

58118

Resolution No.

BE IT RESOLVED by the Common Council of the City of San Diego, as follows:

WHEREAS, the City of San Diego has recently completed the purchase of lands for a portion of the El Capitan damsite, spillway lands, lands to be flooded, and other lands adjoining for camping purposes, at a reasonable cost per acre from the Cayamasa Water Company.

BE IT RESOLVED by the Mayor and Common Council of the City of San Diego that a vote of thanks be extended to Col. Ed Fletcher for his valuable assistance in the interest of the city in completing this transaction, also for his assistance in Washington in El Capitan matters, as well as his co-operation with the La Mesa, Lemon Grove and Spring Valley Irrigation District in helping to bring about harmony between all parties in interest, which has resulted in ending litigation over the waters of the San Diego River.

I hereby certify the above to be a full, true, and correct copy of Resolution No. 58118 of the Common Council of the City of San Diego, as adopted by the said Council

MAR 7-1932

ALLEN H. WALKER

City Clerk

EARL J. ...

w g e

SAN DIEGO CITIZENS:

SHALL THE CITY OF SAN DIEGO, AT THE EXPENSE OF ENDLESS YEARS OF LITIGATION AND THE SEVERANCE OF FRIENDLY RELATIONS FROM ONE OF ITS MOST POPULOUS AND FERTILE BACK COUNTRY REGIONS, OBSTRUCT THE CUYAMACA WATER COMPANY IN ITS BUILDING AND COMPLETION OF A DAM ON THE SAN DIEGO RIVER, THEREBY CAUSING MANY YEARS LOSS IN CONSERVATION OF VALUABLE FLOOD WATERS? THAT IS THE ONLY QUESTION BEFORE US.

Mr. James A. Murray authorized me by telegraph to build a dam within eighteen months at the diverting point of the Cuyamaca system, which is the lowest point on the San Diego River from which water will flow by gravity through our tunnels and passes at to the La Mesa-Lemon Grove section. El Cajon and Grossmont. Such a dam will conserve all the water at this diversion point. Built immediately, by private capital, this dam will check from wastage into the Pacific five or ten years of flood water, water which is the very life blood of the ~~La Mesa~~, La Mesa, Spring Valley, Lemon Grove ~~territory~~ territory.

If litigation is what the city wants, no dam will be built for many years to come.

At four mass meetings held in Lemon Grove, La Mesa, Bostonia and Spring Valley your neighbors, the citizens of those sections, after free discussion, unanimously endorsed the Cuyamaca Water Company's position. The Merchants' Association of La Mesa, on its own initiative --- I was not present at the meeting --- endorsed our position.

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The building of dams at our intakes not only means the realization of the natural heritage of this vast back country region, but is an added factor of enormous value to the safety of San Diego and Camp Kearny; for it is common knowledge that if an emergency arises the city of San Diego can at any time take water from us at rates established by the State Railroad Commission.

Why should the city force this senseless litigation and stop our constructive work? Without the burden of expense a new pipe line from El Capitan would entail you can build Barret Dam, and save the millions of gallons now wasted there. The El Capitan project will cost the city between two and three million dollars; Barret Dam can be built for three hundred thousand. Or, certainly more ~~feasible~~ practicable than El Capitan Dam, why not build at the San Diego River Gorge, thereby saving the additional runoff from 184 square miles of watershed? No reputable engineer ever recommended El Capitan Dam Site; but if the city wants it, I pledge no opposition, and will endorse the bill at Washington if my company is given reasonable assurance that the city will not enjoin our building of the diverting dams.

In ~~addition~~ addition to our original water filing, we filed on all the waters of the San Diego River on June 1, 1910; and we have between seven and eight hundred thousand dollars to protect these filings.

For your clearer information I will add some of the testimony of City Attorney Cosgrove, made before the Public Lands Committee, as published in the report of the hearing by the Government Printing Office at Washington.

SAN DIEGO CITIZENS:

THERE IS ONLY ONE QUESTION BEFORE US: SHALL THE CITY LET THE CUYAMACA WATER COMPANY BUILD AND COMPLETE A DAM WITHIN EIGHTEEN MONTHS FROM DATE ON THE SAN DIEGO RIVER, OR SHALL THE CITY THROUGH THE COURTS TRY TO MAINTAIN ANY RIGHTS IT THINKS IT HAS, THEREBY CAUSING ENDLESS LITIGATION AND MANY YEARS LOSS OF CONSERVATION OF VALUABLE FLOOD WATERS.

If the dam is built now by private capital it means five or ten years ^{conservation of} flood water ~~which~~ ^{otherwise will go} to waste in the ocean; if litigation is what the city wants, no dam will be built for many years to come. Mr. Murray by telegraph authorized me to ~~build a~~ dam ~~within~~ within eighteen months from date which will conserve in normal years all of the water at the diverting dam, which is the lowest point on the San Diego River, for all practical purposes, from which water will flow by gravity through El Cajon, and Grossmont passes ^{the section.} to La Mesa. It is their only source of gravity supply, and at four mass meetings, held at Lemon Grove, La Mesa, Eastonia and Spring Valley, the people were given a free expression and unanimously endorsed the Cuyamaca Water Company's position. Last ^{Friday} night the Merchants Association of La Mesa, on their own initiative- without

me being present- unanimously endorsed our position.

~~The following are the reasons for our position~~
~~in their life and future business.~~ Why should the City force this senseless litigation and stop our constructive work? ^{Why should San Diego} ~~make~~ ^{her} make an enemy of ~~the~~ ^{her} back country forever? Instead, why not go after water at Barrett Dam which you own, and save the billions of gallons now going to the ocean, and which can be brought to San Diego without building ^a new pipe line. The El Capitan project will cost between two and three million dollars, ^{Barrett} Barrett can be built for three hundred thousand.

On ~~why~~ ^{why} not build at the San Diego River gorge and save the ~~additional~~ ^{run off} ~~additional~~ ^{additional} from 184 square miles below El Capitan damsite. ~~Conservation~~ No reputable engineer ever recommended El Capitan damsite, but if the City wants it, I pledge no opposition to the City's plans and will endorse the bill if we can have some reasonable assurance that the City will not enjoin our building the diverting dams.

In addition to our original water filing, we again filed on all the waters of the San Diego River on June 1st, 1910, as an added precaution, and have spent ^{\$100,000} \$100,000. to protect these filings.

Any water we conserve is an added factor of safety to San Diego, and it is common knowledge San Diego can take water away from us at any time at rates established by the State Railroad Commission, if an emergency exists.

The following is the testimony of Mr. Cosgrove before the Public Lands Committee, as published by the Government Report at Washington:

EXTRACTS FROM TESTIMONY GIVEN BEFORE THE
PUBLIC LANDS COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

... o ...

X Question Mr. Baker (to Mr. Cosgrove). The contemplated dam at the point designated (meaning El Capitan Dam), if built to this height that you desire, or even higher, would it affect in any way this present ditch of the Cuyamaca Water Company?

Mr. Cosgrove. Not at all. *(Mr Cosgrove)*

X Mr. Baker. Then the whole thing summed up means this: that you are desiring to put a dam there intended to take the flood water that is now and has been for years going to waste? *(El Capitan Dam)*

X Mr. Cosgrove. That is it, exactly.

X Mr. Baker. Without interfering with their system (meaning Cuyamaca Water Co.), or their water claims or their prior rights or the rights of the people below?

Mr. Cosgrove. Exactly.

.....

X Mr. Cranston. If they (meaning Cuyamaca Water Co.) should improve the system, or if this bill would pass, if they were able to make the improvements immediately, that would certainly add to the amount of water available for irrigation.

Mr. Cosgrove. Yes.

X Mr. Cranston. You know of no reason why they (meaning the Cuyamaca Water Co.) should not, in any event, go ahead with that work?

X Mr. Cosgrove. We would like to see that.

X Mr. Elston. That thing undercuts, to a large extent, Mr. Fletcher's apprehension that your dam down there at the El Capitan site might interfere with the appropriated waters that he claims above; but the litigation he said was contemplated was more litigation that he might institute himself, than any litigation you might start?

X Mr. Cosgrove. We have not any idea of starting any litigation against them. We want them to conserve all the water they can. If they want to increase the height of the diverting dam, we would be glad to help in any way to have them increase the height of that, because it is to our benefit to have this country back here cultivated, every acre of it. It is our back country.

X Mr. Church. But he stated that if given eighteen months, as I remember it, they (meaning the Cuyamaca Water Co.) proposed to build a structure there and a dam to take every bit of water.

X Mr. Cosgrove. Yes.

Mr. Church. How would you be left there, then?

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Mr. Cosgrove. Then, if they take every bit of water, there will not be any.

Mr. Church. Would you be satisfied?

Mr. Cosgrove. Yes, we would be glad to have them take all the water.

Mr. Church. There is no difference between you and them on that?

Mr. Cosgrove. There is no difference on that.

The Chairman. Amplify a little.

Mr. Cosgrove. Let me tell you something about their taking all the water; something about the specific geography of where they are located.

The Chairman. Let me make a suggestion. There is some doubt in my mind, and I think there is in the mind of the committee. If you build a \$2,000,000 dam at this site, if the Cuyamaca Water Company can build a dam above that and take all your water. Can they do that?

Mr. Cosgrove. No sir, they cannot do that.

The Chairman. Amplify a little.

Mr. Cosgrove. In 1915-16, when we had practically a little above normal year, the amount of water passing the gauge station of the United States Geologic Survey was 26,000,000,000 gallons. In other words, in one year this big reservoir here, in 1914-15, would be more than filled. It would be filled, and in addition to being filled it would run over. Now, that was in 1915-16. In January, 1916, we had a flood there that would have filled that reservoir five times over.

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Mr. Taylor. You say you want to appropriate the surplus water after it passes them, that they cannot get and could not get under any system that is contemplated?

Mr. Cosgrove. Yes sir; and the same way up here in the mountains; if they would build reservoirs we would be glad to have them. We are just as rich as that back country. Surely you can see the fallacy of this situation here. We want this country developed. It is our back yard; and we want this Cuyamaca Water Company to build up their diverting dams, to build up their reservoirs here, and we want them to build the reservoirs themselves, but we simply want the privilege of stopping that water that rushes by and destroys the valley and rushes through the city and destroys our improvements. That is all we want."

Question

Mr. Baker (to Mr. Cosgrove): The contemplated dam at the point designated (meaning El Capitan Dam), if built to this height that you desire, or even higher, would it affect in any way this present ditch of the Cuyamaca water Company?

Mr. Cosgrove: Not at all.

Mr. Baker: Then the whole thing summed up means this: that you are desiring to put a dam there (El Capitan) intended to take the flood water that is now and has been for years going to waste?

Mr. Cosgrove: That is it, exactly.

Mr. Baker: Without interfering with their system (meaning Cuyamaca water Co.) or their water claims or their prior rights or the rights of the people below?

Mr. Cosgrove: Exactly.

.....

Mr. Cramton: If they (meaning the Cuyamaca Water Co.) should improve the system, or if this bill would pass, if they were able to make the improvements immediately, that would certainly add to the amount of water available for irrigation.

Mr. Cosgrove: Yes.

Mr. Cramton: you know of no reason why they (meaning the Cuyamaca water Co.) should not, in any event, go ahead with that work?

Mr. Cosgrove. We would like to see it.

Mr. Elston: That thing understood, to a large extent, Mr. Fletcher's apprehension that your dam down there at the El Capitan site might interfere with the appropriated waters that he claims above; but the litigation he has said was contemplated was more litigation that he might institute himself, than any litigation you might start?

Mr. Cosgrove: We have not any idea of starting any litigation against them. We want them to conserve all the water they can. If they want to increase the height of the diverting dam, we would be glad to help in any way to have them increase the height of that, because it is to our benefit to have this country back here cultivated, every inch of it. It is our back country.

Mr. Church: But he stated that if given eighteen months, as I remember it, they (meaning the Cuyamaca water Co.) proposed to build a structure there and a dam to take every bit of water. Mr. Cosgrove: Yes.

In answer to Mr. Cosgrove's voluntary statement above mentioned, on page 92 of the Government Report, I made the following statement:

I will give to the City free whatever I may own -an undivided interest in that dam (meaning El Capitan damsite) and reservoir site) which I will give if the City of San Diego will allow us to build our major dams.

The above refers to the two diverting dams at our points of intake. Again on page 166 of the Government Report, quoting partially therefrom, I state:

If the City of San Diego will take the attitude that the City Attorney has, and allow us to build the two dams mentioned at our points of intake, I have voluntarily offered to deed my interest in that El Capitan dam and reservoir site to the City free, if they will let us go ahead and perfect our water filings and our construction of the last two dams I have mentioned.

I cannot reconcile Mr. Cosgrove's testimony above mentioned with his telegram to the City Council of San Diego under date of February 14th, as follows:

Upon surrender in large part of city's rights on San Diego River Col. Fletcher offers to withdraw opposition to our bill. Unqualified refusal on my part to entertain the proposition. Wire Henry L. Meyers, chairman senate land committee that there is no chance to compromise with Col. Fletcher and urgently requesting immediate action upon Phelan senate bill.

Under date of Feb. 17th, Mr. Cosgrove telegraphs:

Each member of the senate and house land committees has been petitioned in writing by Col. Fletcher and personally solicited by Washington associates, to hold our bill in the committee until he compromises the situation with the city council. Strangely enough he attempts to implicate me as an accessory in the movement. Such tactics unquestionably delay progress upon our bill. Wire chairman house land committee that there is nothing to compromise with Col. Fletcher, that there is no possibility of reaching an understanding with him.

Dr. Bard in Saturday's Union expressed the City's position in the following words:

If we have any rights there the courts will protect them, and if Mr. Fletcher has water rights there, which he certainly has, I anticipate the courts will protect them. We do not want anything in the way of interference with any one else, and as I will be able to convince you later on, we have not the remotest desire to interfere with them.

This statement, to me, means a fight to the finish in court on the City's technical rights, irrespective of the general public good by the immediate conservation of our flood waters. If we were a private corporation and could charge what we wanted it would be a thing to guard against, but the State Railroad Commission of California controls the rates.

The city's financial condition for years will be such as to make it utterly impossible to finance the big El Capitan enterprise. Certainly, where the City and the country will both be benefitted, a way should be found to compromise this matter with the City so that one of the first real water developments in thirty years (outside of Mr. Spreckels development) may be successfully completed.

The citizens of San Diego should not expect the Cuyamaca water Company and its consumers in our back country, to lay down and quit fighting the city's bill on a verbal promise that there will not be further opposition to our development of water at our points of intake.

Is the City Council of San Diego going to try and maintain any rights it may claim in court, or will it enter into a reasonable stipulation which gives us a right to build the dams immediately which will still protect the City's interest. I for one will advocate it.

Ed Fletcher

Cosgrove's camouflage is so thin that nearly every person in San Diego can see through it. Cosgrove, with the full authority of the City Council, pledged the City in Washington, before the Public Lands Committee, that the City would not oppose but encourage the building by the Cuyamaca Water Company of a dam at each of our diverting points, even if it took all the water. ~~He would like to see:~~ Cosgrove would like to see: ~~we~~ *we* commence the construction of our dams, get them half built, have two or three hundred thousand dollars invested, and then if the City desired they can bring an injunction suit, tying up our money and the work for five or ten years to come in litigation, until the Supreme Court of the United States decides the question.

The City Council have repudiated Cosgrove's pledge if they refuse to give the Cuyamaca Water Company some reasonable assurance that the City will not contest the building of these dams, as per Cosgrove's pledge in Washington. Any loose talk of the City officials does not go.

Cosgrove makes a misstatement of facts, and he knows it, when he says the Interior Department denied us (when I was in Washington) the right to build a dam at the present diverting dam. We acquired that right by act of Congress, January 13th, 1891. The act itself describes the lands that we can use, by sections, and further says:

"With all the usual rights of land and water and of ingress for the purpose of constructing, operating, and maintaining an irrigation flume or canal with the necessary works appurtenant thereto."

The map attached to said act of Congress shows the location of the dam. The consideration of the contract was that the Cuyamaca Water Company should forever furnish the Indians with water free of charge, as long as there is any. This contract we have lived up to.

While in Washington I wrote Commissioner Cato Sells a letter stating that we intended to build a large dam at the diverting dam; that we had the right to build, and that I hoped our interpretation of the law did not conflict with the Commissioner's ideas on the subject. Commissioner Sells in reply wrote that, according to his interpretation of the law we did not have the right; but that if we would submit the plans and specifications of our proposed dam, asking the consent of his Department to build same, early action would be taken. We have never made any formal application, believing we have the right to build the dam already.

Our authority is Ex-supreme Justice F.W. Henshaw, whose opinion is as follows:

"To say Congressional Act does not in terms grant rights to build dam does violence to manifest intent and scope of act, which gives everything necessary for an accomplishment of, and the conservation and use of water for public benefit. Feel certain Department of Interior alive to condition in Southern California will construe act in accordance with its manifest intent. Have not slightest doubt outcome of litigation would uphold your contention,

but litigation inevitably would result in long delay, involving loss to company and deprivation to public. Should Department by any possibility adopt a contrary view, it would have it in its power to block the work by proceedings in injunction. But so sure do I feel that a judicial construction of the act would be favorable to our views that I would not hesitate to advise that the work be prosecuted with safety, if the Department would, without injunction, permit the work to proceed, awaiting judgment of the federal court on the matter."

Signed, F. W. Henshaw.

Cosgrove makes another mis statement when he says Honorable Cato Sells has declined to permit the building of a new diverting dam on a branch stream in the El Capitan reservation. This refers to the Conejos reservoir site. The facts are, the Government informally gave their consent and an award of damages by government engineers was made. We have paid the U.S. Government said damages, amounting to approximately \$3,000. which is not in the U.S. Treasury. A contract drawn by the U.S. Government in triplicate has been signed by us, and is now in the hands of the U.S. Government. The official record in Washington shows that at my personal request the matter is being held in abeyance until this El Capitan controversy is determined.

Cosgrove denies there was any talk of compromise, but the facts are he did make a written compromise agreement, and I forced him to read it to the Senate Committee.

The City may prepare itself for all kinds of camouflage. It is impossible to answer everything, but the fact remains, the

citizens of San Diego will undoubtedly have to settle the question soon. Is the Cuyamaca Water Company going to be allowed to conserve the flood waters on the San Diego River and have it done immediately, thereby adding a factor of safety both to the City and the County, (and if desired the City can buy water from us at a less price than the city can develop it, and deliver it ~~to the city limits~~ to the city limits); or to revenge a personal spite, is the Ozar of the City Hall, the highest priced attorney west of the Mississippi, going to hold his job for the next eight or ten years ^{to continue} in senseless litigation.

Ed Fletcher

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RESUME - SAN DIEGO, CALIFORNIA'S APPLICATION
NO. 5575 RE: EL CAPITAN TO PWA

The Hydraulic Engineer of the City of San Diego, Mr. Hiram Savage, originally estimated the cost of the San Diego River Water Development Projects at \$5,208,585.48 as per estimate made to the RFC. Since that time, new development costs have arisen increasing the cost by \$504,000 in excess of the original estimate, including the widening and lengthening of the spillway 1,500 feet as ordered by the State Engineer of California, who has by law final authority in relation thereto, also additional cost in excavation for bed-rock and moving of additional material in excess of the original estimate, etc.

San Diego citizens voted bonds in the amount of	\$4,281,925.00
Transferred from other funds - - - - -	926,660.03
Total - - - - -	<u>\$5,208,585.03</u>

San Diego city expended cash so transferred, viz., \$926,660.03 for the acquisition of lands, rights of way and clearing of reservoir and started construction of the dam. They also sold - - - - - \$1,755,000.00 of the above-mentioned bonds at par through private institutions. Failing to sell the remaining bonds, San Diego applied to the RFC to purchase - - - - - \$2,500,000.00 of San Diego's five per cent general obligation bonds which were accepted and delivered. From the above sums, San Diego paid over \$500,000, most of which went to the United States Government in acquisition of lands in the El Capitan Indian Reservation. The projects in detail are described as follows:

First, the dam structure is now under contract and approximately 70% completed.

The new work not under contract is as follows:

First, the 1500-foot spillway extension with an estimated cost of - - - - - \$220,000 recently ordered by the State Engineer and declared new work by a recent Superior Court Decision.

Second, the pipe-line from the El Capitan Dam to a connection with the existing pipe-line to San Diego, the estimated cost being - - - - - \$550,000

Third, the construction of a roadway, new construction skirting the Dam, the estimated cost being - - - - - \$137,000

Total - - - - - \$907,000

These three projects have been approved by the Administrator as new work, none of which have been advertised for bids to date but vital to the consummation of the San Diego River Water Development, all as per letter dated February 23, 1934, as follows:

" * * * The three projects supplementary to the actual El Capitan Dam and Reservoir may be considered as separate projects for the purpose of computing the grant, and the fact that work has started on the El Capitan Dam itself does not make the three supplementary projects ineligible for a grant." * * * /signed/Philip B. Fleming, Acting Deputy Administrator."

Granting that the work under construction to wit: El Capitan Dam, partially financed by the RFC, is ineligible for grant, still we feel that the three latter projects abovementioned totalling \$907,000 should be eligible for the 50% grant and we will amend our original application which asks specifically for a \$504,000 grant, and in lieu thereof, accept a grant of \$272,000 which will be sufficient, together with other city funds which can be transferred, to complete the entire projects.

The Government has only financed us to the extent of approximately 50% of the entire project by the RFC buying \$2,500,000 of our 5% general obligation bonds while it would have been possible for the City to have sold to the PWA, the same bonds on a 4% interest-bearing basis. It would seem to us that it would be good business on the part of the Government having purchased the \$2,500,000 of bonds, assuming that it was a self-liquidating project, to see us through instead of leaving us now high and dry with a half-completed project and the inability to deliver the water to create sufficient revenues to take care of bond interest and redemption.

Unless we have Government aid immediately, we will be forced to discontinue work as it is absolutely impossible at this time to get the tax-payers to vote more bonds for any project and the money heretofore expended will be a waste of public funds until all projects are financed and completed.

Respectfully yours,

A. W. Bennett
Vice-Mayor, City of San Diego

CUYAMACA WATER COMPANY

SUCCESSORS TO

THE SAN DIEGO FLUME COMPANY

OFFICE: FLETCHER BUILDING

918 EIGHTH STREET, BETWEEN BROADWAY AND E

P. O. BOX 1412

ED FLETCHER, MANAGER
LOU B. MATHEWS, SECRETARY
C. HARRITT, SUPERINTENDENT

SAN DIEGO, CALIFORNIA.

April 26, 1918

Mr.

Dear Sir:-

Attached hereto is Congressional Record of the hearing of H.R. 4037, the City of San Diego's El Capitan Bill. On pages 58 and 59; 62 and 63; 74, 75 and 76; 84, 85 and 86, you will find statements from Mr. Cosgrove that the City will not interfere in any way with the complete development of the Cuyamaca System at our two points of diversion, at the Diverting Dam and the South Fork: that the City welcomes this development even if it is ten times as great as it is at present.

You will also find my statement there that this arrangement is perfectly satisfactory, and if the City Council will take the attitude which Mr. Cosgrove has taken, the Cuyamaca Water Company will withdraw any opposition to the granting of the El Capitan Bill asked for by the City.

I hope you will read the entire hearing and familiarize yourself with all the facts, for it is a vital matter which must be settled and soon, if this section of the country is to be developed.

Mr. Cosgrove went there with a resolution passed by the City Council giving him full authority to act, and his statements are morally if not legally binding on the City Council of San Diego. No sane man would, it seems to me, commence the construction of a dam at either of our points of diversion until it is known that the City of San Diego will not enjoin us. We cannot take the risk of having a four or five hundred thousand dollar dam half built and then be enjoined by the City, leaving us in the air with an investment of two or three hundred thousand dollars and a suit on our hands with a contractor for profits, etc. It would take six or seven years litigation with the City to determine our rights. In the written opinion of Ex-Supreme Justice F. W. Henshaw we have a legal right to build the diverting dam under the Act of Congress of 1891, and the municipality of San Diego alone can make us trouble as already described, and will deter any private corporation from going ahead with a development which is absolutely necessary to the County and just as valuable to the City as well, for it becomes an extra factor of safety in time of emergency to have these dams built and water impounded.

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The Cuyamaca Water Company can condemn any riparian owner below, and not be hindered except temporarily, but in a scrap with a municipality it is a different matter.

The only source of supply of water for that section of the country must come through the Cuyamaca System. It is their future heritage: it all helps San Diego. I am certainly discouraged to see the "dog in the manger" attitude taken by the City of San Diego, for I know of but one man living who, under the existing conditions, is willing to put money into public utilities, and that is James A. Murray. Mr. Henshaw and I are willing to do it, and have financed ourselves for this purpose simply because our interests are small, but the bulk of the financial end of it rests upon Mr. Murray and how long he will remain in this frame of mind I do not know.

What we want from the City of San Diego is a reasonable assurance, satisfactory to our attorneys, that if we let a contract for a dam or dams, at our two diverting points we will not be enjoined by the City of San Diego. Outside of the Spreckels System, this is the first development in thirty years of the flood waters in this County, and it is my private opinion that it is a crime for any individual or municipality to oppose a development of this kind. This is especially so on account of the fact that we have a State Railroad Commission that squeezes all the water out of any development which we may make, and particularly owing to the fact that although we have put approximately one million dollars into this project, we have never received a dividend of one dollar, and have only a little more than paid operating expenses to date.

In the last analysis, if the City ever wants our system, they can get it through the courts, and as it will be years before the City can do anything, I do feel that the present attitude of the City is wrong and that private capital should be encouraged to develop the water resources of our back country. Mr. Murray is becoming very much discouraged with the attitude of the City of San Diego, and, in my opinion, if an adjustment of this matter is not made in the very near future it will be a hopeless task to get him to make any further investment in San Diego County.

Yours very truly,

EF/bm

April 26, 1918

Attached hereto is Congressional Record of the hearing of H.R. 4037, the City of San Diego's El Capitan Bill. On pages 58 and 59; 62 and 63; 74, 75 and 76; 84, 85 and 86 you will find statements from Mr. Cosgrove that the City will not interfere in any way with the complete development of the Cuyamaca System at our two points of diversion, at the Diverting Dam and the South Fork: that the City welcomes this development even if it is ten times as great as at present.

You will also find my statement there that this arrangement is perfectly satisfactory, and if the City Council will take the attitude which Mr. Cosgrove has taken, the Cuyamaca Water Company will withdraw any opposition to the granting of the El Capitan Bill asked for by the City.

I hope you will read the entire hearing and familiarize yourself with all the facts, for it is a vital matter which must be settled and soon, if this section of the country is to be developed.

Mr. Cosgrove went there with a resolution passed by the City Council giving him full authority to act, and his statements are morally if not legally binding on the City Council of San Diego. ~~So far, in my opinion, both Mr. Cosgrove and the City Council have repudiated Mr. Cosgrove's pledge in Washington.~~ No sane man would, it seems to me, commence the construction of a dam at either of our points of diversion until it is known that the City of San Diego will not enjoin us. We cannot take the risk of having a four or five hundred thousand dollar dam half built, and then be enjoined by the City, leaving us in the air with a two or three hundred thousand dollar investment and a suit on our hands with ~~several~~ contractors for profits, etc. It would take six or seven years of litigation with the city to determine our rights. In a written opinion by Ex-Supreme Justice F. W. Henshaw we have a legal right to build the diverting dam under the Act of Congress of 1891, and the municipality of San Diego alone, can make us trouble as already described, and will deter any private corporation from going ahead with a development which is absolutely necessary to the County and just as valuable to the City as well, for it becomes an extra factor of safety in time of emergency to have these dams built. *and water impounded*

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The Cuyamaca Water Company can condemn any riparian owner below, and not be hindered except temporarily, but in a ~~strap~~ with a municipality it is different.

The only source of supply of water ^{from} that section of the country must come through the Cuyamaca Water Company's system. It is their future heritage: it all helps San Diego. I am certainly discouraged to see the "dog in manger" attitude taken by the City of San Diego, for I know of but one man living who, under the existing conditions, is willing to put money into public utilities, and that is James A. Murray. Mr. Henshaw and I are willing to do it, and have financed ourselves for this purpose simply because our interests are small, but the bulk of the financial end of it rests upon Mr. Murray and how long he will remain in this frame of mind I do not know.

What we want from the City of San Diego is a reasonable assurance, satisfactory to our attorneys, that if we let a contract for a dam or dams, at our two diverting points, we will not be enjoined by the City of San Diego. Outside of the Spreckels System, this is the first development in thirty years of the flood waters in this County, and it is my private opinion that it is a crime for any individual or municipality to oppose a development of this kind. This is especially so on account of the fact that we have a State Railroad Commission that squeezes all the water out of any development which we may make, and particularly owing to the fact that although we have put approximately one million dollars into this project, we have never received a dividend of one dollar, and have only a little more than paid operating expenses to date.

In the last analysis, if the City ever wants our system, they can get it through the courts, and as it will be years before the City can do anything, I do feel that the present attitude of the City is wrong and that private capital should be encouraged to develop the water resources of our back country. Mr. Murray is becoming very much discouraged with the attitude of the City of San Diego, and in my opinion, if an adjustment of this matter is not made in the very near future it will be a hopeless task to get him to make any further investment in San Diego County.

Yours very truly,

EF/bm

April 20, 1918

Dear Sir:-

Attached hereto is Congressional Record of the hearing of H.B. 4037, the City of San Diego's El Capitan Bill. On pages 58 and 59; 62 and 63; 74, 75 and 76; 84, 85 and 86 you will find statements from Mr. Cosgrove that the City will not interfere in any way with the complete development of the Cuyamaca System at our two points of diversion, at the Diverting Dam and the South Fork: that the City welcomes this development even if it is ten times as great as at present.

You will also find my statement there that this arrangement is perfectly satisfactory, and if the City Council will take the attitude which Mr. Cosgrove has taken, the Cuyamaca Water Company will withdraw any opposition to the granting of the El Capitan Bill asked for by the City.

I hope you will read the entire hearing and familiarize yourself with all the facts, for it is a vital matter which must be settled and soon, if this section of the country is to be developed.

Mr. Cosgrove went there with a resolution passed by the City Council giving him full authority to act, and his statements are morally if not legally binding on the City Council of San Diego. No sane man would, it seems to me, commence the construction of a dam at either of our points of diversion until it is known that the City of San Diego will not enjoin us. We cannot take the risk of having a four or five hundred thousand dollar dam half built and then be enjoined by the City, leaving us in the air with a two or three hundred thousand dollar investment and a suit on our hands with a contractor for profits, etc. It would take six or seven years litigation with the city to determine our rights. ~~In the case of~~ Ex-Supreme Justice F. W. Henshaw we have a legal right to build the diverting dam under the Act of Congress of 1891, and the municipality of San Diego alone, can make us trouble as already described, and will deter any private corporation from going ahead with a development which is absolutely necessary to the County and just as valuable to the City as well, for it becomes an extra factor of safety in time of emergency to have these dams built and the water impounded.

The Cuyamaca Water Company can condemn any riparian owner below, and not be hindered except temporarily, but in a scrap with a municipality it is different.

The only source of supply for that section of the country must come through the Cuyamaca Water Company's system. It is their future heritage: it alkhelps San Diego. I am certainly discouraged to see the "dog in the manger" attitude taken by the City of San Diego, for I know of but one man living who, under existing conditions, is willing to put money into public utilities, and that is James A. Murray. Mr. Henshaw and I are willing to do it, and have financed ourselves for this purpose simply because our interests are small, but the bulk of the financial end of it rests upon Mr. Murray and how long he will remain in this frame of mind I do not know.

What we want from the City of San Diego is a reasonable assurance, satisfactory to our attorneys, that if we let a contract for a dam or dams, at our two diverting points we will not be enjoined by the City of San Diego. Outside of the Spreckels system, this is the first development in thirty years of the flood waters in this County, and it is my private opinion that it is a crime for any individual or municipality to oppose a development of this kind. This is especially so on account of the fact that we have a State Railroad Commission that squeezes all the ~~the~~ out of any development which we may make, and particularly owing to the fact that although we have put approximately one million dollars into this project, we have never received a dividend of one dollar, and have only a little more than paid operating expenses to date.

In the last analysis, if the City ever wants our system, they can get it through the courts, and as it will be years before the City can do anything, I do feel that the present attitude of the City is wrong and that private capital should be encouraged to develop the water resources of our back country. Mr. Murray is becoming discouraged with the attitude of the City of San Diego and, in my opinion, if an adjustment of this matter is not made in the very near future it will be a hopeless task to get him to make any further investment in San Diego County.

Yours very truly,

cc JAM WGH	Sam Perry Smith	P. W. Stearns
	G. Aubrey Davidson	W. W. Whitson
	H. H. Jones	Wm. Clayton
	Frank Sawyer	Jas. McMullen
	Melville Klauber	

project

or by agreement

This letter sent to the following:

Dr. C. L. Good, Lemon Grove

Mr. D. G. Gordon, Bostonia

Mr. Geo. Hawley, La Mesa

Mr. Harrison Albright, Jr., Mr. Helix

Mr. J. M. C. Warren, Spring Valley

Mr. H. Culbertson, El Cajon

City Trustees, La Mesa

City Trustees, El Cajon.

San Diego, California,

Aug. 23rd, 1919.

Dear Sir :-

You are probably aware that the City Attorney of San Diego has asked permission to commence condemnation proceedings on the El Capitan Project. If suit is commenced it means endless litigation. Last week we acquired by purchase the dam site and most of the lands to be flooded by the major dam at or near the diverting dam. It is our plan to build this dam as soon as it can be financed and conditions warrant, but if the city starts litigation it will delay the development for years. The remarkable thing is that although the State Engineer of California and two Government officials have stated that with our dams built there will not be enough water to warrant the construction of El Capitan, and although the city officials, through their city attorney in Washington, stated that they desire that we build our diverting dams, yet they are proceeding to condemn, thereby blocking temporarily at least, our development; yet they have stated under oath that they wanted to see it completed.

However, when we asked the city for an assurance that they would not bring an injunction suit during the construction of our dam, the city refused to give us any such assurance. Now the remarkable part of it is that the city starts condemnation suits, putting a cloud on the title to our lands, Riparian rights and water rights, without even finding out whether there is a dam site there or not, or what it is going to cost to build it.

I urge that you be present at nine o'clock next Monday morning at the City Hall, San Diego, and make your protest to the City Council. With the proper backing I believe the Cuyamaca Water Co. will be able to show that it is a foolish expenditure of money. We are perfectly willing that the city should go on to our property without any expense, and are willing to let them determine whether or not there is an available dam site, how deep it is to bedrock, etc. For your own interest, as well as ours, we hope you will be present at nine o'clock Monday morning and protest against such unwarranted action on the part of the city, at least until they have facts from responsible people that justify the expenditure of \$3,000,000 or \$4,000,000, and endless litigation with all the Riparian owners as well as with the Cuyamaca Water Co. When El Capitan Dam is built no water can reach La Mesa by gravity. The official plan of record before the Secretary of the Interior is that a pipe line shall be built direct from El Capitan to University Heights Reservoir.

Yours very truly,

Ed Fletcher.

Mr. Mathews:

Keep this for future reference.

Ed Fletcher.

F-S
2/17/16.

**AN ACT TO GRANT A RIGHT OF WAY OVER
GOVERNMENT LANDS FOR DAM AND RESER-
VOIR PURPOSES, FOR THE CONSERVATION
AND STORAGE OF WATER TO BE USED BY
THE CITY OF SAN DIEGO, CALIFORNIA.**

**BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES
OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That a
right of way for a dam and reservoir on and over the south half
of the northeast quarter of the northwest quarter, and the north
half of the southwest quarter of section eight; the northwest
quarter of the southwest quarter of the southwest quarter and
the northwest quarter of the northeast quarter of the northeast
quarter of section nine; all in township fifteen south, range
two east, San Bernardino Base and Meridian, within the Cleveland
National Forest; and on and over the southeast quarter of the
southwest quarter and the southwest quarter of the southeast quar-
ter of section fifteen; the northwest quarter of the northeast
quarter; the northwest quarter; the north half of the southwest
quarter and the southwest quarter of the southwest quarter of
section twenty-two; the west half of the northwest quarter of
section twenty-seven; the east half of the northeast quarter;
the southwest quarter of the northeast quarter and the southeast
quarter of section twenty-eight; and the northeast quarter; the
west half of the southeast quarter; the east half of the southwest
quarter and the southeast quarter of the northwest quarter of**

section thirty-three; all in township fourteen south, range two east, San Bernardino Base and Meridian; also, the north half of the southwest quarter and the southwest quarter of the southwest quarter of section three, and lots two, three, six, seven, eight, nine, ten, eleven and the south half of section four, all in township fifteen south, range two east, San Bernardino Base and Meridian, within the Capitan Grande Indian Reservation; and all within the County of San Diego and State of California, is hereby granted to The City of San Diego, a municipal corporation in said County and State.

Also, the right to remove from the lands hereby granted material, earth, stone and timber necessary for the clearance of the reservoir site and the construction, maintenance, repair and control of said dam and reservoir.

Section 2. That said dam and reservoir when constructed shall be maintained and controlled by the municipal authorities of said City of San Diego for the exclusive use and benefit of said City of San Diego and the inhabitants thereof, and of such other municipalities within the County of San Diego, State of California, as may be now or hereafter furnished with water by said City of San Diego.

Section 3. That this act shall take effect and be in force from and after its passage.

I HEREBY CERTIFY, that the above and foregoing is a full, true and correct copy of Document No. 95487, filed in the office of the City Clerk of the City of San Diego, California on the 15th day of December, 1915.

(Signed) Allen H. Wright
City Clerk of the City of
San Diego, California.

COLONEL FLETCHER'S SUGGESTED PLAN OF
WATER DEVELOPMENT FOR THE CITY OF
SAN DIEGO

August 17th, 1931

The daily papers have asked for suggestions covering a constructive plan of water development for the city.

The paramount right to the water of the San Diego River has by no means been settled. This question is now before the federal courts.

The San Diego Flume Company was created thru an Act of Congress and the La Mesa District acquired their rights. It is a question of State rights vs federal rights and until the question is settled for all time by the supreme court of the United States it would be a mistake to attempt any major development on the San Diego River.

Taking into consideration our limited finances, heavy taxation and financial depression, the end of which is not yet in sight, let us develop the cheapest water first, keeping in mind, however, our complete development.

The following are my recommendations for immediate action.

First. Hold back our reserve storage in Morena, Barrett and Otay so far as possible, buy from the La Mesa District at nine cents a hundred cubic feet delivered in to the city lines from Murray dam at least five or six million gallons daily instead of 700,000 gallons we are now taking. This water will be sold at San Diego's present rate of twenty cents a hundred cubic feet, giving 110% profit to the city. The water will be delivered under pressure between 500 and 550 feet elevation.

We will also save the cost of paying for electric power and maintenance of the East San Diego and University Heights pumping plants. We are now paying \$40,000 additional annually to pump our twenty-one cent a thousand gallons water from the Spreckels system.

Murray Dam holds approximately two billion gallons and secures its supply from the San Diego River. Murray Dam is within seven or eight feet of being full today, owing to annexation to the city of district lands and the loss of demand for the water.

Murray Dam can easily furnish a billion gallons or more annually on the average with no expense whatever to the city in acquiring this new supply.

Second. We can add three to four million gallons daily WATER now lost in evaporation and seepage from the

Morena-Barrett reservoirs, WATER that is lost down the open Dulzura Creek bed to Otay dam. The city records show a 30% to 50% loss in transit, excepting in the winter time.

This saving can be made by installing a small high pressure pipe line from the end of the Dulzura conduit, elevation approximately 1400 feet by a most direct line to the city or, as an alternative, carry out the suggestion of Mr. Francisco by building a large pipe line approximately thirteen miles in length from the end of the Dulzura conduit to a connection with the old Otay pipe line at Otay dam. The following objects will be obtained.

(a). The present waste of water will be eliminated and three or four million gallons daily will be added to our net safe yield, except during the 4 winter months.

(b). Under pressure the new Otay pipe line could put water to the higher levels of the city without the necessity of paying pumping costs.

The pipe line from the westerly end of Dulzura conduit to Otay dam should not cost to exceed six or seven hundred thousand dollars. You already have \$350,000 available from the Otay pipe line fund. The balance of the cost of this pipe line could be taken from the excess revenue from the sale of water received by the city or by vote of the people, if necessary, transferring the Chollas Heights \$550,000 fund already voted but not used.

(c). Providing the city will build a two mile connection pipe line between Murray Dam and the new Otay pipe line within the city limits, the city can, when the San Diego River has a surplus of water in the winter, divert San Diego River flood water from Murray dam and store same in Lower Otay. We did this for the city in 1915 when the Cuyamaca Water Company furnished from Murray Dam five hundred million gallons of water delivered into Otay dam under pressure. Otay dam has been overbuilt. It was completed August 18, 1897 with a capacity of 12,000,000,000 gallons. It did not fill for eighteen years yet the new dam, when full, holds approximately twenty billion gallons and there is a surplus storage available.

The city records show that from the surplus water revenues in 1928-29, \$505,029.52 was transferred from the water fund to the general fund and expended by the city for other than water development. For the year 1929-30, \$776,096.05. For the year 1930-31, \$824,969.64. The above

amounts may be changed slightly by the use of funds for the rebanding of the Otay pipe line for some small emergency. The above sums of money were used to operate the city government in excess of the ninety cent maximum charter requirements for 1928-29, 1929-30 while the 1930-31 rate was 84¢, the use of this money in excess of the maximum charter requirements was clearly an illegal act and could have been enjoined by any property owner of San Diego.

I am in favor of the water revenues being held sacred and kept for water development only with as little bond issue as possible for water development.

I have always favored a Board of Public Works with authority to act and our water development taken out of the hands of politics. I hope some time this will be done. I worked for it and feel it should have been included in the new charter.

Third. We should immediately start operating our pumping plant in Mission Valley now; the gravels are full of water. My understanding is that five million gallons daily can be secured for a considerable period and the water should be lowered in the gravels as much as possible so that we can have our underground reserve at that point available to impound and hold the water from the winter rains this coming season.

Fourth. Strengthen Hodges dam. The former state engineer approved the work. The dam has stood the test for twelve years. Since the fatal collapse of the gravity arch dam, the St. Francis, in the city of Los Angeles, the new state engineer, in accordance with state law demands the strengthening of the buttresses. This work must be done.

On June 30, 1931 the city held in the San Dieguito water fund, \$162,554.76. This money, with the consent of the water company, could be used to cover the cost of this work.

If the state engineer will do so, I recommend that his office make the plans, advertise for bids and the city pay for the work out of the San Dieguito fund.

The plans should take into consideration the raising of Lake Hodges dam at least ten or fifteen feet by tainter gates or a syphon spill way, preferred. It will add 17,000 to 26,000 acre feet, increase the net safe yield from three to five million gallons daily and will be the cheapest water ever stored by the city. The city owns practically all the land that will be flooded by this improvement. The state engineer states there is no basic reason why this improvement cannot be made.

In time, it may mean the building of a pipe line to a connection with the city's main at the mouth of Rose

Canyon. The cost of raising the dam and building the spill way ten or fifteen feet will not exceed \$100,000 to \$150,000. The cost of the additional water stored will be approximately \$10 an acre foot as compared to \$45 an acre foot, the present cost of Lake Hodges water.

We should under no conditions abandon our rights on the San Dieguito River. There is a larger supply of water available for the city from this source after taking care of the districts demands than the combined net safe yield of Morena, Barrett and Otay.

During the next eighteen months we have ahead of us two rainy seasons. There is every reason to believe it will furnish us a larger catchment of water in our reservoirs also sur charge our water bearing gravels every where.

One third of our water supply is coming from the San Diego River pumping plants today. This is Mr. Savage's statement. It speaks well for the value of underground gravels.

Eighty percent of the water used to irrigate 200,000 acres between Los Angeles and San Bernardino comes from underground sources by pumping. Our cheapest source of water supply is from underground gravels. Eventually our water will be pumped from underground gravels, more water than is conserved by reservoirs and without the loss of evaporation. Underground water development does not take a large initial investment.

San Diego should acquire the balance of the San Pasqual gravels immediately. We have broken faith with those property owners in backing out of our agreement to purchase. They offer today to sell for 25% less than the original contract. These gravels will furnish us the largest available amount of underground water of any gravels in the county. By so doing it leaves the city in a position to complete Sutherland dam, a splendid development.

When it is thought advisable we should be able to make a satisfactory arrangement with the San Dieguito Water Company and the districts which will permit us to run a pipe line from San Diego to the San Pasqual valley and install pumping plants, the total cost of which will not exceed a million and a half dollars. It can be built within a year's time and San Diego can get an emergency supply of ten or twelve million gallons daily from the underground gravels of the San Dieguito River.

Eventually, the pipe line from San Diego can be extended to the head of the San Pasqual valley at the Pano damsite where several million gallons of water daily can be diverted by a diverting dam and flow by gravity to the city.

Some day, this splendid dam will be built and the original plan of our former famous engineer, C. S. Allison as well as the Linda Vista Irrigation District, will be consummated. The pipe line will then serve two purposes - flow water by gravity across Linda Vista Mesa in to the city and be used for pumping as well. There is nearly a hundred miles of water shed draining in to the San Pasqual graves below Pamo.

Fifth. Install in one of the canyons in the northeast corner of the park an activated sludge tank for the reclaiming of our sewage water immediately. In no sense will it be an eye sore; it has practically no odor and the reclamation will not cost to exceed three or four cents a thousand gallons.

I received from the state of California recently a letter to the effect that our state college is buying ten thousand gallons of water a day, is reclaiming eight thousand gallons a day at a cost of three cents including pumping and using it for all outside purposes such as sprinkling, irrigating, etc., with great success.

With all our shrubbery, golf links, etc., Balboa Park alone is using approximately five million gallons monthly and increasing in demand. The total investment of a plant should not exceed seventy five thousand dollars put in under the supervision of the State Board of Health and you will secure their hearty cooperation.

Eventually, other plants should be installed near the bay and a pipe line built to furnish water to the industrial and naval activities delivering reclaimed water at a nominal cost to us thereby adding five or six million gallons daily to our net safe yield and sold at a profit.

With a new water supply immediately from Murray dam, the conservation of our water lost down Dulzura Creek, the increased operation of pumping plants on the San Diego River, the installation of a reclamation plant in Balboa Park, all without the necessity of a bond issue, we need have no fear of a shortage of water.

Mr. Savage and ex-mayor Bacon admitted we have practically a four year's supply without a drop of rain.

My recommendations for an immediately supply will increase the supply an additional two or three years at least and you questions but what we will have another flood

year during that six year period?

Tomorrow, I will present my views on the question of the paramount right with an offer of its solution without further litigation, also a plan of major development of the San Diego River and our other water resources as conditions warrant.

A FEW REMARKS ON THE WATER QUESTION BY ED FLETCHER

A city official last week asked me who owned the El Capitan damsite, and I find so many people wholly ignorant of the facts, even to the extent that one citizen a short time ago said that if El Capitan were built, there was no need of building Warner's dam as El Capitan would catch all of the water, therefore, as a citizen of San Diego who has studied the water question, yes, lived with it for the last sixteen years, I submit a few facts on the water question that I hope will be of interest to the citizens of this city.

The general public has been led to believe that the U. S. Government granted both water rights and lands to be flooded from the El Capitan Indian Reservation, in addition to the damsite on which the dam was to be built. The Government cannot, and has not granted any water rights whatsoever. Instead the Act itself definitely protects the interests of the Cuyamaca Water Company, and others, in the following language:

"

The Cuyamaca Water Company owns both damsites where Mr. Savage is now boring. The City, in writing, asked our consent before going on our property to do the core drilling, and is furnishing us each week with the records of their work.

The map printed above shows you the location of the two damsites on the Cuyamaca Water Company's property, marked El Capitan damsite No. 1, and No. 2.

A large portion of our land will be flooded if the El Capitan dam is built. Other private property that will have to be

condemned includes J. J. Henderson, Millie Head, J. C. Dowling and _____, between 1 and 2 miles of the reservoir lands will have to be acquired in addition to the lands from the El Capitan Indian Reservation.

If the El Capitan dam is built at either No. 1 or No. 2 damsite, as per the map shown above, the water will flood our _____" 2678 ft. siphon across Chocolate Creek, also our two _____" steel siphons 1435 feet in length across South Fork. This will force the City to build conduits, or pipe lines around _____ miles in length at an estimated cost of \$_____.

The building of El Capitan dam at either of the points above described floods the county highway for nearly 6 miles, and will force the construction of a county highway on the mountainside to give an outlet to the residents above at a cost of not less than \$75,000, in my opinion.

The building of El Capitan dam also shuts off the underground water, affects all the riparian owners below and destroys the value of the Cuyamaca Water Company's El Monte pumping plants, which can now furnish 3 million gallons of water daily for a six months' period from the El Monte gravels, and in time of emergency, this amount can be increased, at an expenditure of \$10,000 to six million gallons daily.

House Bill No. _____ passed by Congress, which gave the City of San Diego the right to flood the lands of the El Capitan Reservation was passed under the following definite conditions: On Page _____ you will note that riparian owners are to benefit by any water stored in El Capitan dam, and the records will disclose that the Cuyamaca Water Company is, by far, the largest individual owner of riparian rights on the river below the proposed El Capitan damsite.

3.

The claim of former City Attorney Cosgrove that the City owns all of the water in the San Diego river, "from the tiny rivulets in the mountains to the shimmering sands of the sea" (his description) is combated by the opinion of former City Attorney W. R. Andrews, who rendered the opinion to the City Council that the City does not own, and has no right to claim the waters of the San Diego River under its pueblo rights.

The fact is, there were only two pueblos in the State of California. San Diego was first a Mission and then a Presidio, and no pueblo water rights could be acquired either under a Mission or Presidio grant by the Spanish throne.

Even if it were true that San Diego was a Pueblo, it would seem a pity to force this issue on riparian owners below, who have put the water to beneficial use the last 30 years, and particularly if it is shown that the construction of El Capitan dam would be the most expensive method of developing water.

No competent engineer has ever rendered a report as to the feasibility of the El Capitan project. Let's get the facts before throwing away any more of the city's good money. Let's get from competent authorities the following information and present to the public:

How much will it cost to buy new lands, build houses, schools, a church, new roads, install water system, etc. and remove the Indians?

What will it cost to condemn, or purchase, the Cuyamaca Water Company's interests, and acquire the riparian rights below where damage is done?

Also the cost of new road construction?

The 5 miles of flume to be built to keep the Cuyamaca Water

Company's supply of water out of the El Capitan reservoir site?

As planned, I am positive this expense will be easily between 5 and 6 million dollars. It will take 4 to 6 years to complete, under the most favorable conditions.

The U. S. Reclamation Service records show the net safe yield, with El Capitan reservoir built to hold 51,200 acre feet, and with full release of water for all riparian lands, to be 5 million gallons daily -- providing the proposed Fletcher reservoir at the head of the Cuyamaca Water Company's system is NOT built. If the proposer Fletcher reservoir is built, the net safe yield will be 2.81 million gallons daily. My personal opinion is that these figures are ultra-conservative, and the net safe yield will be somewhat greater, but if the above facts are true, this will be the most expensive water ever heretofore developed in San Diego County.

As part owner of the Cuyamaca Water Company, I wish to say that the better the El Capitan shows up, the more value the El Capitan damsite, and the more money we will get for it on a condemnation suit in court. As a citizen, however, all I ask is before we are rushed headlong into voting bonds for a sum sufficient to remove the Indians, let's have all of the facts as to the total cost of the completed project.

The much abused Cuyamaca System consists of the following:
Cuyamaca Dam, 665 ft. in length, 37.5 ft. in height, and floods 930 acres.

The concrete diverging dam on the San Diego River, 440 ft. in length and 25 ft. in height, with about 10 acres flooded.

The water is then brought thru 30 odd miles of flume, siphons, and tunnels to Murray Hill reservoir. There are approximately

5.

30 miles of wooden flume, 48/100ths of a mile of steel flume, concrete conduit 42" in diameter and 1080 ft. long across Sand Creek, approximately 2,000 ft. of concrete conduit; 4736 ft. of tunnel and square masonry conduit; 2870 ft. of steel pipe across South Fork Creek _____ inches in diameter, also 2678 ft. of _____ inch diameter steel pipe across Chocolate.

In order to divert the water from the South Fork stream, whose headwaters are Descanso and the South peak of Cuyamaca, we have built 2500 ft. of steel flume 3 x 4 ft. in diameter, also have installed 2350 ft. of 20" riveted steel pipe, which can divert 1,000 inches of water into our flume when that amount is flowing.

A mile above Lakeside is located our El Monte pumping plant, a string of wells across the valley, and from which a minimum of 3 million gallons daily can now be pumped directly into the flume, approximately 1500 ft. away. Competent Federal and private engineers have determined that there is in excess of 9 billion gallons of water stored and available in the El Monte gravels.

The system also includes Eucalyptus reservoir located at the end of the flume near La Mesa at an elevation of 620 feet, length of dam 275 ft. height 34 ft. Eucalyptus reservoir is connected at the same elevation with Murray Hill reservoir, by a 24" concrete pipe _____ ft. in length, the two acting together and virtually increasing the regulating and receiving capacity at the end of the flume.

The length of Murray Hill reservoir is 570 ft., height 35 ft. and holds 41 million gallons. This was built to protect the domestic supply of the City of La Mesa.

The La Mesa conduit from the Eucalyptus reservoir at the end of the flume to Murray dam is 3.68 miles in length, with the

6.

exception of 1237 ft. of redwood siphon, and its function is to convey the ^{winter} entire stream flow of the San Diego River, brought thru the flume, and thence thru this siphon and conduit to Murray Hill reservoir. Murray reservoir is the receiving basin at the end of the Le Mesa conduit, and distributes the water to what we call the Low Service between La Mesa and San Diego City.

The height of Murray dam is 117 ft. from bedrock, and 100 ft. above stream flow. The length is 900 ft. It has a capacity of 6085 acre feet and floods over 200 acres. It is a multiple arch concrete structure of the most modern type and is located 11 miles from the center of San Diego.

The Cuyamaca System also consists of 58 miles of pipe line in its distributing system, the largest of which is the 20" pipe line to the city.

We furnish water to the City of East San Diego, La Mesa and El Cajon and the towns of Spring Valley, Lemon Grove, Normal Heights and Kensington Park, but the Le Mesa, El Cajon, Spring Valley and Lemon Grove people own their own distributing system.

The Cuyamaca Company also owns the proposed Fletcher damsite and a large part of the reservoir site, which will be flooded when the dam is built at the head of our flume on the San Diego River.

By the expenditure of \$75,000 in re-lining our present wooden flume with two-ply rubberoid roofing and burlap, we can easily extend the life of our flume 10 years. This statement can be proven by reading the report of the U. S. Reclamation Service engineers, also Mr. Etcheverry, an engineer of national standing, who testified before the State Railroad Commission, also our consulting engineer, Mr. Earle. For the next ten years the Cuyamaca flume will be practically as efficient and can be maintained at less than one-third

7.

the cost of a concrete flume, rendering the same service without the necessity of putting in the additional investment of approximately one-half million dollars at the present time.

The Cuyamaca System is 100 percent efficient according to the decision of the State Railroad Commission and has a surplus of water for sale. This is proven by the fact that we have surplus water for sale in the driest of years, and we are now furnishing between 4 and 5 million gallons daily to the city in its time of need - and at a price approximately one-half of the cost of the city's present gravity supply of water delivered into University Heights reservoir.

The Cuyamaca System when originally built by the San Diego Flume Company cost that company roughly \$1,300,000. The original stockholders lost every dollar they put in, together with their assessments, the bond holders secured only 15 cents on the dollar when we purchased the System, June 1st, 1910 for \$1,150,000.

Since that time we have re-built the system to a great extent, the new dams having been built are Murray dam, and Murray Hill reservoir. We have built the Chocolate, South Fork and Sand Creek siphons, thereby eliminating over 5 miles of flume and its future maintenance. We have re-built a large share of the trestles with Hesse flume, with concrete abutments, materially enlarged and re-built our distributing line, have acquired the El Capitan damsite, also the proposed Fletcher and South Fork damsites, and by the expenditure of \$700,000 or \$800,000 we can double our present supply of water.

But the greatest strategic value of the Cuyamaca System is the fact that without costing any additional money the headwaters

8.

of the Santa Ysabel River can be diverted at Sutherland damsite and by a conduit 15-1/2 miles long, costing roughly \$500,000, the Santa Ysabel water, to the extent of approximately 7.6 million gallons daily (U. S. Reclamation Service report), can be brought to the proposed Fletcher damsite at the head of our Cuyamaca flume, and conveyed over 40 miles into the City of San Diego.

In addition a power drop of over 900 ft. is secured, as the water from the Santa Ysabel River will flow by gravity to an elevation of 18__ ft. at our diverting dam, while our diverting dam at the head of our flume is at an elevation of 1803 ft. above sea level. By bringing the Santa Ysabel water thru the Cuyamaca System at some future date, it will eliminate the estimated original cost of \$1,500,000 and its depreciation and maintenance, to convey the Santa Ysabel water to the City of San Diego, and which San Diego will sometime need.

With the complete development of the Cuyamaca System, and the bringing of the Santa Ysabel water to the city thru the Cuyamaca System, it will be the cheapest water that will ever be developed, per thousand gallons delivered into the city.

The Cuyamaca System has not been a paying project from a dividend standpoint up to this date, but with the increase in irrigation and domestic rates just lately secured, the Cuyamaca System will be from now on operated at a profit.

We have put down core drillings and demonstrated that bedrock is close to the surface at the proposed Fletcher damsite, and the Fletcher dam should be built at an early date.

Our former City Attorney, Mr. Cosgrove, who went to Washington with full authority to act under the resolution passed by the City Council, made the following statement found on Page ____:

"For the best interests of the City and the entire community, as well as the Cuyamaca Water Company, the City should give its consent to allowing the Cuyamaca Water Company to build this dam"

The City Council so far has refused to give its consent, which is in direct conflict with the sworn testimony by their representative in Washington, and it is only on this statement, in my personal opinion, that any El Capitan Bill was ever passed by Congress.

In closing I wish to say that the total demands on the Cuyamaca System in one year have never exceeded _____ million gallons. The State Railroad Commission of California has complete jurisdiction as to rates, and rules and regulations as to service, and has had since the consumers of the Cuyamaca Water Company, in 1913, voluntarily came under the jurisdiction of the Railroad Commission.

The domestic use of water is the highest use to which it can be put, and in case of shortage, the irrigators are compelled to cease the use of water. This is generally understood, and in the past this rule has been followed.

I shall be glad to furnish any further information that is desired by any party interested, and my only desire in presenting these facts to the public is that you may know the truth.

Please clip this article out for future reference.

2020
STATEMENT OF COLONEL FLETCHER

January 23rd, 1932

San Diego's condemnation suit of El Capitan against the Cuyamaca Water Company and the La Mesa District embraced a total of 270 acres of which 152.72 acres we decided to the district leaving approximately 117 acres which is still owned by the Cuyamaca Water Company.

Included in the 152.72 acres now in the name of the district are approximately 5 or 6 acres which, thru error, we decided to the district at the time the transfer was made in 1926 although our contract did not call for it.

Between the 160 and 200 foot contour within the reservoir site there is a controversy between the district and ourselves as to ownership but we feel our contention is right and the property is of record in our name today. Our interest in this land will be included in the offer to the city.

Several months ago Mr. Savage asked that we put a price on the property we own, which the city condemned, also 50 acres more below the damsite, this totaling approximately 172 acres desired by the city from the Cuyamaca Water Company embracing lands on which a portion of the dam will be built for spill way purposes camping grounds as well as to secure material for the hydraulic earth filling for the dam. This totals a larger acreage than that which you will acquire from the district.

On September 4th, 1931 we made an offer to sell this property for \$35,000 or arbitrate its value, the arbitrators value to be final. The price of this land is less than \$200 an acre but it is our desire to

cooperate with the city in every way possible.

The result of the condemnation suit of the city by a Santa Ana jury gave us a verdict of \$600,000 for the 270 acres or in excess of \$2200 an acre. This verdict did not include any valuation for water rights.

When San Diego condemned the small diverting dam for the upper stay on the Jamul Ranch a San Diego jury gave \$2000 an acre for 9 acres. It was compromised and the city paid \$1000 an acre.

The courts have given a value of \$400 to \$1000 an acre for similar land in many cases and the state of California thru the state engineer has placed a value of from \$200 to \$350 an acre in appraising the value of all of the reservoir lands in Henshaw Reservoir, Lake Hodges, San Dieguito, Murray Hill and other reservoirs in San Diego County, without including water right values.

The city of San Diego paid the U. S. Government \$584,000 for 194 acres or \$187.50 per acre for the Indian lands in El Capitan as well as having gone to a great deal of additional expense outside of the cash payment to the government.

We feel in condemnation we could secure several times the value we are asking for this property but wish to be fair and hope the above presentation of facts will satisfy you that our offer of sale or compromise by arbitration is fair both to the city and ourselves.

February Third
1 9 3 2

State Engineer Hyatt in San Francisco says that Savage is fighting El Capitan, delaying it all he can. This I told to the councilmen and urged them to get the details of the El Capitan dam prepared and send Pyle up there. The council are very friendly.

Wired Savage to return. Savage the day he got here tried to kill the sale of our property to the city and the newspapers printed the following on Monday, February 1st, 1932.

Jack Millan, city treasurer, is playing our game and said money could come from reserve fund.

STATEMENT THAT ED FLETCHER IS TO MAKE TO

ED HYATT

Regarding El Capitan as to what is going to be done.

Mr. Connolly told me Friday that they are going to start in Monday following Savage's instructions although under written protest re the future construction of El Capitan dam.

They are going to import material containing around 80% fines and this will be put into the dam by running thru pipes out over the beaches. Savage today states that the state will not allow this material to be put directly in the pool.

It is twice as rich as Savage asks for and is going to lay a foundation for a slide that will out rank Calaveras if Savage allows the construction of the dam to proceed under the conditions above mentioned.

Mr. Connolly believes the only proper way to complete that dam is to put the 80% fines which Savage has approved.

If Mr. Savage insists upon his plan the dam, in Mr. Connolly's opinion will surely go out. Mr. Connolly is immediately going to notify the State of California by letter, the city council, the city attorney and the sureties that Rohl & Connolly are not responsible for the damage or safety of the dam and are going to do exactly what they are told to do by Mr. Savage.


Connolly says that the beaches are no where near as good as they were two months ago, 4 or 5% worse and Lippencott feels the same way and does not like the beaches at all.

For the love of Mike protect yourself, protect the state and get an outside man in there to tell you what to do.

*Alice
Keep*

Opinion F. W. Henshaw, former Chief Justice Supreme Court State of California, granting to San Diego Flume Company and its successors in interest - the Cuyamaca Water Company, by act of Congress approved June 12, 1891, 26 Stat. 714, giving to the Cuyamaca Water Company the right to build a dam to any height desired by the Company in the Capitan Grande Indian Reservation, San Diego County, California. The height of the present dam is 30 feet, and the Cuyamaca Water Company desires to raise it to 120 feet.

New York, Feb. 8, 1918.


Col. Ed Fletcher,
Manager Cuyamaca Water Company,
San Diego, California.

To say Congressional Act does not in terms grant right to build dam does violence to manifest intent and scope of act which gives everything necessary for accomplishment of and the conservation and use of water for public benefit stop Your brief most fair and convincing stop Feel certain department of interior alive to conditions in southern California will construe act in accordance with its manifest intent and your construction there stop Have not slightest doubt outcome of litigation would uphold your contention but litigation inevitably would result in long delay involving loss to company and deprivation to public.

Signed-F. W. Henshaw.

February 29, 1928

Hon. Harry C. Clark, Mayor,
San Diego,
California.

My dear Mr. Clark:

I see by last night's Sun that it is proposed to pay something like \$300,000 to the U. S. Government for certain rights within the El Capitan Indian Reservation for reservoir purposes, the plan being to flood the entire reservation and the gravels of the San Diego River for four or five miles.

As a citizen of San Diego, without any ulterior motive whatever, I urge the City, to, before paying \$75,000, the initial payment to the Government as recommended by Mr. Williams to consider the following:

(1). Assuming that you do acquire, from the District, the interests as contemplated in the proposed compromise between the District and the City, you will find on investigation that you can secure equally as good a dam site at, or just below the diverting dam, free of cost whatsoever, as the permit has already been granted to the San Diego Flume Company in 1886 and the La Mesa District now has that right to build a larger dam at that point.

Water will not flow by gravity through the Cuyamaca system from the El Capitan Dam site No. 3 on the Indian reservation unless you do considerable pumping from El Capitan No. 3 or unless you run a pipe line from El Capitan Dam site No. 3 to Grossmont through El Cajon Valley under pressure, which means a tremendous expense.

(2) I recommend that you immediately core drill the dam site at, or just below the diverting dam of the Cuyamaca system, so called, and determine the feasibility of a dam at that point, or, at the Fletcher Dam site, a quarter of a mile above the present diverting dam.

We have already core drilled and have a

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record of same for the City's use, at the Fletcher site which shows perfect bed rock at eighteen or twenty feet in the stream bed.

(3) My point is this, by building at either of the upper sites, at the diverting dam or at the Fletcher site, you will save between \$300,000 and \$350,000 which you would otherwise have to pay to the Government.

In addition, you will not be flooding some very valuable under-ground bearing gravel in the El Capitan Indian Reservation, which will furnish a net save field of three or four million gallons of water daily during critical periods and which you can pump at a cost not to exceed 2½¢ a 100,000 gallons into the Cuyamaca flume with a lift of not to exceed seventy-five or a hundred feet..

This permit to pump, the La Mesa District already has, and we did some extensive pumping in 1914 and 1915 when this was owned by the Cuyamaca Water Company.

(4) You can build a dam for less money at the upper site and all of it will flow by gravity through the Cuyamaca flume into the City.

Six or seven miles of the flume line has already been re-built permanently to carry forty-five second feet or in excess of 30,000,000 gallons daily into Murray Lake. \$500,000 will complete this work and the District has the bonds voted and have been offered a premium for them, \$500,000 worth, which they are willing to immediately spend in re-building this flume permanently to carry forty-five second feet into Murray Lake. They are to be re-embursed under the same conditions as tentatively agreed on in the compromise between the District and the City.

This means a saving of another million dollars by the City by not being compelled to build a pipe line to El Capitan No. 3.

This means a flume line of sufficient capacity to, at all times, take the Sutherland water into the City via the Cuyamaca flume and will save for the City, a million dollars, then if you take it via San Vicente.

I repeat again that by building a dam at the diverting dam, or, at the Fletcher site, by re-building the flume permanently and by utilizing the under-ground gravels of the San Diego river, pumping

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come into the flume line and along the Guaymasa flume, and by building Mission Gorge No. 3 and abandoning, for the time being, the building of El Capitan at any site or the San Vicente, you will have invested the cost, and will get nearly twice as much water as you would under your present program.

This statement can be verified if you will have your engineer and the engineers of the District meet together and go into the matter in detail.

I have made a broad assertion, it is true, but it can be proven, assuming of course, that you acquire the main transmission and impounding lines of the Guaymasa system to the Murray Dam from the La Mesa District.

I have sent a copy of this letter to Councilman Maire. I do not desire any publicity in the matter, whatever, I only ask that you investigate the situation along the lines suggested and come to your own conclusion in the matter.

Yours very truly,

EF:AK

Ed Fletcher Papers

1870-1955

MSS.81

Box: 61 Folder: 4

Business Records - Water Companies - Cuyamaca Water Company - El Capitan Dam - Fletcher speeches and articles



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