

WATER DIVERSION

in

SAN PASQUAL VALLEY

T. P. Ellis

December 26, 1917

WATER DIVERSION

in

SAN PASQUAL VALLEY

Setting forth the names of those diverting water and approximate amounts of such diversion, together with certain other data bearing on such usage.

CONCLUSIONS on Page 8.

T. P. Ellis,

December 26, 1917

SAN DIEGO, CALIFORNIA, December 26, 1917

Col. Ed Fletcher,
Office.

Dear Sir:-

Subject: Water Usage - San Pasqual Valley.

At your request I have reviewed the Court proceedings in the matter of the Water Adjudication for the San Pasqual Valley ditches, and find, with the exception of the Henry Johnson property, no record of individual water apportionment, and find no filed record of the lands upon which this water was to be used. On the contrary, a lack of filed information, devastated ditches due to the 1916 flood, the change of ownership and both legal and personal disputes leave any of the deductions which follow open to question as to their validity.

HISTORY OF WATER RIGHTS

West San Pasqual Ditch

In 1853 the West San Pasqual Ditch was built with capacity of 1200 M.I. and diverted water at the NW $\frac{1}{4}$ Section 33, Township 13 South, Range 1 West, S.B.M. carrying it down the north side of San Pasqual Valley. The ditch decreased in carrying capacity until the flood of 1916 at which time the average draft for the five preceding years was about 400 Miner's Inches. No draft records have been made since 1916. At that time the head end of the ditch was washed out and has recently been rebuilt.

East San Pasqual Ditch

On December 25, 1876 W. R. Stewart, A. F. Brown, John Judson, Archibald Clevenger, John Clevenger and Robert French approximated 1440 Miner's Inches of water to be diverted in Section 36, T. 13 S., R. 1 W., S.B.M. for use along the south side of the Valley. (See

Col. Ed Fletcher,
Page 8.

Misc. Records, Book 4, page 276) In 1877 this ditch was built with a capacity of 700 M.I. to utilize the surplus waters not needed for the West San Pasqual Ditch. For the last five years the average diversion has been about 400 M.I.

On September 18, 1882 John B. Judson, Henry Johnson, Jens Olson, A. M. Striplin and A. D. Trussell to whom these rights had been transferred, granted same to the Pamo Water Company; also a strip of land 50 feet wide for conduit right of way. This grant applied to lands in Sections 35 and 36, T. 13 S., R. 1 W., S.B.M., and carried all riparian rights and rights to impound and divert waters with it. In return a 10 Miner's Inch steady flow was to be allowed from the Company's conduit in quantities ranging from one to 200 M.I. All contingent upon ability to begin construction work within 90 days from September 18, 1882 (Deeds Book 155, page 106).

On or about September 22, 1896 the East San Pasqual people formed themselves (L. O. Johnson excepted) into the East San Pasqual Water and Improvement Company (Inc.) wherein they deeded all their right in and to said water of said San Pasqual River as diverted in and through the East San Pasqual Ditches subject to a Pamo Water Co. contract above mentioned.

Adjudication of Ditch Rights

Before and since April 15th, 1898 there has been several law suits between the West San Pasqual and the East San Pasqual water users and other parties; the most important one entitled Caspar Ruffner et al vs John B. Judson et al. The plaintiff (Ruffner et al) representing the West San Pasqual people and the defendant, those living in

East San Pasqual. The decision adjudged and decreed on above date (Case No. 10007 Superior Court of San Diego County by Judge E. S. Terrance that the waters of the San Pasqual River should be divided and partitioned as follows:

(a) The East San Pasqual Ditch to receive full flow of Santa Ysabel River August 15th to January 15th of each year.

(b) The East and West Ditches are to alternate in the use of water from January 15th to August 15th of each year.

(c) West San Pasqual Ditch to divert the full flow of the River for 20 days starting with the 15th of each month and finishing on the 5th day of the month ensuing.

(d) East San Pasqual ditch to divert the full flow of the River for 10 days commencing on the 5th day and ending the 15th day of each month.

(e) From the East San Pasqual Ditch Henry Johnson shall divert for his own use the full flow of the river one day each 30 days from August 15th to January 15th of the next ensuing year and one day each 10 days between January 15th and August 15th of each year.

When there is plenty of water for both ditches both use.

(f)	<u>Plaintiffs</u>	<u>Defendants</u>
	<u>West San Pasqual Ditch</u>	<u>East San Pasqual Ditch</u>
	Gasper A. Huffner	John B. Judson
	Will E. Smith	Fred E. Judson
	Nathaniel R. Roberts	Amos D. Trussell
	Stephen F. Wood	Ray Trussell
	Andrew Montgomery	Abel E. Stripplin
	Chino Montiel	Peter Jorgensen
		John Olsson
		L. O. Johnson
		Henry Johnson
		Anthony Marchus
		A. Olevinger (John Olevinger, Gdn East San Pasqual Water Smp. Co.

WEST SAN PASQUAL WATER USERS

No.	Name	Township 12 S., Range 1 West		Acres Irrig. & Hrs Flow (Alv) 1911	Present Owner	Acres Avail- able 1917	Hrs Flow 1917 (Ward)	
		Portion	Section					
1	Dyer, Wm.	SE $\frac{1}{4}$	NE $\frac{1}{4}$	33	5	Dyer, W. H.	5	5
2	Dyer, W.	NW $\frac{1}{4}$	SE $\frac{1}{4}$	33	5	Dyer, Fred	5	5
3	Hall, N.	S $\frac{1}{2}$		32	30	Hall, N.	20	30
4	Huffner, G.A.	SW $\frac{1}{4}$		32	50	(Huffner ?)	-	50(?)
5	Lewis, Mrs JH	NE $\frac{1}{4}$		32	20	(Bowen ?)	-	20(?)
6	Little, Wm.	NE $\frac{1}{4}$	NE $\frac{1}{4}$	32	1 $\frac{1}{2}$	(Hae ?)	-	1(?)
7	Montgomery	-		30	40	Book, G.J.	40+	40
8	Montiel, C.	E $\frac{1}{2}$	SW $\frac{1}{4}$	32	9	Montiel, M.	9	9
9	Myers, H.G.	-		33 & 34	30	Myers-Webb	80+	New Div. - 30
10	Pratt, H.	S $\frac{1}{2}$	NE $\frac{1}{4}$	31	20	Pratt, H.B.	20	20
11	Roberts	D $\frac{1}{2}$		32	20	Fletcher	80+	80
	do	W $\frac{1}{2}$		33	60	(Casson?)	-	60(?)
12	Smith, W.H.	NE $\frac{1}{4}$		32	6	(Fenton)	50+	6
13	Ward, R.	S $\frac{1}{2}$		32	-	Fletcher	-	-
	do T.13S RLW	-		(4 & 5)	75	do	-	75
14	Wood, S.F.	NW $\frac{1}{4}$		32	80	Wood M.J.	80	30
					451 $\frac{1}{2}$			461

(?) Indicates that the amount of water appropriated is identical but no clue is given to the land to which it is attached. Sec. 32 & 33 do not contain any such owners.

With a ditch capacity of 400 M.I. and 140 days run of water, the 451½ acres of land would receive in that time the following amount of water:

1 Miner's Inches for one day -----	1,728 cu.ft.
1 " " " 140 days -----	241,920 "
400 " " " 140 days -----	96,768,000 "
451½ acres = 19,667,340 sq. ft.	

The 96,768,000 ÷ 19,667,340 = 4.92 ft. in depth that the water would cover the land during the period from January 15th to August 15th of each year. There is of course a material loss by seepage from the earth ditches. This may amount to one-half of this amount and still there would be an ample supply for intense cultivation.

These figures, together with the uncertainty of the individuals right to use water as mentioned in the first paragraph of this letter, will tend to show that a correct and definite usage is not now established on the West San Pasqual Ditch and that this applies to some extent anywhere in the Valley.

Actual Amount Diverted

Attached is an estimate of the amount of water diverted by each ditch during the years 1912 to 1915 inclusive. It must not be presumed that the 400 M.I. ditch capacity represented herewith implies that a constant flow of this character is available from Jan. 15th to Aug. 15th of each year. This period is set forth in the adjudication but by consulting the records of diversion attached, no such continuous use has ordinarily been possible. The stream usually is capable of delivering this amount between March and June,

EAST SAN PASQUAL WATER USERS

No.	Owner	Township 12 South Range 1 West		Acres	Acres	Hrs of
		Portion	Section	Irrig. & Hrs Flow (Alv) 1916	Avail- able 1917	Flow 1917 (Ward)
1	Garlock, A.M.	E½ NW¼	36	-	20	-
2	Georgeson, P.	SE¼ NE¼	36	52	40	52
3	Harris, E. R.	N¼ SE¼	36	6	10	6
4	Jakeway, E.E.	N¼ S¼	31, R 1 E	6	5	6
5	Johnson, H.	S¼ SE¼	26	3	5	3
6	Judson, A.	Part	35	35	80	34
7	Judson, F.E.	Part	35	16		
8	Judson, H.	Part	35	-		
9	Marchus, C.G.	NE¼ NE¼	35	31	25	31
10	Trimm, L.J.	SE¼ NE¼	36	6	5	6
11	Trussell, R.	W¼ NE¼	35	58	40	58
12	East S. P. W. & Imp. Co.	above	pts.	(?)	(?)	-
				213	230	256

During the period between January 15th and August 15th the above are entitled to 10 days diversion each month or 70 days. With a ditch capacity of 400 M.I. and 70 days run of water the 230 acres of land would receive in that time (in addition to the full flow of the River from Aug. 15th to January 15th) the following amount of water:

1 Miner's Inches for one day -----	1,728 cu. ft.
1 " " " 70 days -----	120,960 "
400 " " " 70 days -----	48,384,000 "
230 acres = 10,018,800 sq. ft.	

The 48,384,000 ÷ 10,018,800 = 4.83 ft. in depth that the water would cover the land during period stated above. This includes losses by seepage, etc.

SAN PASQUAL VALLEY

Miscellaneous Users Other than the above

No.	Owner	Location	Nature of Diversion	M.I. Capacity	Remarks
1	Janet E. & Helen S. Prentice	Bernardo Rho	Pump	125	Not in use
2	S.P. Ro. Co.	" "	"	150	See #1 below
3	Everet Peet L.D. Rockwood	Sec. 26, 35, † 12-1W	Ditch	75	Now in use
4	H.G. Fenton	SW ₂ 34-12-1W	Pump	175	See #7 below

The following list was compiled from letter of Ray Ward dated October 28, 1917 and contains names from the above lists who are also operating pumps in connection with any ditch right they may be shown to have.

Pump	Owner	Location	When installed	M.I. Capacity	Remarks
1	San P. Ro. Co.	E. Line Bernardo Rho.	1911	150	
2	Worthington	SE Cor. Sec. 30-12-1W	1914	50	
3	E H Webb	NW ₄ Sec. 34-12-1W	1917	150	
4	H. Johnson	SW Cor. Sec. 25-12-1W	1910	30	
5	E G Marchus	NE ₂ Sec. 35-12-1W	1913	75	Not in use.
6	P. Georgeson	SW ₂ Sec. 36-12-1W	1913	75	Not in use.
7	H.G. Fenton	SW ₄ Sec. 34-12-1W	1917	175	
8	E. Boyle	SE ₂ Sec. 34-12-1W	1914	75	
				780	Myar's renter - 15 Sec. ft. Total draft - 32 Ac. ft. per day.

(Area of Valley 4,000 acres)

From the nature of the foregoing information, together with that embodied in letter to Col. Fletcher dated December 11, 1917, and the uncertainty that exists because of the indefinite nature of the 1898 ditch water adjudication, the correct thing to do is to take immediate steps to protect the Company's water rights throughout the entire San Pasqual Valley. At this time it can be shown by testimony what the minimum established use has been over a period of low years. Later on new diversions will be established and a greater demand for water created. Much uncertainty exists as to the effect of various transfers upon the riparian status of certain land. This matter will take a careful examination to find what actual rights now exist.

Herewith are included copies of various notices of appropriation; also estimates of flow of water through the East and West San Pasqual Ditches, 1912 to 1915 inclusive, and other data; all of which have bearing on the subject.

Yours very truly,

TFE: BK

Thos. P. Ellis

The following water appropriation made by H. Taylor at Carroll Damsite was filed in the Recorder's Office of San Diego County at the request of Ed Fletcher Co. (Makin) February 24, 1914, at 25 minutes past 10 o'clock A. M. and is recorded in Water Claims Book 4, page 203, a copy of which is given herewith.

Mr. Taylor assigned this appropriation to Ed Fletcher, same being filed October 22, 1914 at 5 minutes past 9 o'clock A.M. and recorded in Water Claims Book 4, page 248.

Mr. Fletcher has not to this date transferred these rights.

Vicinity Crescent Valley - Water Claims Book 4, page 203.

NOTICE OF APPROPRIATION

NOTICE IS HEREBY GIVEN, that the undersigned H. Taylor, claims and appropriates all the water flowing or hereafter to flow in the channel of the Bernardo River, otherwise known as the San Dieguito River or Santa Ysabel River in the County of San Diego, State of California, at the point where this notice is posted, being in the southwest quarter of the northeast quarter of Section 18, Township 13 South, Range 2 West, San Bernardino Meridian, together with the water from all creeks or affluents of said river, to the extent of Ten Thousand Inches measured under a four inch pressure of the continuous flow of said stream.

The purposes for which said H. Taylor appropriates and claims said water are for the irrigation of land in the said County of San Diego, State of California, and for horticultural and agricultural purposes and said lands and for domestic purposes.

The places of intended use of said water are on the following described lands situated in the County of San Diego, State of California, to-wit:

On the Bernardo Rancho, San Dieguito Rancho, Agua Hedionda Rancho and Los Penasquitos Rancho, on lands included in the Linda Vista Irrigation District; on lands in the City of San Diego, California, and on lands in fractional townships as follows: Township 12 South, Range 4 West; Township 13 South, Range 4 West; Township 14 South, Range 4 West; Township 14 South, Range 3 West; and Township 14 South, Range 2 West, San Bernardino Meridian.

The means by which said H. Taylor intends to divert the said water is by the construction of a solid dam across the channel of said river at the point where this notice is posted as aforesaid, 150 feet in height more or less, in order to divert sufficient waters of said stream to make up with the flow of said stream the said continuous flow of Ten Thousand Inches of water so measured as aforesaid, also by means of a flume, ditch, cement aqueduct, tunnels and pipes leading from said dam, the same to be 10 feet in width and 4 feet in height on a grade of 5 feet per mile, or in the case of a circular conduit the same to be 5 feet in diameter on a grade of 25 feet per mile, the same to be sufficient size to carry the requisite amount of water at each respective point and diminishing as the supply is utilized along the line of said conduit.

The place of intended diversion of said water is the place where said dam is to be constructed and where this notice is posted as heretofore stated, and also at points along the margin of the Reservoir, created by said dam where water will be diverted by pumps.

IN WITNESS WHEREOF, I have put my hand this 21st day of February, 1914.

H. TAYLOR,
Appropriator.

State of California, }
County of San Diego, } SS.

On this 23rd day of February, A. D. 1914, before me, Minnie Schaffnet, a Notary Public in and for the said County, residing therein, duly commissioned and sworn, personally appeared H. Taylor, known to me to be the person whose name is subscribed to the within instrument, and he duly acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the County of San Diego, the day and year in this certificate first above written.

Minnie Schaffnet

(SEAL) Notary Public in and for said County and State,

Recorded at request of Ed Fletcher Co. (Makin) February 24, 1914, at 25 minutes past 10 o'clock A. M.

John H. Ferry, County Recorder,

By W. Howard Ferry, Deputy Recorder.

Assignment of H. Taylor, Water Claims Book 4, page 248.

I, H. Taylor, in consideration of Ten Dollars (\$10.00) do hereby grant, bargain, sell, assign and transfer to Ed Fletcher, all water and water rights, privileges and all claims and right to appropriate water referred to in the notice of appropriation dated this 21st day of February, 1914, subscribed by me and a copy of which is hereto attached and made a part of this instrument and I further hereby grant, bargain, sell, assign and transfer to said Ed Fletcher, all my right, title, interest and claim in or to the water referred to in the said Notice of Appropriation and all my right to appropriate, take, use or impound said water and all my rights to the water of the Bernardo River, otherwise known as the San Dieguito River or Santa Ysabel River, or any of its affluents or tributaries.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of February, 1914.

(Signed) H. Taylor.

State of California, }
County of San Diego, } SS

On this 25th day of February, A. D. One Thousand Nine Hundred and Fourteen, before me, Lou B. Mathews, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared H. Taylor, known to me to be the person whose name is subscribed to the within instrument, and he duly acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, at my office in the County of San Diego the day and year in this certificate first above written.

Lou B. Mathews

Notary Public in and for said County and State.

(SEAL)

(Above Notice of Appropriation by H. Taylor is here repeated)

Recorded at the request of W. E. Keenan, October 22, 1914, at 5 minutes past 9 o'clock A. M.

John H. Ferry, County Recorder,

By W. Howard Ferry, Deputy.

(San Pasqual Valley Ditches)

NOTICE OF APPROPRIATION

Miscellaneous Records No. 4, page 276.

San Pasqual, Dec. 25, 1876.

Notice is hereby given that we, the undersigned, fourteen hundred and forty inches of water (1440 in.) here flowing in the San Bernardo River in Section 36, Township 12, 1 W., San Bernardino Meridian, San Diego Co., California, measured under four inch pressure, for the purpose of irrigation.

We intend to divert the said water by means of a ditch and flume carried along the south side of the Valley (San Pasqual) and the surplus water we propose to empty into the Santa Maria Creek and so back to the San Bernardo River.

And we further give notice that we propose to incorporate ourselves into a company, for the purpose of carrying out the above scheme.

W. R. Stewart
A. F. Brown
John Judson
A. Clevinger
John Clevinger
Robert French

Recorded December 28th, 1876 at 10 o'clock A.M. at request of J. Judson.

A. G. Grant, County Recorder
By E. G. Haight, Deputy.

Rockwood's Guejito Creek Appropriation - Water Claims Book 2, p. 464.

NOTICE

Is hereby given that the undersigned claims and has appropriated the water in this Canon a Branch of the San Pasqual River here flowing on Section Twenty-six (26) Township Twelve South (12) Range (1) West, San Berardino Meridian, San Diego Co. California to the extent of One Hundred Miners Inches. That the said water is claimed and appropriated for irrigation and domestic purposes, and the place of intended use is upon my ranch in Section 26 and 35 of said Township, and that the undersigned intends to divert said water by means of a ditch of sufficient capacity to carry the same.

San Pasqual, Dec. 11th, A. D. 1894.

B. B. Rockwood

State of California, }
County of San Diego, } SS.

B. B. Rockwood being first duly sworn says that he posted a copy of the above notice on the branch of the San Pasqual described in the above notice at the place of the intended diversion and for the time and purposes set forth therein.

B. B. Rockwood

Subscribed and sworn to before me this 18th day of December, 1894.

F. P. Willard,
Notary Public.

Received for record Dec. 19, 1894 at 1 minute past 4 o'clock P.M. at request of F. P. Willard.

John F. Forward, Recorder.

TRUSSELL'S - SAN PASQUAL DIVERSION

Water Claims Book 4, page 40.

Notice of Water Appropriation

Notice is hereby given that we, the undersigned, hereby appropriate Twenty Thousand (20,000) inches of the water flowing in the Bernardo (or San Pasqual) River, the point of diversion of said water being at the place of posting this notice on Section 31, Township 12 South of Range 1 East of S. B. M., said water to be conveyed from point of diversion in an open ditch, flume or pipe line to lands of undersigned or our associates, and to be used for the irrigation of said lands, the same being located in the San Pasqual Valley, San Diego County, California.

Ray Trussell

S. F. Wood

Witness, G. F. Potts,

Feb. 9, 1910, 3:30 P.M.

Recorded at Request of claimant Feb. 14, 1910 at 45 minutes past 10 o'clock A. M.

John H. Ferry, County Recorder,

By Walter Forward, Deputy Recorder.

Fee \$0.80.

Various appropriations of water have been made on the Santa Maria Creek. With the probable exception of the Molybdenite Mining Co. and the Volcan Land & Water Co's right, no effective rights occur.

For copies of these see Index to Water Claims Book 4, since year 1910.

County Clerk Office - File #925

Articles of Incorporation of East San Pasqual Water and Improvement Company, Dated May 4th, 1896 - Filed May 25, 1896.

Capital Stock \$9,000. Number of shares 360 - par value \$25. each.

Amount of Capital Stock actually subscribed \$7,738.

<u>Name of Subscribers</u>	<u>No. Shares</u>	<u>Amount</u>
John B. Judson	135	\$ 3,375
Fred E. Judson	27	675
A. Marchus	57 1/2	1,437.50
A. H. Striplin	18	450
A. D. Trussell	32	800
Ray Trussell	40	1,000

The purposes for which it is formed are:

To buy, acquire, construct, hold, maintain, improve, use, hypothecate lease and sell water, water rights, reservoirs, water works, conduits, and aqueducts of all kinds to divert, store, develop, convey and distribute water for domestic, irrigating, mechanical power and all other beneficial uses in the said County of San Diego, State of California and to acquire, buy, hold, maintain, use, develop, hypothecate, lease and sell such water and water rights for any and all of such uses in the said County.

Also in said county to acquire, buy, hold, improve, use, hypothecate, lease and sell real estate of every kind and character.

Ed Fletcher Papers

1870-1955

MSS.81

Box: 36 Folder: 12

**Business Records - Reports - Ellis, Thomas
P - "Water diversion in San Pasqual Valley"**



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