

April 26, 1919

Mr. Fred Heilbron,
1446 5th Street,
San Diego, California.

My dear Mr. Heilbron:

Attached hereto you will find extracts from the Congressional Record of the hearing of H.R. 4037, the City of San Diego's El Capitan Bill. In his statement before the Public Lands Committee Mr. Cosgrove says 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. I hope you will read this entire statement, 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 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. Supreme Justice F. W. Henshaw has given an opinion to the effect that 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,

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for it becomes an extra factor of safety in time of emergency to have these dams built and the water impounded.

The Cuyamaca Water 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 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 existing conditions, is willing to put money into public utilities, and that man 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 of the flood water of this County within thirty years, 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 profit 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 or by agreement. 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.

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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 very hopeless task to get him to make any further investment in San Diego County.

It may be of interest to you to know that we have lately brought suit to condemn certain lands that will be flooded by the construction of a dam at or near the diverting dam, and we have a letter from the Secretary of the Interior in which he states that the U.S. Government would not be interested in case the dam was built at that point by the Cuyamaca Water Company. We expect, also, to get within two or three weeks a permit to build Conejos Dam on the South Fork of the San Diego River, just two or three miles above El Capitan dam site, proposed. Damages have been assessed, the Government has accepted our money, and in my opinion there is no question but that within a short time the Secretary of the Interior will give us permission to build Conejos Dam.

Yours very truly,

EF/bm

Same letter to
John A. Held,
Beecher Sterne
Harry K. Weitzel
Virgil Bruscho

-o-

Pages 63-63;

Mr. Taylor: You say that you want to appropriate the surplus water after it passes them, that they can not get and could not get under any system that is in contemplation.

Mr. Cosgrove: Yes, sir; and the same way up here in the mountains; if they would build the 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 Co. 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.

Page 74.

Mr. Raker: The contemplated dam, at the point designated, 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. Raker: Then the whole thing summed up means this, that you are desiring to put a dam there intended to take the water that is now and has been for years going to waste?

Mr. Cosgrove: That is it exactly.

Mr. Raker: Without interfering with their system or their water claims or their prior rights or the rights of the people below?

Mr. Cosgrove: Exactly. We simply want the privilege of conserving the water below his intake; that passes his intake.

Page 75-76.

Mr. Crampton. If they 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. Crampton. You know of no reason why they should not, in any event, go ahead with that work?

Mr. Cosgrove: We would like to see that.

Mr. Elston: That thing undercuts to a large extent Mr. Fletcher's apprehension that your dam down there at El Capitan site might interfere with the appropriated waters that he claims above, but the litigation that he 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 acre of it. It is our back country.

Mr. Church: But he stated that if given 18 months, as I remember it, they proposed to build a structure there and a dam to take all the water.

Mr. Cosgrove. Yes.

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

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 that 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 built a \$3,000,000 dam at this site, if the Cuyamaca Water Co. 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 that a little.

Mr. Cosgrove: In 1915-16, when we had practically a little above a normal year, the amount of water passing the gauge station of the United States Geological 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 Jan. 1916, we had a flood there that would have filled that reservoir five times over.

Oct. 7, 1920.

Mr. Fred Heilbron,
1446 Fifth St.,
San Diego.

My dear Mr. Heilbron:

If you were quoted correctly in Tuesday night's Tribune, and if you believe in fair play, and I believe you do, I want to inform you of a few facts: First, the proposed Water District is a creation of the Committee of Thirty, who appointed a Water Commission -- G. Aubrey Davidson, Chairman; H.H. Jones, W. H. Porterfield, Geo. Marston, Fred Stearns and Rufus Choate, to make a recommendation as to the most feasible plan of comprehensive water development for the City of San Diego. They recommended a Water District and determined the boundaries. I urged that our 6,000 or 7,000 acres in Linda Vista Mesa be included, but was turned down.

The formation of the Water District was unanimously approved by the Committee of Thirty, and the boundaries as well. I had nothing to do with the selection of what District they should proceed under, neither did I or any of my associates ever put a dollar up to assist in forming the Irrigation District. I have never had anything to do, directly or indirectly, with any legislation in Sacramento, pertaining to a Water District, and my own activities in that direction years ago were in getting a bill through the Legislature, allowing Cities to bond themselves up to 25% of their valuation, the additional 10% to be used only for the acquisition of public utilities. This, I believe, is in a measure your idea. However, the bill was vetoed by Governor Johnson, owing particularly to the activities of Rudolph Spreckles and the Bond Houses.

I have never directly or indirectly opposed the operation of the pumping plants in the river or that they be shut down, considering it none of my business. I defy any one to show me where I have ever opposed the City's investigation of the El Capitan dam. Instead, I have given permission for the City to enter our property and have showed them every courtesy. This can be confirmed by Mr. Savage.

I do say that it is foolish for the City Council to go ahead and put up a bond issue to the people of San Diego to build El Capitan dam until some competent engineer has determined how much water can be developed and what the cost will be per thousand gallons, also what other available sources there are, and in that way get a comparative cost, for the City should go after the cheapest water.

Do not plunge into the El Capitan project until you see what it will cost to develop water by pumping from Tia Juana River, what it will cost to buy water from the Cuyamaca system, or the purchase of our system, or what it will cost to build a dam and develop water in Mission Gorge or from the Santa Ysabel River. If you do not thoroughly investigate the four or five sources of supply and prove to the people of San Diego that El Capitan is the cheapest water, the bonds will never be voted and you will be seriously criticised, as well.

All I ask, as a citizen of San Diego, is that you go at it in a businesslike way and not be misled by certain individuals, who would be water experts but have not the intelligence. I am referring particularly to Mr. Walter Moore.

My suggestion is that you get Mr. Savage to make a report, not alone on the cost of El Capitan water delivered to University Heights reservoir, but from the other sources above mentioned and let the public know it. I am in no way directly or indirectly responsible for the bringing in of an outside engineer, but what I am trying to do, if the Council will let me, is to cooperate with them; but it seems that I am damned if I keep my mouth shut and damned if I say anything.

The State Railroad Commission last week reconfirmed its decision of March 28, 1913, ignoring all Cuyamaca contracts and have increased the rates as follows:

Irrigation rates from our distributing system.....	140%
Irrigation rates from our flume.....	100%
Irrigation rates to mutual water companies.....	60%
Domestic rates, about.....	25%

The new rates compel us to charge 15 cents a 100 cubic feet or about 17¢ a thousand gallons for our water used by the Cities of El Cajon, La Mesa and East San Diego.

The worst that I could wish for you is that you had my job. If you are the friend to me that you have claimed to be for many years, all I ask is that you have your facts before giving them to the public.

This letter is intended as friendly and as between friends, I have sent a copy to each member of the City Council, and I want you to know that it is my earnest desire to cooperate with the Council in every way and hope that I will have the same consideration in return.

Yours very sincerely,

EF/hls

February
Twenty-four
1923

Mr. Fred Heilbron,
San Diego, Calif.

My dear Fred:

Answering your request for a statement of facts regarding the water controversy with Mayor Bacon, I suggest the following points:

The Mayor says "There is not one word in the contract which obligates Henshaw & Fletcher to keep in storage one single gallon of water for supplying the City of San Diego."

Answer: The Lake Hodges system has approximately 300 square miles of watershed, the largest in the county. If water is caught anywhere it will be caught in Lake Hodges dam. It is common knowledge that domestic water has precedence over irrigation water and the city could get an injunction in the courts at any time stopping the sale of irrigation water in case the city's supply was in danger, under its contract with the Lake Hodges System. Again - the city's contract with the Lake Hodges system is a matter of record and has a prior right over any later contracts they may make, therefore, the Mayor's argument as to the council's failure to protect the city's interests in this respect is bunk. This answers the Mayor's first point.

His second point is the quality of water. The State Board of Health standard is the accepted standard in this state and this is the usual specification as to quality of water in all contracts. The health of the city is protected by the State Board of Health standard but if the people demand that the water be filtered so as to make it more palatable it is up to the city to go to that expense.

The Mayor's third point is entirely wrong. It was the city's intention first to put water by gravity to La Jolla, following the coast, but later the city manager and city council felt that in order

Do not think into the MI Capital project until you see what it will cost to develop water by pumping from the Tulara River, what it will cost to buy water from the Government system or the purchase of our system, or what it will cost to build a dam and develop water in Mission Gorge or from the Santa Ynez River. It is not thoroughly investigated the four or five sources of supply and grave to the people of San Diego that MI Capital is the cheapest water, the bonds will never be voted and you will be seriously outbid, as well.

All I ask, as a citizen of San Diego, is that you go at it in a businesslike way and not be misled by certain individuals, who would be water experts but have not the intelligence. I am referring particularly to Mr. Walter Moore.

My suggestion is that you get Mr. Savage to make a report, not alone on the cost of MI Capital water delivered to University Heights reservoir, but from the other sources above mentioned and let the public know it. I am in no way directly or indirectly responsible for the bringing in of an outside engineer, but what I am trying to do, if the Council will let me, is to cooperate with them; but it seems that I am damned if I keep my mouth shut and damned if I say anything.

The State Railroad Commission last week recommended the location of March 28, 1912, regarding all Government contracts and have increased the rates as follows:

- Domestic rates, short..... 25
- Domestic rates to mutual water companies..... 50
- Irrigation rates from our lines..... 100
- Irrigation rates from our distributing systems..... 145

The new rates compel us to charge 15 cents a 100 cubic feet or about 1 1/4 a thousand gallons for our water used by the cities of El Cajon, La Mesa and West San Diego.

The worst that I could wish for you is that you had my job. If you are the friend to me that you have claimed to be for many years, all I ask is that you have your facts before giving them to the public.

This letter is intended as friendly and as between friends. I have sent a copy to each member of the City Council, and I want you to know that it is my earnest desire to cooperate with the Council in every way and hope that I will have the same consideration in return.

Yours very sincerely,

HW/ie

to develop pueblo lands of the city, many thousands of acres, and put water on it the water should be pumped instead into the reservoir now constructed. This meant added pressure; this meant the ultimate irrigation of thousands of acres of the city's lands, with possible revenue, but it also gave added insurance to the City of San Diego for water will flow by gravity from the present reservoir into the city.

The Mayor states in his article that "The city itself built the pipe line from the reservoir into La Jolla at a cost, according to the auditor's books of \$33,208.15" - a distance of 6 or 7 miles. This statement is laughable, for it shows the Mayor's ignorance of the real facts, for Henshaw & Fletcher financed the building of this pipe line and it is now leased to the city.

Relative to the Mayor's statement that the water cost 30 cents a thousand gallons this statement is absolutely misleading to the citizens of this city. In order to arrive at such a figure he is including \$1650.00 a month under the terms of the lease, which lease is in reality a purchase of the property, and at the end of 10 years the entire pipe line Del Mar to La Jolla will be paid for the the Mayor is only allowing a life of 10 years for the pipe line and reservoir. The facts are a large part of the pipe line is of concrete with a life of 100 years. The reservoir has a life of 100 years and there should only be 1% depreciation instead of 10% on the concrete pipe line and reservoir. The wooden pipe has a life of at least 25 years.

Then again, the Mayor, in determining the 30 ct. price, has included the total payments for water and only used for his figures the actual amount of water delivered, whereas, we will, in the near future get from the Lake Hodges System all the water we have paid for but not used to date. My figures are absolutely correct that the cost of water from Lake Hodges will not exceed 17 or 18 cents a thousand gallons, which is 4 or 5 cents less than the cost of the city's present supply.

The Mayor in his first statement said that there was no water commission to protect the city's interest when the contract was signed. This statement was false for the water commission unanimously endorsed the contract with Henshaw & Fletcher and he now admits that there was a water commission at that time looking

after the city's interests. The Mayor did not agree with the findings in the report of the last water commission who were two of San Diego's most public spirited men, so he disgraced them by firing them bodily without giving them a chance to resign. What the Mayor wants is a commission that will do his bidding, or they will get what the last commission got.

The above is just a suggestion, Fred, for your information and hope it may be of service.

Yours very truly,

EF:KLM

August 24, 1923.

Mr. Fred Heilbron,
Fifth Street,
San Diego, California.

My dear Fred:

As per your request, enclosed find copy of contract made between the San Diego Flume Company and its consumers.

The Hemet case was entirely different. There they sold land and water together. The San Diego Flume Company's contracts were for water independent of any land sales.

Please note particularly the clause in the contract marked in red; also enclosed find copy of Decision of the Supreme Court of the State of California confirming the State Railroad Commission's decision that we are a public utility, always have been, and all of these contracts are subject to a review and change by the Railroad Commission.

By referring to the Supreme Court decision in the City of Pasadena v. Railroad Commission, you will find that the Supreme Court of the State has decided that any municipality buying a public utility thereafter the public utility comes under the jurisdiction of the city and not the Railroad Commission, and the city can make its own rates as to cost of water, both inside and outside the city limits.

Yours truly,

EF:KLM

Dictated Aug. 20th

Nov. 23, 1923.

Mr. Fred Heilbron,
City Council,
San Diego, Calif.

My dear Fred:

Enclosed find clipping from the La Mesa
Scout that may be of interest.

Yours very truly,

EF:KLM

same to Stewart, Held, Bruschi, Weitzel, Bacon, Davidson
Klauber, J. C. Thompson, Huber, McClure, Gould, Heller,
Worth Post - Trum - Mrs. Bond - Belcher - Jones - Marston

Clipping sent to Stern and Flint in different letter

Jack Millan

February 28, 1924.

Mr. Fred Heilbron,
San Diego, California.

Dear Sir:

Referring to your suggested compromise, in case we could agree on the price of the properties transferred to and a satisfactory division as to ownership of the waters of the San Diego River, following is a list of properties that the Cuyamaca Water Company would transfer to the city:

El Capitan damsite and lands flooded; Mission Gorge damsite and lands flooded; water rights; certain rights on the San Diego River; Murray dam and lands flooded; pipe line to the city including our distribution lines East San Diego, Normal Heights and Kensington Park.

Attached hereto is inventory made by our superintendent, Mr. Harritt, of the pipe lines that would be transferred, showing its age.

To Mr. Harritt's report is attached a net safe yield study of Murray dam made by our hydrographer, Mr. Green, showing a net safe yield for the last twenty years, from its own watershed, to be 162,479 gallons daily. There is today 1,230,500,000 gallons of water in Murray dam which would go with the dam if a transfer were made, and at 10 cents a thousand gallons this item alone would amount to \$123,050.

The additional properties to be included in the transfer are:

El Capitan damsite and all lands which we own that would be flooded to any height that you desire to build the dam. I should say you would need approximately 150 or 160 acres, including land for caretaker's house, etc., all as per map attached. Water filings at El Capitan, surveys and exploration records of many thousand dollars, which we have spent.

Mission Gorge damsite No. 3, as per map attached hereto, and approximately 318 acres of land within the reservoir site which we control, or any additional land we now own, needed to the height of any dam that should be built, together with sufficient land for all purposes around the dam, to be mutually agreed upon. Also records of surveys, core drillings, etc. for which we have spent many thousands of dollars.

Attached hereto is map showing lands on which we have acquired the riparian rights, or consent to build Fletcher and Southfork dams. In case a compromise were effected along the lines you have suggested, the understanding would be to transfer to the city all rights on the San Diego River of any kind or description which we control below Fletcher and Southfork damsites, reserving the right to operate the El Monte pumping plants and pump such waters as may be available for pumping after El Capitan is built.

We consider the El Monte pumping plant to be our greatest asset and can now pump a continuous flow of six million gallons a day for six or eight months' period during 5 or 6 years of our greatest drought. Of course, this water supply would be vitally affected by the building of El Capitan dam. We would waive our right to operate the pumping plant within the boundaries of the El Capitan Indian Reservation as granted by the Department of the Interior.

The State of California has recognized our ownership, and we have a certificate of due diligence from the State giving us five years in which to complete the construction of Fletcher dam and divert all the water in the San Diego River at that point.

By the city giving consent to build Fletcher dam and limiting its capacity, as suggested by you, we would be giving up some of the water in the San Diego River which we now own. For your further information will say that time is not running against us in the matter of Building Fletcher dam as the State of California has extended the time so long as litigation shall last.

The water company owns nearly a mile of riparian land below El Capitan dam, and the writer, personally, owns over a half mile of the riparian lands below Mission Gorge, and if a compromise is made along the lines discussed by us, I will transfer to the city my riparian rights on the San Diego River giving consent to build both dams, and without any additional cost excepting the amount to be mutually agreed upon between the water company and the city.

You may be interested to know that Lloyds of London have insured Murray dam for \$200,000 against collapse, flood, malicious damage or earthquake at the cheapest rate of insurance of any dam in the United States, 75 cents on the \$100.

Enclosed also find map of East San Diego, Kensington Park and Normal Heights, showing our ownership and location of distribution lines on the Cuyamaca System; also general map showing our trunk line from Murray dam to East San Diego.

This letter and data is for your own information and is not to be made public.

All of the above is subject to the approval of my associate, Mr. Stern.

Yours very truly,

(signed) ED FLETCHER

EF:KLM

Mr. Ed Fletcher:

I acknowledge receipt of the above mentioned exhibits and will return same to you on demand.

220-7

February 29, 1924.

Mr. Fred Heilbron,
1446 Fifth Street,
San Diego, California.

My dear Mr. Heilbron:

Inclosed find plans and specifications
of Mission Gorge Dam No. 3, as requested. These plans
have been approved by the State Railroad Commission.
I believe the dam can be built for \$650,000 today.

I believe this three-arch radial cone type
is the only type of dam for Mission Gorge No. 3. It is
absolutely safe, and Lloyd's of London will insure it
against flood, malicious damage, collapse, or earthquake.

Yours very truly,

EF:AH

I acknowledge receipt of the above mentioned plans,
and will return same on demand.

Fred Heilbron

January 24, 1940

Mr. Fred Heilbron
1446 Fifth Ave.,
San Diego, California.

My dear Fred:

Enclosed find copy of letter to Pyle,
for your information, but it is not for publication.

Yours sincerely,

EF M

Not reviewed
after dictation

May 31, 1955

Mr. Fred A. Heilbron
1446 Fifth Avenue
San Diego, California

Dear Fred:

Enclosed find copy of letter of May 25 that I received from Edmonston that is for your information and thought it might be of interest but it is not for publication.

Kindest regards,

Ed Fletcher

EF:rmc

Enc.

June 8, 1955

Mr. Fred A. Heilbron
1446 Fifth Avenue
San Diego, California

Dear Fred:

I asked Bookman to write me and I am enclosing copy of letter of June 7 from him that I thought might be of interest. Do you in principal approve it? I have sent a copy to Mr. Holmgren.

Sincerely yours,

Ed Fletcher

EF:rmc

Enc.

Heilbron Statement

This is a joint statement of policy regarding the Feather River project by Metropolitan Water District of Southern California and the City of Los Angeles.

1. That provision be made for the determination of the respective rights to the use of water in the areas in which such water originates and in areas to which water in excess of the requirements of such areas of origin may be exported. To accomplish this purpose a constitutional amendment setting up appropriate administrative procedure is recommended.
2. That further studies of the plans and routes for the Feather River project be made; that adequate appropriations be made for that purpose and further than an adequate amount thereof be specifically allocated for investigation and determination of the best and most economic coastal route.
3. That a board of outstanding and independent engineers be established to report on all phases of the project and that adequate appropriations therefor be authorized.
4. That sites for the Oroville reservoir and the San Luis reservoir be acquired and that the necessary appropriations for such acquisitions may be made.
5. That other than for the acquisition of said reservoir sites no money be appropriated for rights of way, development or construction of the project until the respective rights to the use of water of such areas in which the water originates and areas to which the water may be exported shall have been determined.

Ed Fletcher Papers

1870-1955

MSS.81

Box: 11 Folder: 1

General Correspondence - Heilbron, Fred



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