work referred to is being carried on for two purposes, namely--

1st, in order to safeguard our interests with the State Water Commission of California;

2nd, the bench which is being constructed for the pipe line will also be used as a road to give access to the project.

The actual construction of the dam could not be carried to completion without the construction of this road.

Mr. Morrill

-2-

12/19/21

For the above reasons it is requested we be given permission to pursue this portion of the work under a preliminary permit.

We will be glad to cooperate with the representative of the Forest Service in his investigations.

The map of the reservoir above referred to is being filed through the District Forester at San Francisco.

Yours truly,

T. H. King,
Chief Engineer.

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SECRETARY OF WAR, CHAIRMAN
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE

FEDERAL POWER COMMISSION
WASHINGTON

O. C. MERRILL, EXECUTIVE SECRETARY

ADDRESS REPLY TO
EXECUTIVE SECRETARY
AND REFER TO

E
Projects, Cal. (#252)
Fletcher, Ed.

Jan. 23, 1922.

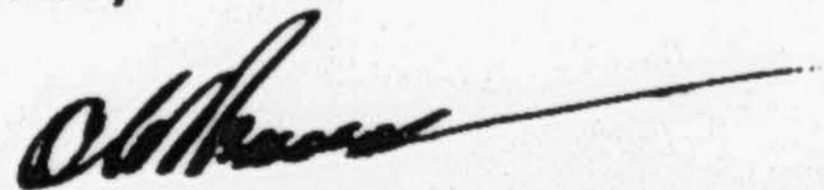
Mr. T. H. King, Chief Engineer,
Fletcher Company,
Fletcher Building,
920 Eighth Street,
San Diego, California.

Dear Sir:

Receipt is acknowledged of your letter of December 19.

Copies of your letter are being referred to the Forest Service in order that their investigating officer may have the information contained therein available in connection with his studies and to aid him in making appropriate recommendations in the matter to this Commission.

Very truly yours,



Executive Secretary.

FEDERAL POWER COMMISSION

WASHINGTON

June 4, 1924

E
Projects, Calif (#217)
Ed Fletcher

Mr. Edward Fletcher,
920 Eighth Street,
San Diego, Calif.

Dear Sir:

At its meeting of June 4th, the Commission voted to amend your preliminary permit so as to extend the expiration date, as requested. Formal instrument to this effect will be forwarded to you at the earliest practicable date.

Very truly yours,

O. C. MERRILL

Executive Secretary

Miss Fletcher given original to put in safe.

917
June 13, 1924.

Mr. O. C. Merrill, Executive Sec'y,
Federal Power Commission,
Washington, D. C.

Projects, Calif
#217
Ed Fletcher

Dear Sir:

I acknowledge receipt of your letter of June
4th and thank your Commission for the extension of time.
Will be glad to have formal instrument at your
convenience.

Yours very truly,

KLM

*Excluded
Paper in safe.*

Ed Fletcher Papers

1870-1955

MSS.81

Box: 18 Folder: 14

General Correspondence - Merrill, O.C.



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