

SAN PASQUALE DIVERSION

From the papers of Ed Fletcher, the following letters were removed to the alphabetized correspondence files

ELLIS, T.P.

Fletcher to Ellis, 3/20/18

Ellis to Fletcher, 3/22/18

Affidavit by Ellis, 1/12/18

GREEN, Fred E. to Fletcher, 7/25/22

HOLYOKE, G.E. to Fletcher, 12/6/19

REED, M.W. to Fletcher, 1/21/18

STEVENS, HENRY:

Crouch to Stevens, December 9, 1919

Fletcher to Stevens, December 26, 1919

Stevens to Fletcher, January 26, 1920

Stevens to Fletcher, January 28, 1920

WARD, Ray

Ward to Ellis, 2/2/18

Affidavit by Ward, 2/4/18

Ward to Fletcher (San Deg. Water Co.), 1/11/18

Ellis to Ward, 1/25/18

Fletcher to WINNEK, E.V., 2/2/18

STATE OF CALIFORNIA,

COUNTY OF LOS ANGELES.

SS.

mailed by registered letter

being first duly sworn, deposes and says: That he is, and was at the time of the service of the notice herein referred to, a citizen of the United States of America, and over the age of 18 years; that he personally served the notice, a copy of which is hereto attached, to the hereinafter named persons, by delivering such the same to and leaving with each of said persons in the County of San Diego, State of California, at the times and places set opposite their respective names, with the registration

NAMES OF PERSONS SERVED TIME OF SERVICE PLACE OF SERVICE

clerk of the San Diego Post Office said that to be delivered to such individual, said letter following letter each of which was for the following address and contained the correct amount of postage, contained within the envelope and the above notice, the envelope bore the return address of the San Diego Mutual Water Company and the words "Return Receipt Requested" was written therein

of the Post Office Department of the United States

SUBSCRIBED and sworn to before

me this ____ day of ____, 1918.

Notary Public in and for said County and State.

MEMORANDUM OF INTERVIEW WITH ENGINEER KING.

December 9th, 1919.

HALL V.S. TRUSSELL.

1. Q Mr. King, I call your attention to pages 6 and 7 of the complaint, wherein it describes a certain piece of real property as belonging to the defendant K. Deasy, and will ask you to ascertain whether or not the description is correct and whether or not, with the exception of this particular piece of land, Kate Deasy has any other interest in any land or water on the San Pasqual River? A I will check the description later and report to you. The description is evidently a description of the Ward place, as shown in red on the map I show you marked "Riparian Map of the Bernardo River".

Q How many acres are there in that place? A 822.19 acres.

2. Q She still owns all of that Ward property, does she? A So far as I know, but I will ascertain this and advise you later.

3. Q Do you know about where the division line is, as shown on this map, between what they call the Upper San Pasqual Valley and the Lower San Pasqual Valley? A I will ascertain that and advise you later.

4. Q What right does the Ward claim have in the waters of the San Pasqual River? Mr. King, will you make me a map, which will show the locations of the lands which are described specifically in this complaint. A Yes.

5. Q And then Mr. King, after you have that map prepared, will you take it to Attorney Winnick and have him show you and delineate thereon the various parcels of land that are owned by the defendants in the case, which are not specifically described in the complaint? And on this map show the river in light pencil. The location of the river shown on that which you referred to, is that the actual location of the river now? A No, that was made before the 1916 flood and we have no survey showing where it is now. It may be correct in places, but I know it is not in other places.

and on this map I will show as nearly as I can the location of the various diversion ditches and pumping plants.

Q Have you any data on the water diversion on this stream? A I show you a pamphlet entitled "Water Diversion in San Pasqual Valley", written by C. P. Ellis in December, 1919. This report was compiled from data furnished by Ray Ward. I think the facts set forth in this report are probably accurate, but probably his conclusions are erroneous in some respects.

Q Do you know what portion of the eight hundred and twenty-two acres belonging to Kate Deasy has been actually at any time under irrigation from this river? A No, but I understand that the whole ranch is riparian and that they are entitled to use the water, or their portion of the water, on any part of the ranch that they can take it to.

Q Who is actually farming this Deasy place now? A I will ascertain and advise you.

Q Also ascertain how many acres has been actually under irrigation at any time.

Q Do you know whether or not there has been any easements granted by the Ward place since they decided to build the dam up there? A I don't know, but it was evidently Mr. Fletcher's intention, but I will ascertain whether or not any rights to build dams or other rights have been deeded away as to this land.

(MEMORANDUM: Telephoned to Mr. Fletcher to inquire whether or not they conceded that the Lower San Pasqual users, of whom Kate Deasy was one under the Ward place, were entitled to the 2,000 inches of water which was decreed to them in the Huffer suit in 1898, to which he replied that so far as they had put to beneficiary use the waters to which they were entitled under this decree, they would concede that they owned them, but that if there were any of them who had not availed themselves of their rights under this decree, that they desired to contest that point.)

Mr. King says that as a matter of fact he doesn't believe that they ever diverted 2,000 inches.

Q Is there any way that point could be determined?

A It would be a very hard thing to prove that they didn't, and just as hard a job proving that they did. I think Mr. Ebert, of the United States Geological Survey, an engineer, has made some measurement of water diverted in those ditches and I will see if I can get you those figures.

I think too, that it will be found that this man Webb has been diverting water through another ditch and spreading it on the sand, just to say that he's diverting it.

1 IN THE SUPERIOR COURT IN AND FOR THE COUNTY OF SAN DIEGO,
2 STATE OF CALIFORNIA.

3
4 Gaspar A. Huffner, et al,
5 Plaintiffs,

6 -vs-

7 John B. Judson, et al,
8 Defendants.

9
10 This cause having come on regularly for trial on the
11 21st day of December, 1897, and having been continued from thence
12 from time to time, until this the 15th day of April, 1898, and all
13 parties appearing by their respective counsel of record herein,
14 to-wit: V. E. Shaw, Esq., attorney for Plaintiffs, Messrs.
15 Puterbaugh & Puterbaugh Esquires, attorneys for Henry Johnson;
16 E. W. Hendrick, Esq., Attorney for A. Clovenger, and Messrs. Gibson
17 & Titus attorneys for defendants John B. Judson, Fred E. Judson,
18 Amos D. Trusell, Ray Trusell, Peter Jorgensen, John Oleson, Anthon
19 Marchus and E. San Pasqual Water & Improvement Co., and waive
20 written findings of fact and cost bill herein, and consent to the
21 judgment following:

22 NOW, THEREFORE, it is hereby ordered, adjudged and de-
23 creed that the waters of the San Pasqual river, sometimes called
24 the Bernardo river in the County of San Diego, State of California,
25 be and the same is hereby divided and partitioned among and to
26 and the respective rights of the parties herein are and shall be
27 as follows, to-wit:

28 The defendants shall have and divert the full flow of
29 said river at the head of the East San Pasqual ditch (alias Judson
30 ditch) from the 15th day of August of each year to the 15th day
31 of January of each year.

32 And the plaintiffs shall have and divert the full flow
33 of said river at the head of the West Pasqual ditch without

1 interruption by defendants for twenty days next ensuing, from the
2 15th day of January of each year; and from the end of said period
3 of twenty days, the defendants shall have and divert the full flow
4 of said river into their said ditch, to-wit: the east San Pasqual
5 ditch, for the next ten days thence ensuing; and that thereafter
6 the said plaintiffs and defendants shall alternate in the use of
7 the full folow of said river for like period of twenty days to
8 said plaintiff, and ten days to said defendant up to the said 15th
9 day of August of each year.

10 And that said defendant Henry Johnson, as to his co-
11 defendants herein shall have one days use of the water diverted
12 and entitled to be diverted in the said East San Pasqual ditch,
13 out of each thirty days of each year; that is, he shall have one
14 day out of each thirty days between the 15th day of August and the
15 15th day of January of each year, and one day out of each ten days
16 between the 15th day of January and the 15th day of August of each
17 year, in consideration of an agreement a memorandum of which bears
18 even date with this decree, between said defendant Henry Johnson
19 of the one part, therein, and the plaintiffs and defendants other
20 than the said Henry Johnson of the other part therein.

21 And it is further ordered, adjudged and decreed, that
22 Plaintiffs shall have and recover of defendants, their cost herein
23 taxed at \$60.00.

24 Done in open Court this 15th day of April A.D. 1898.

25 E. S. Torrance,

26 Judge of Superior Court.
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CHARLES C. CROUCH
ATTORNEY
SAN DIEGO, CALIFORNIA

212

San Pasqual Sup



The enclosed instructions were never carried out as a
compromise was made at this time before the maps
and data could be prepared.
Mr. King,
c/o Volcan Water Company,

924 Eighth St.,

San Diego, California.

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
2 IN AND FOR THE COUNTY OF SAN DIEGO.

3 # 31972

4 NORMAN HALL, HENRY B. PRATT,
5 GEORGE J. BACH, MARY J. WOOD,
6 H. G. FENTON, WILLIAM H. DYER,
7 L. DYER, MANUEL MONTIEL,
8 WILLIAM G. JENNINGS, ALBERTINA
JENNINGS, F. M. BATES, MARY E.
WARD, BEN WARD, EDITH WARD FRANCIS,
SPENCER WARD and RAY WARD,

9 Plaintiffs -

10 -vs-

11 RAY TRUSSELL, HERBERT JUDSON,
12 ANDREW B. JUDSON, FRED E. JUDSON,
13 PETER GEORGESEN, CHRISTOPHER MARCUS,
14 E. H. WEBB, CORA B. WEBB, H. J. MYERS,
15 CORDELIA C. MYERS, K. DEASY,
16 JAMES A. MURRAY, WILLIAM G. HENSHAW,
17 ED. FLETCHER, VOLCAN WATER COMPANY,
18 a corporation,
19 SAN DIEGUITO MUTUAL WATER COMPANY,
20 a corporation,
21 LOUIS TIMMS, MARY E. KERR, AGNES O.
22 GARLOCK, CORA BARKER, MABEL HOYT,
23 C. A. GARLOCK, L. E. GARLOCK,
24 F. C. PERRIGO, JOHN DOE PEET,
25 JOHN DOE, JANE DOE, RICHARD ROE,
26 MARY ROE, JOHN GRAB, JANE GRAB,
27 JOHN KEEP, MARY KEEP,
28 JOHN DOE COMPANY, a corporation,

29 Defendants.

)
) Action brought in the
) Superior Court of
) the State of Cali-
) fornia, in and for
) the County of San
) Diego, and the Com-
) plaint filed in said
) County of San Diego,
) in the office of the
) Clerk of the Superior
) Court.

30 THE PEOPLE OF THE STATE OF CALIFORNIA SEND GREETINGS TO:

31 RAY TRUSSELL, Herbert Judson, Andrew B. Judson, Fred E. Judson,
32 Peter Georgeesen, Christopher Marcus, E. H. Webb, Cora B. Webb, H.
33 J. Myers, Cordelia C. Myers, K. Deasy, James A. Murray, William G.
Henshaw, Ed. Fletcher, Volcan Water Company, a corporation, San
Dieguito Mutual Water Company, a corporation, Louis Timms, Mary E.
Kerr, Agnes O. Garlock, Cora Barker, Mabel Hoyt, C. A. Garlock,
L. E. Garlock, F. C. Perrigo, John Doe Peet, John Doe, Jane Doe,
Richard Roe, Mary Roe, John Grab, Jane Grab, John Keep, Mary Keep,
John Doe Company, a corporation, Defendants,

1 YOU ARE HEREBY DIRECTED TO APPEAR and answer to a
2 Complaint in an action entitled as above, brought against you
3 in the Superior Court of the County of San Diego, State of
4 California, within ten days after the service on you of this
5 Summons - if served within this County; or within thirty days
6 if served elsewhere.

7 And you are hereby notified that unless you appear
8 and answer as above required, the said Plaintiffs will take
9 judgment for any money or damages demanded in the Complaint,
10 as arising upon contract or they
11 will apply to the Court for any other relief demanded in the
12 Complaint.

13
14 SEAL OF
15
16 SUPERIOR COURT.

17 (Seal)

13 Given under my hand and the Seal of the
14 Superior Court of the County of San Diego,
15 State of California, this 17th
16 day of November, A.D., 1919.

17 J. B. McLEES, Clerk.

18 By

18 L. L. Bailey

19 Deputy Clerk.
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
IN AND FOR THE COUNTY OF SAN DIEGO.

No. 31922

NORMAN HALL, HENRY B. PRATT,
GEORGE J. BACH, MARY J. WOOD,
H. G. WENTON, WILLIAM H. DYER,
L. DYER, MANUEL MONTIEL,
WILLIAM G. JENNINGS, ALBERTINA
JENNINGS, F. M. BATES, MARY E.
WARD, BEN WARD, EDITH WARD FRANCIS,
SPENCER WARD and RAY WARD,

Plaintiffs,

-vs-

-COMPLAINT-

RAY TRUSSELL, HERBERT JUDSON,
ANDREW B. JUDSON, FRED E. JUDSON,
PETER GEORGESEN, CHRISTOPHER MARCUS,
E. H. WEBB, CORA B. WEBB, H. J. MYERS;
CORDELIA C. MYERS, K. DEASY,
JAMES A. MURRAY, WILLIAM G. HENSHAW,
ED. FLETCHER, VOLCAN WATER COMPANY,
a corporation,
SAN DIEGUITO MUTUAL WATER COMPANY,
a corporation,
LOUIS TIMMS, MARY E. KERR, AGNES O.
GARLOCK, CORA BARKER, MABEL HOYT,
C. A. GARLOCK, L. E. GARLOCK,
F. C. PERRIGO, JOHN DOE PEET,
JOHN DOE, JANE DOE, RICHARD ROE,
MARY ROE, JOHN GRAB, JANE GRAB,
JOHN KEEP, MARY KEEP,
JOHN DOE COMPANY, a corporation,

Defendants.

PLAINTIFFS complain of defendants and for cause of
action allege:

That the defendants, Volcan Water Company and San Die-
guito Mutual Water Company, are and each of them are corporations
duly organized and existing under and by virtue of the laws
of the state of California and have and each of them have their
principal place of business in the county of San Diego, State
of California.

1 That the plaintiffs do not know the true names of the
2 defendants sued herein under the fictitious names of John Doe,
3 Jane Doe, Richard Roe, Mary Roe, John Grab, Jane Grab, John
4 Keep, Mary Keep, John Doe Company, a corporation; but that
5 when plaintiffs learn the true names of such defendants they
6 will ask leave of court to insert the true names of such
7 defendants in the place instead of the fictitious names under
8 which they are herein sued.

9 That the said plaintiffs and each of them are the owners
10 of certain lands in what is known as West San Pasqual Valley,
11 San Diego County, California, and the lands of each of said
12 plaintiffs are more particularly described as follows, to-wit:

13 The plaintiff, Norman Hall, is the owner of the follow-
14 ing described property, to-wit:

15 The west one-half of the northwest one-fourth
16 of the southeast one-fourth (excepting there-
17 from the north 175 feet of the west 25 feet)
of Section 32, Township 12 S, Range 1 West,
S. B. M.

18 also

19 The south 1190 feet of the east 468 feet of the
20 east one-half of the southwest one-fourth of
Section 32, Township 12 S, Range 1 West, S.B.M.

21 That the plaintiff, Henry B. Pratt, is the owner of the
22 following described real estate, to-wit:

23 The south one-half of the northeast quarter
24 of Section 31, Township 12, South, Range 1
west, S. B. M.

25 That the plaintiff, George J. Bach, is the owner of
26 the following described real estate, to-wit:

27 Lots Twelve (12), Thirteen (13) and Fourteen
28 (14) in Section Seventeen (17) Lot Four (4) in
29 Section Eighteen (18); Lots One (1), Two (2),
30 Three (3) and Four (4); West half of Northeast
31 Quarter; West half of Southeast quarter and
32 Southeast quarter of Southwest quarter of Section
33 Twenty (20); West half of Northwest quarter of
Section Twenty-nine (29); Northeast quarter of

1 Northeast quarter; the South half of the North-
2 east quarter; the North half of the Southeast
3 quarter of Section Thirty (30); all being in
4 Township Twelve (12) South, Range 1 West, San
5 Bernardino Meridian; also all that portion of
6 the Rancho Rincon del Diablo, according to map
thereof No. 725, made by J. M. Graham and filed
in the office of the County Recorder of said San
Diego County, August 13th, 1892, described as
follows:

7 Commencing at the Southeast corner of Rancho
8 Rincon del Diablo; running thence westerly along
9 the Southerly line of said Rancho Two Thousand
10 Ninety-nine (2099) feet; thence North 28° 50'
11 West One Hundred Seventy-eight (178) feet; thence
12 North 42° 40' East Eight Hundred (800) feet; thence
13 North 34° 40' East Four Hundred Thirty (430) feet;
14 thence North 31° 20' West Two Hundred Thirty-four
15 (234) feet; thence North 18° 50' West Five Hundred
16 Thirty (530) feet; thence North 45° 50' West Four
17 Hundred Fifty (450) feet; thence North 5° 10' East
18 Four Hundred Eighty-six (486) feet; thence North
19 18° 20' West One Hundred Thirteen (113) feet;
20 thence North 46° 50' West Eleven Hundred Thirty
21 (1130) feet; thence North 13° 20' West Two Thousand
22 Ninety-eight (2098) feet to point of intersection
23 with the East line of said Rancho; thence Southerly
24 along said Easterly line of said Rancho Five Thous-
25 and Three Hundred Eighty-eight (5388) feet to
26 point of commencement; being all of Block Two
27 Hundred Sixty-four and a part of Lot Seven (7)
28 in Block Two Hundred Sixty-three (263) and a part
29 of Block Two Hundred Sixty-five (265) of said
30 Rancho.

31 Also the East half of the Southwest quarter (E½
32 of SW¼); the Southeast quarter of the Northwest
33 quarter (SE¼ of NW¼); and the Northwest quarter
of the Southwest quarter (NW¼ of SW¼) all in
Section 21, Township 12 South, Range 1 West, San
Bernardino Meridian.

Also the Southeast quarter of the Southeast quarter
of Section 30, Township 12 South, Range 1 West,
San Bernardino Meridian, EXCEPTING therefrom the
Southerly Fifteen (15) acres.

Also the Northeast quarter of the Southeast quarter
(NE¼ of SE¼) of Section twenty (20) and Lot One (1)
of Section Nineteen (19) all in Township twelve (12)
South of range 1 West of the San Bernardino Meridian.

That the plaintiff, Mary J. Wood, is the owner of the
following described real estate, to-wit:

Southwest one-fourth of Southwest one-fourth, Section
29, Township 12, Range 1 West, S.B.M.; West one-
half of Northwest one-fourth (excepting one acre school)

1 Section 32, Township 12, Range 1 West, S.B.M.;
2 Southeast one-fourth of Northwest one-fourth,
3 Section 32, Township 12, Range 1 West, S.B.M.;
4 North 175 feet of East 468 feet of Northeast
5 one-fourth of Southwest one-fourth, Section 32,
6 Township 12, Range 1 West, S.B.M.; West 8.52 feet
7 of Northeast one-fourth of Southwest one-fourth,
8 Section 32, Township 12, Range 1 West, S.B.M.;
9 Northwest one-fourth of southwest one-fourth,
10 Section 32, Township 12, Range 1 West, S. B. M.;
11 West 25 feet of North 175 feet of Northwest one-
12 fourth of Southeast one-fourth, Section 32, Town-
13 ship 12, Range 1 West, S. B. M.

14 That the plaintiff, Henry G. Venton, is the owner of the
15 following described property, to-wit:

16 The west one-third of the east half of the north-
17 east quarter of Section thirty-two, township twelve,
18 south range one west S. B. M.

19 Also the west half of the northeast quarter of Sec-
20 tion thirty-two, township twelve, south range one
21 west, except therefrom that portion thereof convey-
22 ed by Elbert Ward and Mary Ellen Ward to William
23 H. Smith, June 22nd, 1894, by Deed recorded in Book
24 229, page 498 of Deeds, described as follows:

25 Commencing at a point twenty-five feet north from
26 the center of the road which crosses the west line
27 of the northeast quarter of Section thirty-two,
28 township twelve, south range one west at the south-
29 west corner of the northwest quarter of said north-
30 east quarter and running thence north on said west
31 line eight rods, then east at right angles with
32 said west line ten rods, thence south and parallel
33 with said west line eight rods, thence west to point
of commencement.

Also excepting that portion thereof described as
follows: Commencing at a point twenty-five feet
south of the center of said road and twenty-five
feet east of said west line of the said northeast
quarter and running thence south and parallel with
said west line of said northeast quarter twenty
rods, thence east at right angles with said west
line twenty-four rods, thence north and parallel
with said west line of said northeast quarter
twenty rods, thence to point of commencement, About
103 acres.

That the plaintiff, William G. Jennings, and Albertina
Jennings are the owners of the following described property,
to-wit:

The East one-half of the Northeast quarter of
the Northwest quarter of Section 32, Township
12 South, Range 1 West, S. B. M.

That the plaintiff, F. M. Bates, is the owner of the
following described property: to-wit;

1 The South one-half acre of West five acres of
2 Northwest one-fourth of Northeast one-fourth
3 North of County Road, Section 32, Township 12,
4 Range 1 west, S. B. M.; North three acres of
5 West twelve acres of Southwest one-fourth of
6 Northeast one-fourth East and South of County
7 Road, Section 32, Township 12, Range 1 West,
8 S. B. M.

9 That the plaintiff, L. H. Dyer, is the owner of the
10 following described property, to-wit:

11 The Northwest quarter of the Southeast quarter
12 of Section 33, Township 12, South, Range 1 West,
13 S. B. M.

14 That the plaintiff, William H. Dyer, is the owner of
15 the following described property, to-wit:

16 The Southeast quarter of the Northeast quarter
17 of Section 33, Township 12 South, Range 1 West,
18 S. B. M.

19 That the plaintiff, Manuel Montiel, is the owner of
20 the following described property, to-wit:

21 West one-half of Northeast one-fourth of North-
22 west one-fourth, Section 32, Township 12, Range
23 1 West, S. B. M.; Southeast one-fourth of South-
24 west one-fourth, Section 29, Township 12, Range
25 1 west S. B. M.

26 That the plaintiff, Mary E. Ward, is the owner of an
27 undivided two-seventh interest and the plaintiffs, Ben Ward,
28 Edith Ward Francis, Spencer Ward and Ray Ward, are each the
29 owners of an undivided one-seventh interest in and to the
30 following described property:

31 1. Southeast Quarter of Northeast Quarter,
32 North Half of Southeast Quarter, and
33 Southwest Quarter of Southeast Quarter,
Section Twenty-nine (29);

also

East Two-thirds of East Half of Northeast Quarter,
Northeast Quarter of Southeast Quarter, and
East Half of Northwest Quarter of Southeast Quarter,
Section Thirty-two (32);

EXCEPTING therefrom strip of land Twenty feet wide along
West side of East Half of Northwest Quarter of Southeast
Quarter of said Section Thirty-two (32), reserved by
Elbert Ward and wife in deed to Nathaniel R. Roberts
dated August 26, 1895, recorded in Book 244, page 59
of Deeds.

Also

Northwest Quarter, and
North Half of Southwest Quarter, and
Southwest Quarter of Southwest Quarter,
Section Thirty-three (33);

2. EXCEPTING therefrom One acre of land conveyed by K. Deasy to William G. Henshaw and Ed Fletcher, by deed recorded in Book 746, page 440 of Deeds, described as follows:

Beginning at point of intersection of East line of Southwest Quarter, Section Thirty-three (33) Township Twelve South, Range One West, S.B.M., with North line of County road survey Route Fifteen Division One, whence the center of said Section Thirty-three bears North $0^{\circ} 51'$ West 625 feet, more or less; thence along North line of said County road North $80^{\circ} 10'$ West 190 feet; thence continuing along North line of said County road North $61^{\circ} 30'$ West 74.5 feet; thence North $0^{\circ} 51'$ West 128.3 feet; thence North $89^{\circ} 09'$ East 251.6 feet to an intersection with said East line of said Southwest Quarter Section Thirty-three (33); thence along said East line of said Southwest Quarter Section Thirty-three (33) South $0^{\circ} 51'$ East 200 feet to place of beginning, containing One acre.

3. AND EXCEPTING the right of the public to the use of the road along the East line of the Southwest Quarter of the Southwest Quarter of Section Thirty-three (33) herein described, as established by order of the Board of Supervisors on July 4, 1881, Road Book 5, page 256, Records of Board of Supervisors.

All being in Township Twelve South, Range One West, S. B. M., County of San Diego, State of California.

That the defendant, K. Deasy, is the owner of the following described land, to-wit:

Lot Four (4) and the Southwest Quarter of the Northwest Quarter of Section Four (4); Lots One (1), Two (2), Three (3) and Four (4), the South Half of the Northeast Quarter and the South Half of the Northwest Quarter of Section Five (5), Township Thirteen (13) South, of Range One (1) West, S.B.M.; the North Half of the Southeast Quarter, the Southwest Quarter of the Southeast Quarter, and Fractional Lots Three (3) and Four (4) in Section Thirty-one (31), Township Twelve (12) South, of Range One (1) West, excepting from the Northwest Quarter of the Southeast Quarter, and from said Lots Three (3) and Four (4), that portion thereof conveyed by Elbert Ward and Mary E. Ward, his wife, to Seth Hartley by deed dated February 14, 1911, and recorded in Book 520 page 43 of Deeds, and described as follows:

Commencing at the Northwest corner of said Lot

1 Three (3); thence easterly along the North line
2 of said Lot Three (3) and of the Northwest Quarter
3 of the Southeast Quarter of said Section Thirty-
4 one (31), 818 feet; thence Southwesterly 1900
5 feet to an intersection with the East line of the
6 Rancho San Bernardo; thence Northerly along the
7 East line of said Rancho to the point of commence-
8 ment; also excepting from said Northwest Quarter
9 of the Southeast Quarter and said Lots Three (3)
10 and Four (4) that portion thereof conveyed by
11 Elbert Ward and Mary W. Ward, his wife, to Albert
12 T. Burch, by deed dated June 21, 1911, and record-
13 ed in Book 527 page 140 of Deeds, and described
14 as follows:

15 Commencing at the point on the North line of the
16 Northwest Quarter of the Southeast Quarter of said
17 Section Thirty-one (31) distant 818 feet East from
18 the Northwest corner of Lot Three (3); thence East
19 on said North line 125 feet; thence Southwesterly
20 parallel with the Easterly line of land conveyed
21 to Seth Hartley by deed dated February 14, 1911,
22 and recorded in Book 520 page 43 of Deeds to an
23 intersection with the Easterly line of the Rancho
24 San Bernardo; thence Northeasterly along the Easter-
25 ly line of said Rancho to an intersection with the
26 Southerly corner of the land so conveyed to Seth
27 Hartley; thence Northeasterly along the Easterly
28 line of said Hartley's land 1900 feet to the
29 Northeast corner of said Hartley's land and point
30 of commencement.

31 The South Half of the Southwest Quarter and the
32 Southeast Quarter of the Southeast Quarter of Section
33 Thirty-two (32) Township Twelve (12) South, of
Range One (1) West, excepting from the Southeast
Quarter of the Southwest Quarter that portion
thereof that is included within the following
description;

Commencing at the Northeast corner of the South-
west Quarter of said Section Thirty-two (32); thence
West 156 yards; thence South 880 yards; thence
East 156 yards; thence North 880 yards to the
point of commencement.

The Southeast Quarter of the Southeast Quarter of
Section Thirty-one (31), Township Twelve (12)
South, of Range One (1) West, and the East Half
of the Northeast Quarter and the Northwest Quarter
of the Northeast Quarter of Section Six (6)
Township Thirteen (13) South, or Range One (1),
west, S. B. M. all being in the County of San Diego,
State of California.

1 That flowing through the San Pasqual Valley in San
2 Diego County, California from East to West there is now, and
3 has been from time immemorable a certain river or stream of
4 water known as the San Pasqual or San Bernardo River.

5 That said San Pasqual Valley is divided into two parts -
6 East San Pasqual Valley and West San Pasqual Valley; that said
7 San Pasqual or San Bernardo River enters said East San Pasqual
8 Valley on the East or upper portion thereof and flows Westerly
9 through West San Pasqual Valley.

10 That the Defendants, Ray Trussell, Herbert Judson,
11 Andrew B. Judson, Fred E. Judson, Peter Georgeson and Chris-
12 topher Marcus, are the owners of certain lands lying in what
13 is known as the East San Pasqual Valley.

14 That the Defendants, E. H. Webb and Cora B. Webb are
15 the owners of certain lands in what is known as the West San
16 Pasqual Valley, and which said lands lie on the Northerly side
17 of said San Pasqual River, but Easterly and upstream from the
18 lands of said Plaintiffs herein.

19 That the Defendants, H. J. Myers and Cordelia C. Myers
20 are the owners of certain lands lying in what is known as West
21 San Pasqual Valley, and on the Southerly side of said San Pas-
22 qual river and Easterly and upstream from the lands of said
23 Plaintiffs.

24 That from April 15, 1898 under and by virtue of a
25 decree of the Superior Court of the County of San Diego, State
26 of California, rendered in an action entitled -Gaspar A.
27 Huffner et al. -vs- John B. Judson et al and being action number-
28 ed 10,007 as numbered in the County Clerk's Office of San
29 Diego County, California to the 18th day of April, 1905, the
30 said waters of the said San Pasqual River to the extent of
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1 two thousand inches miners measure under a four-inch pressure,
2 have been divided between the said owners and occupants of
3 lands in the said East San Pasqual Valley, and the owners and
4 occupants of lands in the said West San Pasqual Valley, and
5 being the lands owned by the said Plaintiffs herein and their
6 predecessors in interest in the following manner, to-wit:
7 that said owners and occupants of land in said East San Pas-
8 qual Valley have diverted and used the full flow of said river
9 from the 15th day of August of each year to the 15th day of
10 January of each year; that the owners and occupants of said
11 lands in said West San Pasqual Valley herein mentioned as be-
12 longing to said Plaintiffs, and since the said 18th day of
13 April, 1905, the said Plaintiffs herein and the Defendant, K.
14 Deasy and their and her predecessors in interest in said lands
15 have diverted and used the full flow of said river for twenty
16 days beginning on the 15th day of January, of each year, and
17 thereafter the said occupants of land in said East San Pasqual
18 Valley have taken, diverted and used the full flow of said
19 river up to said two thousand inches for a period of ten days,
20 and thereafter have alternated in the full flow of said river
21 to the extent aforesaid for like periods of twenty days for
22 said Plaintiffs and said Defendant, K. Deasy and their and her
23 predecessors in interest on lands in the said West San Pasqual
24 Valley, and ten days to the owners and occupants of lands in
25 the said East San Pasqual Valley.

26 That the use of the waters of said stream by these
27 Plaintiffs and by said Defendant, K. Deasy and their and her
28 predecessors in interest to the extent aforesaid, and for a
29 period subsequent to April 15, 1898 have been as to said De-
30 fendants herein alleged to be the owners and occupants of
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1 lands in the East San Pasqual Valley, and as to the Defendants
2 E. H. Webb, Cora B. Webb, H. J. Myers and Cordelia C. Myers
3 and their, and each of their predecessors in interest therein
4 continuous and uninterrupted during all of said time, and the
5 rights of these Plaintiffs and of their predecessors in interest
6 in and to the waters of said river and to the extent aforesaid
7 has been recognized by said Defendants, and each and all of
8 them, during all of said time except as hereinafter alleged.

9 That at certain periods of the year there is a large
10 surplus of water, to-wit, many thousand inches over and above
11 that used and required to be used by these Plaintiffs, as well
12 as by all other persons herein named, at which time flood waters
13 run down said stream over, through, across, past and by several
14 lands of the parties herein named and to the sea, and that the
15 waters of said stream vary from several thousand inches during
16 the winter and spring months of each year, to little or no
17 water in the dry season of each year.

18 That ever since the 15th day of April, 1898, these
19 plaintiffs and their predecessors in interest, and ever since
20 the 18th day of April, 1905, these plaintiffs and their pre-
21 decessors in interest, and the said Defendant, K. Deary, and her
22 predecessors in interest in and to the lands now owned by them,
23 and each of them, have under a claim of right so to do, and
24 adversely to the said Defendants, E. H. Webb, Cora B. Webb, H.
25 J. Myers, Cordelia C. Myers, and the other defendants herein
26 named, and for the purpose of irrigating their said lands, and
27 for domestic and other uses thereof taken, diverted and used
28 all the water that flowed on the surface of said stream, through
29 their respective points of diversion to the capacity of their
30 said ditches, to-wit: to the extent of two thousand inches
31 miners measure, and these plaintiffs aver that the said De-
32 fendants, E.H.Webb, Cora B. Webb, H. J. Myers, and Cordelia C.
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1 Myers have not within said period herein mentioned taken,
2 diverted or used any of the waters from said stream save and
3 except when there was water flowing in said stream in excess
4 of the carrying capacity of the ditches of these plaintiffs
5 or in excess of the wants of these Plaintiffs or of the De-
6 fendant, K. Deasy or their or her predecessors in interest in
7 said lands, except as is hereinafter alleged:

8 That during the last season there has been a scarcity
9 of water in said river and an inadequate supply and that the
10 said defendants, E. H. Webb, Cora B. Webb, H. J. Myers and
11 Cordelia C. Myers, have, without the consent of plaintiffs or
12 either or any of them, been diverting a portion of the waters
13 of said stream which belong to these plaintiffs and obstructing
14 the flow of water in said river and preventing the same from
15 running down said stream to plaintiffs' ditch, and have ob-
16 structed the flow of water in plaintiffs' ditch by reason
17 whereof plaintiffs and each and all of them have been unable
18 to obtain the supply of water to which they are entitled and
19 at times during said period, said defendants, E. H. Webb, and
20 Cora B. Webb, H. J. Myers and Cordelia C. Myers, have wrong-
21 fully and without the consent of plaintiffs, diverted the
22 whole of the water flowing in said stream, thereby preventing
23 plaintiffs from obtaining the use of any of the water to which
24 they are entitled.

25 That during the last irrigation season, said defendants,
26 E. H. Webb, Cora B. Webb, H. J. Myers and Cordelia C. Myers
27 have claimed the right to obstruct the flow of said water and
28 divert the same to their said lands in said West San Pasqual
29 Valley without regard to the rights of these plaintiffs and
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1 have denied the right, claim and title of plaintiffs' to the
2 flow of 2000 inches of water and have set up an adverse claim
3 and interest therein to that of plaintiffs'.

4 That the said defendants, Ray Trussell, Herbert Judson,
5 Andrew B. Judson, Fred E. Judson, Peter Georgeson and Christopher
6 Marcus have, during the last irrigation season claimed the
7 right to obstruct the flow of said water and have obstructed the
8 flow of said water at a point in the East San Pasqual Valley
9 which said point is upstream and above the point in West San
10 Pasqual Valley where said plaintiffs have been accustomed to
11 divert water for the use of plaintiffs' said lands in the West
12 San Pasqual Valley, and said defendants last above named have
13 obstructed said flow of water and have diverted it to their
14 own use and benefit and without regard to and in defiance of
15 said decree of the Superior Court of San Diego County, Cali-
16 fornia rendered on the 15th day of April, 1898 in said action
17 entitled Gaspar A. Huffner et al -vs- John B. Judson et al and
18 being suit numbered 10,007 in the County Clerks Office of San
19 Diego County, California, in that said defendants last named
20 diverted the waters of said stream to their own lands during
21 the periods, which by the said decree of the Superior Court,
22 the same were allotted to the use of plaintiffs herein, and
23 that such diversion on the part of said defendants last above
24 named was had and taken by them during such periods, when there
25 was an insufficient flow of water in said stream to furnish
26 water to said last named defendants and at the same time to
27 fill the ditch of plaintiffs herein to the extent to which they
28 are entitled, to-wit: to the extent of two thousand inches,
29 miners measure.

1 That the said defendants, James A. Murray, William G.
2 Henshaw, Ed. Fletcher, Volcan Water Company, a corporation,
3 San Dieguito Mutual Water Company, a corporation, Louis Timms,
4 Mary E. Kerr, Agnes O. Garlock, Cora Barker, Mabel Hoyt, C. A.
5 Garlock, L. E. Garlock, F. C. Perrigo, John Doe Peet, John Doe,
6 Jane Doe, Richard Roe, Mary Roe, John Grab, Jane Grab, John
7 Keep, Mary Keep, John Doe Company, a corporation, have or claim
8 to have some interest in the waters flowing in said San Bernard
9 or San Pasqual River adverse to plaintiffs' rights therein but
10 which said pretended claims are without any right whatsoever
11 and said plaintiffs allege that said defendants last above
12 named have not, nor has either or any of them any right in or
13 to said water claimed by these plaintiffs or any part or portion
14 thereof.

15 WHEREFORE plaintiffs pray:

16 I.

17 That the said defendants and each and all of them may
18 be required to set forth the nature of his or their claim and
19 claims to the water flowing in the said San Bernardo River at
20 the point on said river where these plaintiffs have hitherto
21 diverted said waters to the extent of 2000 miners inches and
22 that all adverse claims of the defendants and each and all of
23 them be settled by the decree of this court.

24 II.

25 That by said decree it be decreed and adjudged that the
26 defendants other than the defendant, K. Deasy, and none of them
27 other than the defendant, K. Deasy, have any interest in the
28 waters of said San Bernardo or San Pasqual River or right to
29 divert the same, save and excepting therefrom however such
30 rights as the defendants in the said East San Pasqual Valley
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1 possess and which have heretofore been settled by a decree in
2 this court, save and except as to the surplus water flowing
3 in said stream in excess of said 2000 inches miners measure to
4 be diverted at the point where said plaintiffs' ditch intersects
5 and taps the said river as aforesaid.

6
7 **III.**

8 That the defendants and each of them other than the
9 defendant, K. Deasy, be enjoined and debarred from diverting
10 other than the surplus water over and above said 2000 inches
11 which said plaintiffs' claim the right to divert as hereinbefore
12 set forth and for such other relief in the premises as to this
13 Honorable Court shall seem meet and agreeable to equity and
14 costs.

Samuel Stearns & Forward
and
Edmundson & Mcintosh

16 Attorneys for plaintiffs -
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STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } ss.

George J. Bach

being duly sworn, deposes and says: That he is one of the Plaintiff

in the above entitled action; that he has heard read the foregoing Complaint

and knows the contents thereof; that the same is true of

his own knowledge, except as to the matters which are therein stated on his
information or belief, and as to those matters that he believes it to be true.

Subscribed and sworn to before me, this

13th day of November 1919

George J. Bach

(Seal)

E. G. Bennett

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

No. 31978 Date

Superior Court

County of San Diego
State of California

NOELAN HALL, ET AL

Plaintiff

V/S

RAY TRUSSELL, ET AL

Defendant

-COMPLAINT-

Received copy of the within, this

day of

19

Attorney for

SWEET, STEARNS & FORWARD

SCHOONOVER & WINNEK

Attorneys for Plaintiffs -

AMERICAN BLOC
SAN DIEGO, CALIFORNIA

Ed Fletcher Papers

1870-1955

MSS.81

Box: 49 Folder: 7

Business Records - Water Companies - Volcan Land and Water Company - San Dieguito System - San Pasqual - San Pasqual Water Diversion Suit: Hall, et al, vs. Trussel, et al.



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