

1 BEFORE THE STATE WATER COMMISSION OF CALIFORNIA

2
3 IN THE MATTER OF APPLICATION TO }
4 APPROPRIATE WATER, No. 2188 } PROTEST OF CHARLES GANTNER

5
6 To the Honorable State Water Commission of California!

7 The undersigned Charles Gantner respectfully represents
8 by way of protest against the application No. 2188 of the
9 San Dieguito Mutual Water Company for the appropriation
10 of eight cubic feet per second continuous flow of Escondido
11 Creek in San Diego County, or 12,011 acre feet per annum
12 from year to year from said stream, and for ground for said
13 protest states!

14 That he is the owner of a tract of twenty-five acres of land,
15 part of Rancho Las Encinitas, in the County of San Diego,
16 State of California, which is traversed by said Escondido
17 Creek, and which is located about four and a half miles
18 below the point of the proposed appropriation under said
19 application No. 2188 of the waters of said Escondido Creek.
20 That said tract is more fully described as follows:

21 Parcel 1. All that portion of Rancho Las Encinitas, in the
22 County of San Diego, State of California, according to the map
23 of the Subdivision of said Rancho numbered 848, filed in the
24 office of the County Recorder of said San Diego County, June
25 27, 1898, described as follows: Commencing at the intersection
26 of the center line of Sixth Street extended East, and the
27 Southeasterly line of Rancho Las Encinitas, according to said
28 Map No. 848, running thence Northeasterly along the Southeasterly
29 line of said Rancho, 797.3 feet to a point; thence Westerly,
30 and parallel to said extended center line of 6th Street,
31 1064.35 feet to a point; thence Southerly in a line, making an
32 angle of 84 degrees 36 minutes to the left of the last mentioned
33 course, a distance of 99.2 feet to a point; thence Southerly

1 in a line making an angle of 8 degrees 21 minutes to the left
2 of the last mentioned course 332.27 feet to a point; thence
3 Southerly in a line making an angle of 2 degrees sixteen
4 minutes to the right of the last mentioned course 281.2 feet,
5 to a point in the said extended center line of 6th Street,
6 which said point is 724.89 feet from the point of commencement;
7 thence Easterly along said extended center line of 6th Street,
8 724.89 feet, to the point of commencement, containing 14.46
9 acres.

10 Parcel 2. Also, all that portion of Rancho Las Encinitas in
11 the County of San Diego, State of California, according to the
12 map of the Subdivision of said Rancho, number 848, filed in the
13 office of the County Recorder June 27, 1898, described as
14 follows: Commencing at the intersection of the center line of
15 "G" Street with the center line of 6th Street, according to said
16 map 848, running thence Easterly on the center line of 6th
17 Street and the extension thereof Easterly 621.3 feet to a
18 point; thence Northerly in a line making an angle of 83 degrees
19 45 minutes to the left of said last mentioned course 305 feet to
20 a point; thence Northerly in a line making an angle of 9 degrees
21 59 minutes to the left of the last mentioned course 407.75 feet
22 to a point; thence Westerly parallel to the center line of 6th
23 Street and the Easterly extension thereof 623.17 feet to a
24 point; thence Northerly in a line parallel to the center line
25 of "G" Street 60 feet to a point; thence Westerly on a line
26 parallel to the center line of 6th Street 20 feet more or less
27 to the center line of "G" Street; thence Southerly along the
28 center line of "G" Street to the point of commencement, containing
29 10.60 acres.

30 That in flood seasons the water in said creek spreads
31 over and saturates said land and renders said land valuable
32 in its natural condition for the growth of lima beans, Indian
33 corn, grasses, barley and other grains.

1 And protestant avers that on account of the natural
2 conditions relating to the creation of said land by the deposit
3 of soil brought down by said stream, it is necessary to the
4 continuance of its productive capacity that the natural dis-
5 charges of water from Escondido Creek be maintained. That,
6 among other reasons, why it is necessary that such natural
7 discharges of water be maintained is that it is apparent
8 that originally the site of said land and of adjoining land
9 constituted an extension of the San Elijo Lagoon, which has been
10 gradually in the course of time filled in with soil and sedi-
11 mentary material washed down by the waters of Escondido Creek,
12 making an alluvial super strata of soil. That underneath
13 this surface soil is a salt and alkaline deposit which in dry
14 seasons tends to rise and destroy the fertility of the land.
15 That the natural periodical overflow of said Escondido
16 Creek spreading over said lands washes out the alkaline elements
17 which have risen toward the surface and thus renews from
18 period to period the fertility of the soil and renders it
19 exceedingly productive.

20
21 And protestant alleges that the proposed appropriation of
22 water will permanently cut off the whole flow of said
23 Creek and, as protestant verily believes, will in the course
24 of a very few years render said land unproductive and from
25 year to year increasingly barren and will soon render it
26 worthless.

27 Protestant further alleges that from the natural flow
28 of said stream said land becomes underlaid with water which
29 is available for general use by means of shallow wells which
30 furnish good water, provided that the successive renewals
31 are supplied from the rainfalls which are natural to that
32 region.

33 Protestant avers that no part of the lands on which it is
proposed by the applicant to use said water is riparian to said

1 Escondido Creek except not to exceed forty acres on the extrema
2 northwesterly part of San Dieguito Rancho and adjoining it.

3 And protestant hereby asserts his right of property to the
4 natural flow of said stream over his said land against what he
5 avers is the unconstitutional attempt by the applicant to
6 deprive him thereof without due process of law.

7 WHEREFORE, protestant prays that the Commission make no
8 order which assumes to confer upon the applicant the right to
9 make the appropriation prayed for in its petition.

10 Respectfully submitted.

11
12 CHARLES GANTNER
13 _____
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18 STATE OF CALIFORNIA,)
19 COUNTY OF SAN DIEGO.) SS.

20 CHARLES GANTNER, being first duly sworn, deposes and
21 says: that he is the protestant named in the foregoing Protest;
22 that he has read said Protest and knows the contents thereof,
23 and that the same is true of his own knowledge except as to
24 those matters which are therein stated on his information or
25 belief, and as to those matters, he believes it to be true.

26 CHARLES GANTNER
27 _____

28 Subscribed and sworn to before me
29 this 30th day of April, 1921.

30 WILHELMINE SCHAFFNET

31 _____
32 Notary Public in and for the County
33 of San Diego, State of California.

(SEAL)

BEFORE THE STATE WATER COMMISSION
OF CALIFORNIA

Copy

IN THE MATTER OF APPLICATION TO
APPROPRIATE WATER, NO. 2188.

PROTEST OF CHARLES GANTNER

HAINES & HAINES
ATTORNEYS AT LAW
137-138-139 THIRTEEN BLVD.
SAN DIEGO, CAL.

STATE WATER COMMISSION OF
CALIFORNIA

ANSWER TO PROTEST OF CHARLES GANTNER IN THE MATTER OF
APPLICATION NO. 2188.

To the State Water Commission of California #74 New Montgomery St. San Francisco California	(Answer to protest by Charles (Gantner against the granting of (an application by San Dieguito (Mutual Water Company to appro- (priate waters of Escondido Creek (for irrigation purposes.
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In the matter of the above-mentioned protest, applicant wishes to hereby set forth the following in answer thereto and in support of the application:

1. No important sources of ground water of quality suitable for domestic or irrigation uses exists along the lower reaches of Escondido Creek or, more properly, the upper end of San Elijo lagoon, a brackish salty arm of the Pacific Ocean, as was proven by extensive efforts of Cardiff Irrigation District to secure a suitable water supply for the irrigation of only nine hundred acres from any locality in this entire region. The results of this District's efforts were finally submitted to the State Department of Engineering and were held to be sufficient cause for rejection of that District's plan as then proposed.

2. Applicant's plan will not deprive protestant of such water supply as he is now able to derive from wells.

3. Contrary to protestant's statement that only 40 acres of applicant's lands are riparian to Escondido Creek, its property, Rancho San Dieguito, comprising in all some 8,000 acres, adjoins and crosses Escondido Creek, and of this total area 3,949 acres is in the watershed of and therefore tributary to Escondido Creek, thus making applicant one of the principal owners of riparian lands.

4. Applicant hereby denies that protestant's land is

riparian to Escondido Creek. The relation of protestant's land to the stream is shown by a map on file with the State Water Commission.

5. To heed protestant's request would prevent an important development, and such action would serve no purpose whatsoever;

WHEREFORE, applicant requests that protest be disregarded and that the application be granted.

San Dieguito Mutual Water Company,

By Ed Fletcher

President.

San Diego, California,
May 24, 1921.

1 **BEFORE THE STATE WATER COMMISSION OF CALIFORNIA**

2
3 **IN THE MATTER OF APPLICATION TO**
4 **APPROPRIATE WATER, No. 2188**

} PROTEST OF LOUIS DENK AND
 BRUNO DENK

5
6 **To the Honorable State Water Commission of California:**

7 The undersigned Louis Denk and Bruno Denk respectfully
8 represent by way of protest against the application No. 2188 of
9 the San Dieguito Mutual Water Company for the appropriation
10 of eight cubic feet per second continuous flow of Escondido
11 Creek in San Diego County, or 12,011 acre feet per annum
12 from year to year from said stream, and for ground for said
13 protest state:

14 That they are the owners of a tract of 7 acres of land
15 in the County of San Diego, State of California, which is
16 traversed by said Escondido Creek, and which is located about
17 four and a half miles below the point of the proposed appropria-
18 tion under said application No. 2188 of waters of said Escondido
19 Creek. That said tract is more fully described as follows!

20 Five-acre Lot Thirteen (13), in Colony Olivenheim,
21 in the County of San Diego, State of California, according
22 to map thereof No. 326 filed July 8, 1885 in the office of
23 the County Recorder of the County of San Diego, State of California
24 and tract between Blocks 2 and 3, Olivenheim.

25 That in flood seasons the water in said creek spreads
26 over and saturates said land and renders said land valuable
27 in its natural condition for the growth of lima beans, Indian
28 corn, grasses, barley and other grains.

29 And protestats aver that on account of the natural
30 conditions relating to the creation of said land by the deposit
31 of soil brought down by said stream, it is necessary to the
32 continuance of its productive capacity that the natural dis-
33 charges of water from Escondido Creek be maintained. That,
among other reasons why it is necessary that such natural

1 discharges of water be maintained is that it is apparent
2 that originally the site of said land and of adjoining land
3 constituted an extension of the San Elijo Lagoon, which has
4 been gradually in the course of time filled in with soil and
5 sedimentary material washed down by the waters of Escondido
6 Creek, making an alluvial super strata of soil. That under-
7 neath this surface soil is a salt and alkaline deposit which in
8 dry seasons tends to rise and destroy the fertility of the land.
9 That the natural periodical overflow of said Escondido
10 Creek spreading over said lands washes out the alkaline ele-
11 ments which have risen toward the surface and thus renews from
12 period to period the fertility of the soil and renders it
13 exceedingly productive.

14 And protestants allege that the proposed appropriation of
15 water will permanently cut off the whole flow of said
16 Creek and, as protestants verily believe, will in the course
17 of a very few years render said land unproductive and from
18 year to year increasingly barren and will soon render it
19 worthless.

20 Protestants further allege that from the natural flow of
21 said stream said land becomes underlaid with water which
22 is available for general use by means of shallow wells which
23 furnish good water, provided that the successive renewals
24 are supplied from the rainfalls which are natural to that
25 region.

26 Protestants aver that no part of the lands on which it is
27 proposed by the applicant to use said water is riparian to
28 said Escondido Creek except not to exceed forty acres on the
29 extreme northwesterly part of San Dieguito Rancho and adjoining
30 it.

31 And protestants hereby assert their right of property to the
32 natural flow of said stream over their said land against what
33 they aver is the unconstitutional attempt by the applicant to
deprive them thereof without due process of law.

1 WHEREFORE, protestants pray that the Commission make no
2 order which assumes to confer upon the applicant the right to
3 make the appropriation prayed for in its petition.

4 Respectfully submitted,

5
6 LOUIS DENK

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8 BRUNO DENK

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14 STATE OF CALIFORNIA,)
15 COUNTY OF SAN DIEGO.) ss.

16 BRUNO DENK, being first duly sworn, deposes and says:
17 that he is one of the protestants named in the foregoing Protest;
18 that he has read said Protest and knows the contents thereof,
19 and that the same is true of his own knowledge except as to
20 those matters which are therein stated on his information or
21 belief, and as to those matters, he believes it to be true.

22 BRUNO DENK

23 Subscribed and sworn to before me
24 this 30th day of April, 1921.

25 WILHELMINE SCHAFFNET

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(SEAL) Notary Public in and for the County
of San Diego, State of California.

BEFORE THE STATE WATER COMMISSION
OF CALIFORNIA

Copy

IN THE MATTER OF APPLICATION
TO APPROPRIATE WATER, No. 2188

PROFIT OF LOUIS DENEK AND
BRUNO DENEK

HAINES & HAINES
ATTORNEYS AT LAW
827-888-888 TIMKEN BLDG.
SAN DIEGO, CAL.

STATE WATER COMMISSION OF

CALIFORNIA

ANSWER TO PROTEST OF LOUIS DENK AND BRUNO DENK IN THE MATTER OF
APPLICATION NO. 2188.

To the State Water Commission of California #74 New Montgomery St. San Francisco California. (Answer to protest by Louis Denk and Bruno Denk against the granting of an application by San Dieguito Mutual Water Company to appropriate waters of Escondido Creek for irrigation purposes.

In the matter of the above-mentioned protest, applicant wishes to hereby set forth the following in answer thereto and in support of the application:

1. No important sources of ground water of quality suitable for domestic or irrigation uses exists along the lower reaches of Escondido Creek or, more properly, the upper end of San Elijo lagoon, a brackish salty arm of the Pacific Ocean, as was proven by extensive efforts of Cardiff Irrigation District to secure a suitable water supply for the irrigation of only nine hundred acres from any locality in this entire region. The results of this District's efforts were finally submitted to the State Department of Engineering and were held to be sufficient cause for rejection of that District's plan as then proposed.

2. Applicant's plan will not deprive protestants of such water supply as they are now able to derive from wells.

3. Contrary to protestants' statement that only 40 acres of applicant's lands are riparian to Escondido Creek, its property, Rancho San Dieguito, comprising in all some 8,000 acres, adjoins and crosses Escondido Creek, and of this total area 3,949 acres is in the watershed of and therefore tributary to Escondido Creek, thus making applicant one of the principal owners of riparian lands.

4. Applicant hereby denies that protestants' lands are

riparian to Escondido Creek. The relation of protestants' lands to the stream is shown by a map on file with the State Water Commission.

5. To heed protestants' request would prevent an important development, and such action would serve no purpose whatsoever;

WHEREFORE, applicant requests that protest be disregarded and that the application be granted.

San Dieguito Mutual Water Company,

By E. Fletcher

President.

San Diego, California,
May 24, 1921.

BEFORE THE STATE WATER COMMISSION OF CALIFORNIA

IN THE MATTER OF APPLICATION TO }
APPROPRIATE WATER, No. 2188. } PROTEST OF VALLENTINE
BERNHARD

To the Honorable State Water Commission of California:

The undersigned Valientine Bernhard respectfully represents by way of protest against the application No. 2188 of the San Dieguito Mutual Water Company for the appropriation of eight cubic feet per second continuous flow of Escondido Creek in San Diego County, or 12,011 acre feet per annum from year to year from said stream, and for ground for said protest states:

That he is the owner of a tract of five acres of land in the County of San Diego, State of California, which is traversed by said Escondido Creek, and which is located about four and a half miles below the point of the proposed appropriation under said application No. 2188 of waters of said Escondido Creek. That said tract is more fully described as follows:

Block Sixty-eight (68), in Colony Olivenheim, in the County of San Diego, State of California, according to map thereof No. 326 filed July 8, 1885, in the office of the County Recorder of the County of San Diego, State of California.

That in flood seasons the water in said creek spreads over and saturates said land and renders said land valuable in its natural condition for the growth of lima beans, Indian corn, grasses, barley and other grains.

And protestant avers that on account of the natural conditions relating to the creation of said land by the deposit of soil brought down by said stream, it is necessary to the continuance of its productive capacity that the natural discharges of water from Escondido Creek be maintained. That,

1 among other reasons why it is necessary that such natural
2 discharges of water be maintained is that it is apparent
3 that originally the site of said land and of adjoining land
4 constituted an extension of the San Elijo Lagoon, which has
5 been gradually in the course of time filled in with soil and
6 sedimentary material washed down by the waters of Escondido
7 Creek, making an alluvial super strata of soil. That under-
8 neath this surface soil is a salt and alkaline deposit which in
9 dry seasons tends to rise and destroy the fertility of the land.
10 That the natural periodical overflow of said Escondido
11 Creek spreading over said lands washes out the alkaline ele-
12 ments which have risen toward the surface and thus renews from
13 period to period the fertility of the soil and renders it
14 exceedingly productive.

15 And protestant alleges that the proposed appropriation of
16 water will permanently cut off the whole flow of said
17 Creek, and, as protestant verily believes, will in the course
18 of a very few years render said land unproductive and from
19 year to year increasingly barren and will soon render it
20 worthless.

21 Protestant further alleges that from the natural flow of
22 said stream said land becomes underlaid with water which
23 is available for general use by means of shallow wells which
24 furnish good water, provided that the successive renewals
25 are supplied from the rainfalls which are natural to that
26 region.

27 Protestant avers that no part of the lands on which it is
28 proposed by the applicant to use said water is riparian to said
29 Escondido Creek except not to exceed forty acres on the extreme
30 northwesterly part of San Dieguito Rancho and adjoining it.

31 And protestant hereby asserts his right of property to the
32 natural flow of said stream over his said land against what he
33 avers is the unconstitutional attempt by the applicant to

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deprive him thereof without due process of law.

WHEREFORE, protestant prays that the Commission make no order which assumes to confer upon the applicant the right to make the appropriation prayed for in its petition.

Respectfully submitted,

VALENTINE BERNHARD by
HERMAN HAWK, Agent

STATE OF CALIFORNIA, }
COUNTY OF SAN DIEGO. } ss.

HERMAN HAWK

~~VALENTINE BERNHARD~~ ^{agent for the} being first duly sworn, deposes and says: that he is the protestant named in the foregoing Protest; that he has read said Protest and knows the contents thereof, and that the same is true of his own knowledge except as to those matters which are therein stated on his information or belief, and as to those matters, he believes it to be true.

HERMAN HAWK

Subscribed and sworn to before me
this 30th day of April, 1921.

WILHELMINE SCHAFFNET

Notary Public in and for the County
of San Diego, State of California.

(SEAL)

BEFORE THE STATE WATER COMMISSION
OF CALIFORNIA

Copy

IN THE MATTER OF APPLICATION
NO APPROPRIATE WATER NO. 2188

PROTEST OF VALENTINE DEINHARD

HAINES & HAINES
ATTORNEYS AT LAW
637-638-329 TIMKEN BLDG.
SAN DIEGO, CAL.

STATE WATER COMMISSION OF

CALIFORNIA

ANSWER TO PROTEST OF VALLENTINE BERNHARD IN THE MATTER OF

APPLICATION NO. 2188.

To the
State Water Commission
of California
#74 New Montgomery St.
San Francisco
California.

(Answer to protest by Vallentine
(Bernhard against the granting
(of an application by San Dieguito
(Mutual Water Company to appro-
(priate waters of Escondido Creek
(for irrigation purposes.

In the matter of the above-mentioned protest, applicant wishes to hereby set forth the following in answer thereto and in support of the application:

1. No important sources of ground water of quality suitable for domestic or irrigation uses exists along the lower reaches of Escondido Creek or, more properly, the upper end of San Elijo lagoon, a brackish salty arm of the Pacific Ocean, as was proven by extensive efforts of Cardiff Irrigation District to secure a suitable water supply for the irrigation of only nine hundred acres from any locality in this entire region. The results of this District's efforts were finally submitted to the State Department of Engineering and were held to be sufficient cause for rejection of that District's plan as then proposed.

2. Applicant's plan will not deprive protestant of such water supply as he is now able to derive from wells.

3. Contrary to protestant's statement that only 40 acres of applicant's lands are riparian to Escondido Creek, its property, Rancho San Dieguito, comprising in all some 8,000 acres, adjoins and crosses Escondido Creek, and of this total area 3,949 acres is in the watershed of and therefore tributary to Escondido Creek, thus making applicant one of the principal owners of riparian lands.

4. To heed protestant's request would prevent an important development, and such action would serve no purpose whatsoever;

WHEREFORE, applicant requests that protest be disregarded and that the application be granted.

San Dieguito Mutual Water Company,

By Ed Fletcher

President.

San Diego, California,
May 24, 1921.

Ed Fletcher Papers

1870-1955

MSS.81

Box: 49 Folder: 9

Business Records - Water Companies - Volcan Land and Water Company - San Dieguito System - San Elijo - Protest before State Water Commission by riparian owners at San Elijo (Escondido) Creek (#2188); permit #905; reply



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