

2600

Mr. Mathews:

Have Mathews rush wire today, total gross receipts from April 1, 1916, to April 1, 1917, also April 1, 1917 to April 1, 1918.

Total operating expenses each year, same dates, not including any moneys going to Capital accounts. Do not pay gas Company two thousand.

138,736.00  
4,400.00  

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134,336.00

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~~No on  
W/Sat 11  
Blk 15  
O.S.M. 5.8  
From M. Canton~~

~~138 7.36.00  
44.00  
134.33.00  
134.33.00  
134.33.00  
3~~

~~a. a Baker  
L.M.  
Isador Barr~~

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Isador Barr~~

CLASSES OF DOMESTIC SERVICE	
Fast Day Message	
Night Message	
Day Letter	*
Night Letter	
Charges (if any) \$	

# WESTERN UNION

## TELEGRAMS



## CABLEGRAMS

BY TELEPHONE FROM THE WESTERN UNION MAIN OFFICE

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

CLASSES OF CABLE SERVICE	
Full Rate	
Half Rate Deferred	
Cable Letter	
Week End Letter	
Charges (if any) \$	

Dated San Diego, Cal. Oct. 9, 1918

To Col. Ed Fletcher  
New Willard Hotel,  
Washington D. C.

Total gross receipts from April first nineteen sixteen to April first nineteen seventeen seventy two thousand nine hundred six dollars. Of this twenty three thousand five hundred eighty five dollars received from City. Operating Expenses fifty nine thousand five hundred eighty seven dollars. April first nineteen seventeen to April first nineteen eighteen receipts fifty two thousand nine hundred thirteen. Operating expenses sixty thousand four hundred sixty dollars. Lockwood ordered water off. Expects to have same on again Saturday?

L. B. Mathews.

Charge Cuyamaca Water Co.

**CUYAMACA WATER COMPANY**  
SUCCESSORS TO  
**THE SAN DIEGO FLUME COMPANY**  
OFFICE: FLETCHER BUILDING  
916 EIGHTH ST., BET. BROADWAY AND E  
P. O. Box 1412

ED. FLETCHER, MANAGER  
F. M. FAUDE, ASST. MANAGER  
LOU B. MATHEWS, SECRETARY  
C. HARRITT, SUPERINTENDENT

**CUYAMACA WATER COMPANY**  
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C. HARRITT, SUPERINTENDENT

SAN DIEGO, CALIFORNIA.....191

SAN DIEGO, CALIFORNIA.....191

BOND  
HAWNEBW

Our books show that your water bill for the month of \_\_\_\_\_ is unpaid. This bill, including a twenty-five cent penalty for non-payment before the tenth of the month, amounts to \_\_\_\_\_.

In accordance with our Rules and Regulations we are compelled to demand that you make a deposit of \_\_\_\_\_, to secure the payment of your bills. This deposit must be made at our office on or before \_\_\_\_\_, otherwise we will be compelled to turn off your water on \_\_\_\_\_.

The total of your \_\_\_\_\_ bill, penalty, and deposit amounts to \_\_\_\_\_. Please make prompt settlement at our office.

Very truly yours,

Assistant Manager.

BOND  
HAWNEBW

Our books show that your water bill for the month of \_\_\_\_\_ is unpaid. This bill, including a twenty-five cent penalty for non-payment before the tenth of the month, amounts to \_\_\_\_\_.

In accordance with our Rules and Regulations we are compelled to demand that you make a deposit of \_\_\_\_\_, to secure the payment of your bills. This deposit must be made at our office on or before \_\_\_\_\_, otherwise we will be compelled to turn off your water on \_\_\_\_\_.

The total of your \_\_\_\_\_ bill, penalty, and deposit amounts to \_\_\_\_\_. Please make prompt settlement at our office.

Very truly yours,

Assistant Manager.

Year	Month	Amount	
1917	April	3558.00	
	May	3558.00	
	June	3558.00	
	July	3558.00	
	Aug	3558.00	
	Sept	3558.00	
	Oct	3558.00	
	Nov	3558.00	
	Dec	3558.00	
	1918	Jan	3627.00
		Feb	3627.00
		March	3627.00
<u>42903.00</u>			

Depreciation  
Expense

Year	Month	Amount	
1917	April	3558.00	
	May	3558.00	
	June	3558.00	
	July	3558.00	
	Aug	3558.00	
	Sept	3558.00	
	Oct	3558.00	
	Nov	3558.00	
	Dec	3558.00	
	1918	Jan	3627.00
		Feb	3627.00
		March	3627.00
<u>42903.00</u>			

Depreciation  
Expense

O f f i c e

October 18, 1918

Mathews:

I wish you would keep an El Capitan File, and I will send you a lot of papers in connection with it from time to time.

E. F.

encl

Mr. POMERENE. I observe, with all due respect, that the fact that a man might be threatened with prosecution for perjury would not be very much of a deterrent. It would be next to impossible to convict a man of perjury when he has said, "I promise to do something in the future." How are you going to get into the internal recesses of his mind as to a thing in the future?

Mr. WALSH. I recognize that fact; and I did not intend to say that the provision was adequate at all; but the amendment proposed by the Senator from Ohio unquestionably would defeat the whole purpose of the bill.

Mr. POMERENE. I should be very glad to have my amendment modified in such a way—

Mr. MYERS. May I ask the Senator a question?

Mr. POMERENE. Pardon me for just a minute. I should be very glad to have my amendment modified in such a way that it would not do any injustice to the entryman; but I do not want injustice to be done to the Government in this manner.

Mr. MYERS. I merely want to say to the Senator from Ohio that I do not believe his amendment is necessary, because under the law as the bill is now drawn, if a man should make final proof and then boldly and openly go off and leave the premises and never go back nor attempt to comply with the law, I think it would be such an evident piece of bad faith that his patent could be canceled under the law as it now stands; and there would be no need of this amendment in that event. If a man makes a fair, honest effort to comply with the law and does not succeed his patent should not be canceled.

Mr. POMERENE. That is only one instance. I should be very glad to accept such a modification of my amendment as will make it less drastic.

Mr. FALL. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from New Mexico?

Mr. POMERENE. I have finished.

The PRESIDING OFFICER. The Chair has been very indulgent to Senators, but the Senate is acting under a rule which prevents Senators from speaking on a bill oftener than once or for more than five minutes.

Mr. FALL. But the Senator from New Mexico has not thus far had an opportunity to speak.

The PRESIDING OFFICER. The Chair understands that, and did not make the remark which he did to reflect on the Senator from New Mexico.

Mr. FALL. Mr. President, the Senator from Ohio [Mr. POMERENE], I presume, understands that to-day under the 320-acre homestead act, the entryman must live upon the land for three years, and during each 12-month period for 7 months continuously. He must also, in addition to residence, cultivate a certain acreage each year. The proposition now before the Senate is to do away in effect, with two year's residence upon the land, but to require double cultivation for the last two years of the cultivation period; in other words, the entryman must, before he can take advantage of this law, have resided at least seven months consecutive period out of the one year upon his homestead; he must have cultivated the land which is required to be cultivated for one year, and must enter into an obligation that he will cultivate double the minimum amount required of him for the succeeding two years. He entering upon that obligation, the Government then issues him a patent, but requires him to satisfy the local land officer that he will continue the cultivation, simply relieving him of the necessity of residing upon the land in order that he may go somewhere else, probably for more than five months, to earn money with which to cultivate and improve the land as required by law.

Now, with reference to the forfeiture of the patent, unless there is a limitation on the time during which suit might be brought on account of fraud for the cancellation of the patent, there would always be a cloud over the title of any land patented under this act, and such a cloud would remain forever unless some limitation is provided.

Mr. POMERENE. Mr. President—

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Ohio?

Mr. FALL. I yield.

Mr. POMERENE. I merely desire to ask the Senator a question. Is there not some statute of limitation now bearing upon a case of this kind?

Mr. FALL. I was going to say that in regard to fraud and cancellation for fraud—and there may be some question whether or not this would be considered fraud—five years' limitation after the issue of the patent is the rule, provided the land in the meantime has not gone into the hands of innocent parties for value, parties who are not cognizant of the fraud and not in collusion with the homestead entryman. So after five years

the title can not be attacked, and, unless some similar limitation were placed in this proposal of the Senator from Ohio, I doubt whether that five-year period of limitation would apply.

I am thoroughly in favor of this bill, but I would very much prefer that instead of having a cancellation amendment adopted in this bill, the patent itself should not issue until one year's residence and three years' cultivation. That is really the purpose of the bill. Then there would be no cloud upon the title after patent has once issued, but for five years, at any rate, there would be a cloud upon the title if the Senator's amendment were adopted.

This bill does not apply to any entries which have been made in the last six months or which have not been made within the period of 12 months prior to the issue of patent. It does not apply to any new homestead entry. I may say to the Senator that I had my attention called recently to a condition of this character existing in some of the States: The railroads are very short, of course, of workmen, and have been going out into the country districts in the attempt to secure bridge workers and section men upon the roads. Some entrymen, constituents of mine, have requested me to take up, and I have taken up, with the Interior Department the proposition that they should be allowed to leave their homestead entries to do work upon any war necessity and to have credit on the time of residence required under the law according to the time expended in such work; in other words, they should be allowed to work on the railroads to earn money and get credit in that way.

I understand that the actual facts in the condition of affairs here sought to be relieved is that the rural-credit banks possibly will loan the money upon lands patented under this bill, but they certainly would not be justified in loaning that money or making advances to any of these entrymen were the amendment of the Senator from Ohio adopted.

Mr. LENROOT. Mr. President, I rise to support the amendment offered by the Senator from Ohio [Mr. POMERENE]. The Senator from New Mexico [Mr. FALL] said, as I understood him, that the purpose of this bill was to relieve entrymen from residence, but I call attention to the fact that the purpose that has been stated by the author is naturally to allow them to raise money to put in their crops. The vital feature of this bill is the power to mortgage.

I am very much surprised to hear Senators say that this amendment would kill the bill. Mr. President, it can not kill the bill unless it be taken for granted that the local banker, who knows the entryman, is of the opinion that the entryman is not in good faith in making the affidavit before the register and receiver that he will fulfill his promise in the way of cultivation of one-eighth of the land for two successive years. So far as the entryman is in good faith, when he goes to the local banker under the amendment adopted he will have protection, because in that kind of a case the bank can protect itself; the bank can protect its mortgage and can proceed itself, through the entryman, to comply with the conditions of one-eighth cultivation for each of two years; but with the amendment adopted the entrymen can not speculate; they can not make a promise to a register and then fail to keep it. The amendment will take care of the meritorious cases, if it be adopted, but it will shut out, as it ought to shut out, those who would take advantage of the law not in good faith, but for the purpose of getting title upon only one-third of the residence required under existing law and then selling the land through the means of a mortgage.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Ohio [Mr. POMERENE] to the amendment reported by the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### JOINT RESOLUTION PASSED OVER.

The joint resolution (S. J. Res. 132) to amend section 14 of the food-control act by increasing the guaranteed minimum price of wheat for the crop of 1918 from \$2 to \$2.50 per bushel was announced as next in order.

Mr. ASHURST. Let that go over.

The PRESIDING OFFICER. The joint resolution will be passed over.

#### SAN DIEGO (CAL.) WATER SUPPLY.

The bill (S. 3646) to grant rights of way over Government lands for reservoir purposes for the conservation and storage of

water to be used by the city of San Diego, Cal., and adjacent communities was announced as next in order.

Mr. PHELAN. Mr. President, this is a bill granting to the city of San Diego for a municipal supply and reservoir a right of way in the Capitan Grande Indian Reservation, about 30 miles from San Diego. There have been extensive hearings, and both the Agricultural and Interior Departments, as well as the Commissioner of Indian Affairs, Mr. Cato Sells, have approved the bill.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. SMOOT. Mr. President, I am not going to object to the consideration of the bill, but I do want to say that I have protests from a great many California people against this bill. I am quite aware that the Senator from California knows more about the situation there than I do, but I have letters from the Spring Valley Irrigation District of La Mesa and about a dozen other organizations who claim that they are deeply interested in this bill and that their rights are involved in it. That may be true or it may not be true, but I am not going to encumber the Record with the petitions and the protests. They say that the Senator from California is mistaken in his attitude and in the position which he takes upon this bill, and that it will do a great many people in California grave injustice. I repeat, I am not familiar with the situation; but the Senator from California is a member of the Public Lands Committee and represents in part the State of California. I can only say what I have said, and then the Senator can say what he desires to say in answer to it.

Mr. PHELAN. Mr. President, protests have been made against this application, and the matter has been before the departments and Congress for several years. The letter of the Secretary of the Interior, Hon. Franklin K. Lane, accompanying the report, addressed to Hon. Scott Ferris, refers to these protests, and speaks of a hearing which they were given in the winter of 1915-16 in Los Angeles. By a decision rendered in July, 1916, the protest of Messrs. Fletcher and Murray against the city's application was dismissed. The objection is from a private or quasi-public water company, which believes that the grant to the city of San Diego will diminish its supply. Of course, the only purpose for which the city wishes the water is the domestic use of it; and the city of San Diego is a populous and growing community. The other companies supply water largely for irrigation purposes to the productive lands in the neighborhood of San Diego.

The only objection that has been given consideration that I know of is the objection by Messrs. Fletcher and Murray, which has been dismissed. They represent the Cuyamaca Water Co., and they have water rights above the Indian reservation; so it is very hard to see how they can be possibly damaged by granting a reservoir right of way in the Indian reservation, which is lower down. The Indian reservation gets the residuary water; and the city of San Diego, by building a dam, will have a storage there after the Cuyamaca Water Co. has helped itself, pursuant to the exercise of its water rights.

There seems to be a general unanimity on the part of the officials of the department that the city of San Diego needs and requires and is entitled to this privilege. There are some Indians in the reservation; and the city of San Diego, in consideration of this grant, undertakes, without any limitation, to remove those Indians to lands which, I believe, have already been selected by the Commissioner of Indian Affairs. I believe there are 29 families that would have to be provided for.

I do not know of any other objection, except from the Cuyamaca Water Co. If there are other objections, I suppose they are all of the same character.

Mr. SMOOT. Mr. President, if the Senator desires, I can call attention to them at this time.

Mr. PHELAN. If there is any serious objection, I, of course, ought to be apprised of it.

Mr. SMOOT. There is. Then, Mr. President, if the Senator does not object, I ask that the two telegrams which I send to the desk be read for the information of the Senate and for the information of the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Secretary will read as requested.

The Secretary read as follows:

JUNE 2, 1918.

To Hon. WILLIAM R. WHEELER,  
Army and Navy Club, Washington, D. C.:

We urge you to represent us before Congress in opposing San Diego's El Capitan bill until such time as the city council of San Diego gives reasonable assurance to us and the Cuyamaca Water Co. that they will back up the statements of their city attorney before Congress that San Diego would not oppose, but would encourage, construction of the Cuya-

maca Water Co.'s diverting dams. Repeated attempts by conference and otherwise have been made to get the San Diego City Council to support the city attorney's representations, but all efforts have failed. When that assurance from San Diego City Council is secured we will draw all opposition to House bill 10587, Senate bill 3646. You can not too strongly impress Congress that this is our only source of water supply for our present needs and future growth, while San Diego has many other sources of supply. Repeated attempts were made by city council and merchants' association of La Mesa to present this matter to Congressman KETTNER when here recently, but he avoided meeting us and has failed to answer our communication.

J. H. MALLERY,  
President Board of Trustees City of La Mesa.  
O. D. INNES,  
President Board Trustees City of El Cajon.  
J. H. HALLEY,  
President La Mesa, Lemon Grove, and  
Spring Valley Irrigation District.  
G. A. MACNEAL,  
President Merchants' Association of La Mesa.  
H. CULBERTSON,  
President El Cajon Farm Bureau.

SAN DIEGO, CAL., June 2, 1918.

Hon. WILLIAM R. WHEELER,  
Army and Navy Club, Washington, D. C.:

Please notify chairman Public Lands and Indian Affairs Committees of House and Senate, also other interested Members, that the Cuyamaca Water Co. has just offered to sell its system to us, including building of at least one major dam on the San Diego River, at or near their present point of intake. The valuation of their present system and future development to be made by State authorities, the Cuyamaca Co. to accept our bonds in payment. Every indication sale will be consummated by voters of this district. Official representatives of the cities of La Mesa and El Cajon, also business associations in our district, by arrangement, met Secretary Lane May 23, Pasadena, and asked Government consent to construction by Cuyamaca Water Co. of major dam at or near diverting dam. We believe permit will be granted. Urge delay on San Diego's El Capitan bill until Secretary Lane returns. This is no longer a fight of city versus private corporation, but one San Diego versus other municipalities; also, unanimous back country trying to protect its only source of water supply for our future heritage.

LA MESA, LEMON GROVE, AND  
SPRING VALLEY IRRIGATION DISTRICT,  
J. H. HALLEY, President.

Mr. PHELAN. Mr. President, that is the very same company to which I have referred. Their case was heard by the department, and it was dismissed. They sent on their agent to the hearing before the Public Lands Committee. The city of San Diego was represented by its district attorney, Mr. Cosgrave; and after a full hearing the committee reported out this bill. I am disposed to think that these private parties are mistrustful of their own city, whose interest certainly is to develop agricultural districts adjoining. They have water rights above the proposed dam and, I believe, are protected, but evidently they do not wish the city to exercise its municipal functions and provide water for its own people. I am convinced that the community interest is with the application of the city of San Diego for a reservoir right of way.

Delays have been granted by the committee, keeping the district attorney here for over two months, with the hope that some compromise might be arranged between the city and the Cuyamaca Water Co. That postponement was granted at the request of the Cuyamaca Water Co. The city of San Diego positively refuses to have any dealings in the nature of a compromise with these parties, and has steadfastly held that position. I do not see that any wrong could be done to these parties by passing the bill; and if there is any doubt about it they will have their opportunity to be heard in the House and, possibly, before the conference committee on the bill.

Mr. LENROOT. Mr. President, a bill identical with the original print of this bill, I believe, was introduced in the House and referred to the Committee on Public Lands, of which I was then a member. The committee there held extensive hearings upon the bill, and I may say that I am heartily in favor of its purpose; but the bill was there referred to a subcommittee of which I was a member, and that subcommittee then came to certain conclusions; and I think I ought to state them, because I think this bill, with the amendments, has the same vice that the House bill had.

The legal title to the lands in question is in this Mission Band of Indians. The bill undertakes to grant a right of way over these lands to the city of San Diego, and authorizes the Secretary of the Interior to determine the compensation which shall be paid by the city of San Diego for this right of way. It then provides that the proceeds paid in by the city of San Diego shall be used by the Secretary of the Interior to purchase other lands and provide homes for these Indians. Nowhere in the bill is the assent or consent of this tribe of Indians required; and while we may have power to take their lands without judicial hearing or otherwise, unless we either provide for a judicial hearing or provide that the city of San Diego shall give a bond to save the Government harmless from any future claims that may arise, there is nothing to prevent a very large claim arising against the Government in the future by reason of this act.



I had understood that a bill had been agreed upon between the city attorney of San Diego and the Public Lands Committee of the House that covered all these questions and was entirely satisfactory to the city of San Diego. I wish to ask the Senator from California whether he has had any information upon that subject?

Mr. PHELAN. No, Mr. President; I have had no information as to any compromise. If this bill is passed, I suppose it will go to a conference.

Mr. LENROOT. I feel very clear that this bill ought not to pass in this form; and there is another objection to it. There is nothing in the bill that gives to the city of San Diego exclusive occupancy of these lands after the grant is made. The occupancy of the city of San Diego should be exclusive. No Indians at all should be permitted to reside upon the lands that are covered by the grant, because of the necessity of having the purest water possible in this reservoir, and it should be prevented from contamination. There is nothing in the bill that safeguards it in that respect.

Mr. PHELAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from California?

Mr. LENROOT. I was merely going to say, in conclusion, that if the Senator thinks it would expedite final action upon the bill I shall be willing to let it go through and go to conference; but I feel very clear that it ought not to become a law in its present form.

Mr. PHELAN. Mr. President, the Senator very generously says that he will not object, so that the bill may go to the House and ultimately to conference; but as his concern is with respect to the Indian rights I will read for his information this extract from the letter of the Secretary of the Interior to the Hon. SCOTT FERRIS:

The Commissioner of Indian Affairs during a recent trip through the Southwest visited the city of San Diego and the Capitan Grande Indians for the purpose of going into this matter personally. He finds that the city officials are willing and anxious to make full compensation to the Indians for any loss or injury to their property resulting from the construction of the proposed dam; that the property interests of the Indians can be fully protected by the purchase of land for them elsewhere, possibly to their future advantage; that the sentiment among the Indians, as expressed in open meeting, in favor of a more desirable location elsewhere is practically unanimous; and that enlarged water facilities are absolutely essential to the future expansion and development of the city of San Diego.

So the reports rather lead to the conclusion that the Indians have been consulted and that they are agreeable to the change.

Mr. LENROOT. Mr. President, will the Senator yield for just a suggestion at that point? The suggestion was made that the consent of the Indians was legally obtained; but there were certain statements made to the committee that make it seem possible that the legal consent of all the Indians could not be obtained; and the Government can not be protected unless it has either the legal consent of the Indians, a judicial proceeding, or a bond from the city of San Diego.

The PRESIDING OFFICER. The question is upon the adoption of the committee amendments, which will be stated.

The first amendment of the Committee on Public Lands was, in section 1, page 1, line 3, before the word "reservoir," to insert "dam and"; on page 2, line 4, before the words "of the southeast quarter," to strike out "east half" and insert "northeast quarter"; on page 3, line 1, after the word "Interior," to insert "and the Secretary of Agriculture"; and in line 6, after the word "Reservation," to insert "Provided, That the rights herein granted shall not be sold, assigned, or transferred to any private person, corporation, or association, and in case of any attempt to so sell, assign, transfer, or convey, this grant shall revert to the Government of the United States," so as to make the section read:

That rights 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 8, the west half of the southwest quarter of the southwest quarter and the west half of the northeast quarter of the northwest quarter of section 9, all in township 15 south, range 2 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 quarter of section 15; the northeast quarter of the southeast quarter of section 21; 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 22; the west half of the northwest quarter of section 27; the east half of the northeast quarter, the southwest quarter of the northeast quarter, and the southeast quarter of section 28; 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 33, all in township 14 south, range 2 east, San Bernardino base and meridian; also the north half of the southwest quarter and the southwest quarter of the southwest quarter of section 3, and lots 2, 3, 6, 7, 8, 9, 10, 11, and the south half of section 4, all in township 15 south, range 2 east, San Bernardino base and meridian, within the Capitan Grande Indian Reservation, and all within the county of San Diego and State of California, are hereby granted to the city of San Diego, a municipal corporation in said county and State, whenever said city shall have filed, as

hereinafter provided, and the same shall have been approved by the Secretary of the Interior and the Secretary of Agriculture, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purpose hereinabove set forth, and shall have provided compensation, as hereinafter specified, for damages done to Mission Indians located upon the Capitan Grande Indian Reservation: *Provided*, That the rights herein granted shall not be sold, assigned, or transferred to any private person, corporation, or association, and in case of any attempt to so sell, assign, transfer, or convey, this grant shall revert to the Government of the United States.

The amendment was agreed to.

The next amendment was, in section 2, page 3, line 20, after the word "filed," to insert "and approved;" in line 21, after the word "provided," to strike out "and approved by the Secretary of the Interior;" on page 4, line 3, after the word "approval," to strike out "of the Secretary of the Interior," and in line 9, after the word "herein," to strike out "by the Secretary of the Interior;" so as to make the section read:

SEC. 2. That within one year after the passage of this act the city of San Diego shall file with the register of the United States land office in the district where the lands traversed by said rights of way are located a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purpose stated in section 1 of this act; but no construction work shall be commenced on said land or any portion of the same flooded by water until said map or maps have been filed and approved as herein provided: *Provided, however*, That any changes of location of said rights of way may be made by the said city of San Diego within two years after the filing of said map or maps by filing such additional map or maps as may be necessary to show such changes of location, said additional map or maps to be filed in the same manner as the original map or maps; and the approval of said map or maps showing changes of location of said rights of way shall operate as an abandonment by the city of San Diego to the extent of such change or changes of the rights of way indicated on the original maps: *And provided further*, That any rights inuring to the city of San Diego under this act shall, on the approval of the map or maps referred to herein relate back to the date of the filing of said map or maps with the register of the United States land office, as provided herein.

The amendment was agreed to.

The next amendment was, in section 3, page 4, line 14, after the word "all," to insert "appropriations of water heretofore made and to," so as to make the section read:

SEC. 3. That the rights of way hereby granted are and shall be subject to all appropriations of water heretofore made and to legal rights heretofore acquired by any person, persons, or corporation in or to the above-described premises, or any part thereof, and now existing under and by virtue of the laws of the United States, and no private right, title, interest, or claim of any person, persons, or corporation in or to any of the lands traversed by or embraced in said rights of way shall be interfered with or abridged, except with the consent of the owner or owners or claimant or claimants thereof, or by due process of law, and just compensation paid to such owner or claimant: *Provided*, That the rights and claims of the Mission Indians of the Capitan Grande Indian Reservation, located upon the rights of way herein described and affected by the easement herein granted, shall be protected and provided for as hereinafter set forth in section 5 of this act.

The amendment was agreed to.

The next amendment was, in section 4, page 5, line 10, after the word "construct" to insert "its dam"; in line 11, after the word "the," to strike out "forest supervisor of the Department of Agriculture" and insert "United States"; in line 12, after the word "value," to insert "as determined by the Secretary of Agriculture"; in line 23, after the word "clear," to insert "and keep clear"; on page 6, line 5, after the words "used by," to strike out "forest officers, officers of the Department of Indian Affairs, and the officers of the Interior Department" and insert "officers and employees of the United States"; in line 8, after the words "allow to," to strike out "the Forest Service" and insert "officers and employees"; in line 9, after the words "United States," to strike out "Department of Agriculture, to the officers of the Department of Indian Affairs, and to the officers of the Interior Department"; in line 16, after the word "telephone," to strike out "wires" and insert "wires"; and, in the same line, after the words "use of," to strike out "said Forest Service, Indian Service, or of the Interior Department" and insert "the United States Government," so as to make the section read:

SEC. 4. That the city of San Diego shall conform to all regulations adopted and prescribed by the Secretary of Agriculture governing the forest reserves, and shall not take, cut, or destroy any timber within the forest reserves except such as may be actually necessary to remove in order to construct its dam and clear its reservoir, and it shall pay to the United States the full value, as determined by the Secretary of Agriculture, of all timber and wood cut, used, or destroyed on any of the rights of way and lands within the Cleveland National Forest hereby granted: *Provided further*, That the city shall construct and maintain in good repair at the flood line of its reservoir a lawful fence, as defined by the laws of the State of California, and subject to such further requirements as may be directed by the Secretary of the Interior and shall provide practical gates in such fence at points to be designated by the supervisor of the Cleveland National Forest: *Provided further*, That the city of San Diego shall clear and keep clear its right of way within the Cleveland National Forest and Capitan Grande Indian Reservation of any debris or inflammable material, as directed by the forester of the United States Department of Agriculture: *Provided further*, That the said city shall allow any wagon road which it may construct within the Cleveland National Forest or Capitan Grande Indian Reservation to be freely used by officers and employees of the United States and by the public, and shall allow to officers and employees of the United States, for official business only, the free use of any telephones or telegraphs it

may construct and maintain within said Cleveland National Forest or on the public lands, together with the right to connect with any such telephone lines private telephone wires for the exclusive use of the United States Government: *And provided further*, That the Forest Service may, within the Cleveland National Forest or the Capitan Grande Indian Reservation, protect, use, and administer said lands and resources within said rights of way under forest-reserve laws and regulations, but in so doing must not interfere with the full enjoyment of the rights of way by the city of San Diego.

The amendment was agreed to.

The next amendment was, in section 5, page 7, line 6, after the word "Interior," to strike out "but not to exceed \$100,000"; and, in line 10, after the word "granted," to insert: "and the Secretary of the Interior is hereby authorized to expend the proceeds, or any part thereof, derived from the granting of these rights of way, in the purchase of additional land for the Capitan Grande Band of Indians, the erection of suitable homes for the Indians on the lands so purchased, the erection of such schools, churches, and administrative buildings, the sinking of such wells, and the construction of such roads and ditches, and for such other expenses as may be deemed necessary by the Secretary of the Interior to properly establish these Indians permanently on the lands purchased for them," so as to make the section read:

SEC. 5. That, as a condition precedent to the rights of way hereby granted becoming effective, the city of San Diego shall pay to the Secretary of the Interior, or to such officer of the United States as may be designated by the Secretary of the Interior, a sum of money, to be hereafter determined by the Secretary of the Interior, to compensate the Mission Indians located on the Capitan Grande Indian Reservation, and affected by this grant, for damage sustained by them by reason of the rights of way herein granted; and the Secretary of the Interior is hereby authorized to expend the proceeds, or any part thereof, derived from the granting of these rights of way in the purchase of additional land for the Capitan Grande Band of Indians, the erection of suitable homes for the Indians on the lands so purchased, the erection of such schools, churches, and administrative buildings, the sinking of such wells, and the construction of such roads and ditches, and for such other expenses as may be deemed necessary by the Secretary of the Interior to properly establish these Indians permanently on the lands purchased for them.

The amendment was agreed to.

The next amendment was, in section 6, page 7, line 23, after the words "*Provided, however*," to strike out:

That if the construction of said reservoir shall not have been begun in good faith within five years from the date of the approval of this act, or if within five years from the date of the approval of this act the city of San Diego shall not have acquired or have commenced proceedings for the purpose of acquiring private lands upon which to construct a dam or dams to be used in connection with the reservoir rights herein granted, or if after such period of five years there shall be a cessation of such construction, or a cessation of proceedings, for a period of three consecutive years, then all rights hereunder shall be forfeited to the United States.

And insert:

That the construction of the aforesaid reservoir shall be prosecuted diligently, and no cessation of such construction shall continue for a period of three consecutive years, and in the event that the Secretary of the Interior shall find and determine that there has not been diligent prosecution of the work, or that there has been a cessation of such construction for a period of three consecutive years, then he may declare forfeited all rights of the grantee herein, and request the Attorney General, on behalf of the United States, to commence suit in the United States District Court for the Southern District of California for the purpose of procuring a judgment declaring all rights to be forfeited to the United States, and upon such request it shall be the duty of the said Attorney General to cause to be commenced and prosecuted to a final judgment such suit: *Provided further*, That the Secretary of the Interior shall make no such finding and take no such action if he shall find that the construction or progress of the reservoir has been delayed or prevented by the act of God or the public enemy, or by legal engineering, or other difficulties that could not have been reasonably foreseen and overcome, or by other special or peculiar difficulties beyond the control of the said grantee: *Provided further*, That in the exercise of the rights granted by this act the grantee shall at all times comply with the regulations herein authorized, and in the event of any material departure therefrom the Secretary of the Interior or the Secretary of Agriculture, respectively, may take such action as may be necessary in the courts or otherwise to enforce such regulations: *Provided further*, That if such dam be built the Indians of the Capitan Grande Reservation shall be permitted to reside on, occupy, and cultivate the lands of their present reservation up until within 90 days of the time when water for storage purposes will be turned into the reservoir to be constructed hereunder, provided such occupancy by the Indians will not materially hinder the construction of the dam and storage works, which fact is to be determined by the Secretary of the Interior.

So as to make the section read:

SEC. 6. That all lands over which the rights of way mentioned in this act shall pass shall be disposed of subject to such easements: *Provided, however*, That the construction of the aforesaid reservoir shall be prosecuted diligently, and no cessation of such construction shall continue for a period of three consecutive years, and in the event that the Secretary of the Interior shall find and determine that there has not been diligent prosecution of the work, or that there has been a cessation of such construction for a period of three consecutive years, then he may declare forfeited all rights of the grantee herein, and request the Attorney General, on behalf of the United States, to commence suit in the United States District Court for the Southern District of California for the purpose of procuring a judgment declaring all rights to be forfeited to the United States, and upon such request it shall be the duty of the said Attorney General to cause to be commenced and prosecuted to a final judgment such suit: *Provided further*, That the Secretary of the Interior shall make no such finding and take no such action if he shall find that the construction or progress of the reservoir has been delayed or prevented by the act of God or the public

enemy, or by legal engineering, or other difficulties that could not have been reasonably foreseen and overcome, or by other special or peculiar difficulties beyond the control of the said grantee: *Provided further*, That in the exercise of the rights granted by this act the grantee shall at all times comply with the regulations herein authorized, and in the event of any material departure therefrom the Secretary of the Interior or the Secretary of Agriculture, respectively, may take such action as may be necessary in the courts or otherwise to enforce such regulations: *Provided further*, That if such dam be built the Indians of the Capitan Grande Reservation shall be permitted to reside on, occupy, and cultivate the lands of their present reservation up until within 90 days of the time when water for storage purposes will be turned into the reservoir to be constructed hereunder, provided such occupancy by the Indians will not materially hinder the construction of the dam and storage works, which fact is to be determined by the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, in section 7, page 10, line 8, before the word "domestic," to insert "the conservation and storage of water for," so as to make the section read:

SEC. 7. That said reservoir, when constructed, shall be maintained and controlled by the municipal authorities of said the city of San Diego for the use and benefit of said the city of San Diego and the inhabitants thereof and of such other municipalities within the county of San Diego and State of California as may be now or hereafter furnished with water by said the city of San Diego, and for the use and benefit of riparian owners along the San Diego River below the lands herein described, and for the benefit of persons, corporations, or municipalities situated along or adjacent to the pipe line of said the city of San Diego for the conservation and storage of water for domestic, irrigation, or municipal use.

The amendment was agreed to.

The next amendment was, on page 10, after line 9, to insert as a new section the following:

SEC. 8. That the city of San Diego shall sell to the United States for the use of the War and Navy Departments: such water as the War and Navy Departments, or either of them, may elect to take, and shall deliver the same through its system in or near the city of San Diego to the mains or systems of such military or naval reservations in that vicinity as may be designated by the Secretary of War or the Secretary of the Navy, or both, under such rules and regulations as they or either of them may prescribe.

In payment of such water and the delivery thereof, the United States shall pay to said city of San Diego a rental, to be calculated at a fixed rate per 1,000 gallons, said rate not to exceed the actual cost of such water to said city for all water so furnished as determined by meter measurement: *And provided further*, That payment of said rental shall be made by the local disbursing officer of the War or the Navy Departments in the usual manner: *Provided, however*, That the grantee shall at all times comply with and observe on its part all of the conditions specified in this act, and in the event that the same are not reasonably complied with and carried out by the grantee upon written request by the Secretary of the Interior, it is made the duty of the Attorney General, in the name of the United States, to commence all necessary suits or proceedings in the proper court having jurisdiction thereof for the purpose of enforcing and carrying out the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 11, line 12, to change the number of the section from 8 to 9, and, in the same line, after the numeral "9," to insert:

That this act is a grant upon certain express conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intending to affect, or in any way to interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water used in irrigation, or for municipal or other uses or any vested rights acquired thereunder, and the Secretary of the Interior in carrying out the provisions of this act shall proceed in conformity with the laws of said State.

So as to make the section read:

SEC. 9. That this act is a grant upon certain express conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intending to affect, or in any way to interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water used in irrigation, or for municipal, or other uses or any vested rights acquired thereunder, and the Secretary of the Interior in carrying out the provisions of this act shall proceed in conformity with the laws of said State.

The amendment was agreed to.

The next amendment was, on page 11, after line 21, to insert as a new section the following:

SEC. 10. That the grantee shall file with the Secretary of the Interior within six months after the approval of this act its acceptance of the terms and conditions of this grant.

The amendment was agreed to.

The next amendment was, on page 12, line 1, to change the number of the section from 9 to 11.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to grant rights of way over Government lands for dam and reservoir purposes, for the conservation and storage of water to be used by the city of San Diego, Cal., and for other purposes."

BILLS, ETC., PASSED OVER.

The next business on the calendar was the joint resolution (H. J. Res. 150) providing for the registration for military service of the subjects or citizens residing in the United States

EL CAPITAN CONDEMNATION SUIT

Year	Voucher Number	Name	For	Amount	
May 31	7526	Flint & MacKay	Court & Travelling expenses	\$173.14	
	7537	Sanders, H. A.	Expenses Ac.	138.17	
	7548	Fletcher, Ed. Co.	Casualty Ins. & Expenses	15.15	
	7564	Sanders, H. A.	Expenses Ac.	<u>34.60</u>	\$361.06
June 30	7579	Willis Surl	Making Relief Map	75.00	
	7586	Winneck, E. V.	Legal Sec. & Ex.	102.00	
	7588	Seymour, H. B.	Services & typing	154.98	
	7590	Winneck, E. V.	Legal Service	200.00	
	7606	Gottesburen, A. L.	6 days in Court, Ex.	79.50	
	7625	Sanders, H. A.		3511.00	<u>\$4122.46</u>
					<u>\$4483.54</u>
July 31	7651	Flint & MacKay	Legal Service & Ex.	312.10	
	7663	Mathews Lou B	Expenses Tel. & Tax	.82	
	7671	Flint & Mackay	Legal Expense	16.62	
	7691	Sanders, H. A.	Legal Ser. & Ex.	98.15	\$ 427.69
Aug. 31	7723	Frye & Smith	Printing Plaintiff)		
			Opening Brief	84.52	
	7743	Sanders, H. A.	Legal Expenses	168.00	
	7757	Flint & Mackay	Legal Expenses	<u>169.18</u>	421.70
Sept. 30	7774	Gottesburen A. L.	Services, Adv.		150.00
Oct. 31	7828	Frye & Smith	Printing Brief	33.81	
	7850	Crouch & Sanders	Legal Service	119.00	152.81
Nov. 30	7867	Gottesburen, A. L.	On Acct. Services	150.00	
	7874	Crouch & Sanders	Exp. of Y. A. Jacques Santa Ana	18.15	
	7875	Sanders, H. A.	Exp. to LA & S.F.	75.80	
	7876	Flint & MacKay	Legal Expenses	32.10	
	7902	Sanders, H. A.	Exp. to LA. & S.F.	76.85	
	7903	Sanders, H. A.	Legal Exp.	<u>200.00</u>	552.90
Dec. 31	7927	Gottesburen A. L.	Services on Acct.	150.00	
	7932	Mathews, Lou B.	Services A.L.Y.	<u>15.00</u>	<u>165.00</u>
		TOTAL YEAR 1924			<u>\$6353.64</u>
<u>1925</u>					
Jan. 31	7965	Gottesburen A. L.	Services on Acct.	100.00	
	7975	Sanders, H. A.	Legal Exp.	62.15	
	7980	Flint & MacKay	Legal Exp.	68.45	
	8003	San Diego Ind.	Printing Briefs		
			20 sets	<u>18.00</u>	248.60
Feb. 28	8016	Gottesburen A. L.	Services	200.00	
	8022	Crouch & Sanders	Exp. Tel. & Tel. Cable Ac.	128.14	
	8025	Sanders H. A.	Exp. to S.F. Bal.	14.10	
	8038	Flint & Mackay	Exp. S. Ana & S.F.	<u>57.35</u>	599.59
March 31	8085	Gottesburen A. L.	Services		30.00
April 30	8115	Security Com'l S. Bk.	a/c Gottesburen note	150.00	
	8163	Sanders, H. A.	Tel. chgs. & Exp.	<u>33.56</u>	<u>183.56</u>
		FORWARD			<u>861.75</u>

Year	Voucher Number	Name	For	Amount
1925				
May 31		Brought Forward		861.75
	8193	Flint & MacKay	Legal Expense	75.30
	8201	Crouch G. C.	Legal Service Ex.	765.50
	8215	Packer, Harold J	Court Steno.	22.40
	8221	Sanders, H. A.	Expenses to L.A.	20.40
	8228	Winneck, E. V.	Legal Services	<u>150.00</u>
June 30	8241	Gottesburen, A.L.	Tra. Exps. to Santa Ana	50.00
	8243	Sanders, H. A.	Tra. exp. to L.A.	56.10
	8246	Crouch & Sanders	Exp. to S. Ana	250.00
	8248	Hatch, Fred M.	Exhibits of El Monte Pump. Plant. Making glass show case	25.00
	8251	Crouch G. C.	Exps. & Court costs S. Ana	500.00
	8252	Packer, Harold J.	Court Steno.	67.92
	8255	Fletcher, Ed.	Exp. to S. Ana	40.00
	8256	Crouch & Sanders	Legal Service Santa Ana	1000.00
	8258	Gottesburen A. L.	Serv. & Exp. to Santa Ana	164.25
	8259	Slaback, L. M	Court Steno, Santa Ana	294.20
	8260	Averrett H.E.	Making photos	62.00
	8267	Flint & MacKay	Legal Expenses	78.85
	8268	Federal Tel. Co.	Telegrams to S.F.	5.27
	8269	Frye & Smith	100 blank covers	5.00
	8270	Fletcher Ed. Co.	Use of Auto to El Capitan, Expenses Santa Ana & L.A.	583.00
	8272	Harroun L.E.	Services & Exp.	243.75
	8289	Schirn, J.E. Com'l Co.	Plaster & Sand	3.55
	8292	Stockes, Rodney Co.	Maps & Blu print.	28.62
	8293	Tunnell, O.A.	Making photos	59.00
	8295	Wester Union	Tel to S. Ana & S.F.	<u>4.54</u>
July 31	8299	St. Anns Inn S.A.	Hotel expenses S.A.	134.60
	8301	Slaback, L. M.	Court Steno, S.A.	231.80
	8303	Gottesburen A. L.	Services	300.00
	8304	Slaback, L. M	Court Steno S. A.	224.84
	8310	Slaback L. M.	" " "	269.00
	8315	St. Anns Inn S.A.	Hotel Exp. S. A.	10.00
	8314	Slaback L. M.	Court Steno, S.A.	78.00
	8315	Fletcher Ed.	Exp. to Santa Ana	68.80
	8317	Mix E. E.	Services S. Ana	<u>100.00</u>
		FORWARD		1417.05
				5214.00

Year	Voucher Number	Name	For	Amount	
		BRT. FORWARD		\$1417.05	\$5214.00
July 31	8321	Fletcher, Ed	Exp. to L.A. & return	30.00	
	8322	Mathews, Lou B	Exp. & Supplies	8.78	
	8326	Crouch & Sanders	Bal. Exp. to S. Ana	223.84	
	8329	Davis, Iser F	Ser. & Exp. as witness	60.75	
	8332	Fletcher, Ed Co.	Telephone & Tels.	39.56	
	8334	Harritt, C.	Hotel Exp. Etc.	265.48	
	8336	Landis, Felix	Exp. to S. Ana	9.75	
	8337	Loveland, Chester H	Services & Exp.	515.60	
	8338	Lee, Chas H.	Services & Exp.	1086.47	
	8348	Rapid Blue Print Co	Maps & Whiteprints	21.60	
	8353	Sensor, Guy	Making photo prings	9.96	3678.84
Aug. 31	8379	Crouch & Sanders	Legal Services	500.00	
	8381	Crouch & Sanders	Telg. & Tel. Chgs.	77.80	
	8412	Gottesburen A. L.	Services & Exp.	70.00	647.80
Sept. 30	8430	Crouch & Sanders	Legal Services	1500.00	
	8452	Fletcher, Ed.	Expenses to L.A.	49.60	1549.60
Oct. 31	8459	Crouch & Sanders	Legal Services	1000.00	
	8467	Crouch & Sanders	" "	2500.00	3500.00
Nov. 30	8501	Crouch & Sanders	" "	2500.00	
	8511	Crouch & Sanders	Tel. & Tel. charges	8.70	2508.70
Dec. 31	8531	Crouch & Sanders	Legal Services	2500.00	2500.00
		Total Year 1925			\$19598.94
<u>1926</u>					
Jan. 31	8589	Crouch & Sanders	Legal Exp. Bal to 1/12/26	6650.00	
	8590	Gottesburen A. L.	Bal. due on Cont.	2350.00	
	8596	Smiley A. R. & F.P. Flint	Services to 1/18/26	20000.00	
	8611	Flint & MacKay	Costs & Exp. Adv.	457.69	
	8636	Fletcher Ed. Co.	Tires purchased by J. E. Frank on trip to S. Ana	59.90	
		Total Year 1926		29517.59	

SUMMARY

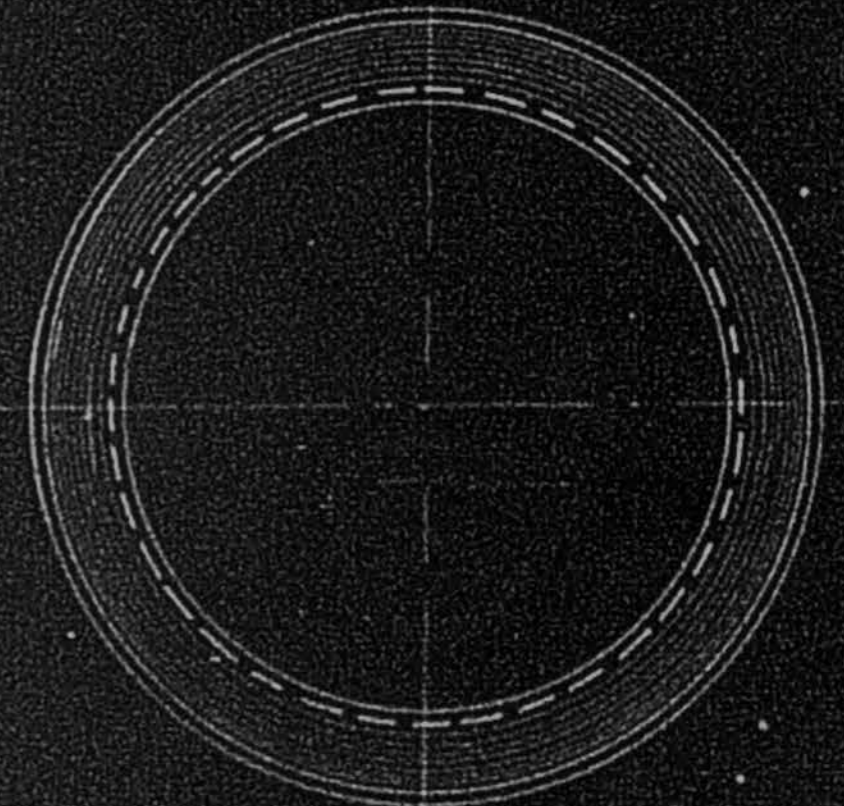
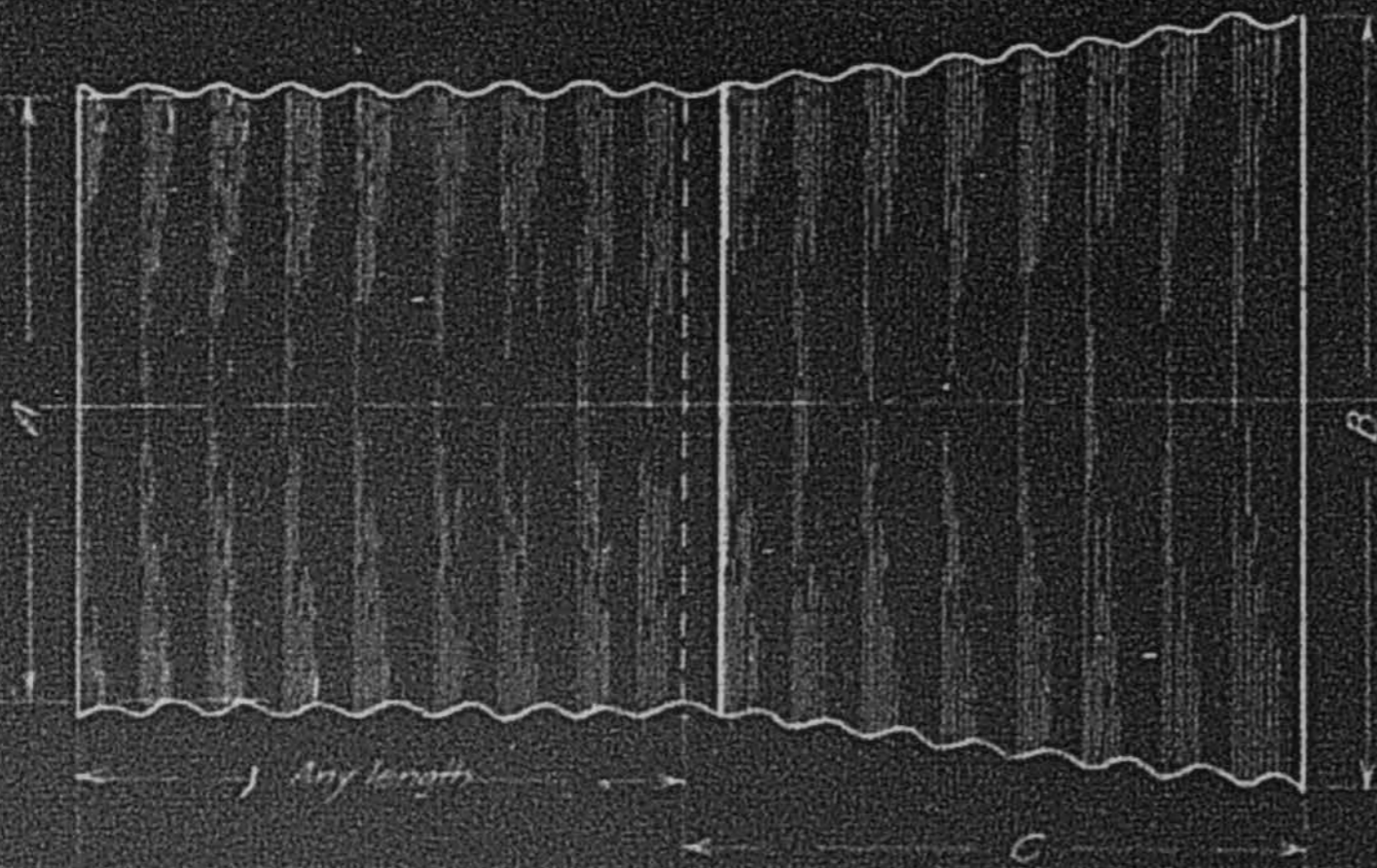
(May 31 to Dec. 31) Year 1924		\$6,353.64
8 months " 1925		19,598.94
" " 1926		29,517.59
	<b>TOTAL</b>	<u>\$55,470.17</u>

**TABLE OF EVEN RADIUS CURVES**

Radius	Station Length for one Station	Deflection for one Station	Chord for one Station	Defl. for one foot	Degrees Approximate
50	25	14° 19.43'	24.74'	34.37'	115° 00'
60	25	11° 56.20'	24.82'	28.648'	100° 00'
70	25	10° 13.88'	24.87'	24.555'	80° 00'
80	25	08° 57.15'	24.90'	21.486'	70° 00'
90	25	07° 57.47'	24.92'	19.099'	64° 00'
100	25	07° 09.71'	24.93'	17.188'	60° 00'
110	25	06° 30.65'	24.95'	15.626'	54° 10'
120	25	05° 58.10'	24.96'	14.324'	49° 0'
130	25	05° 30.55'	24.96'	13.222'	45° 00'
140	25	05° 06.94'	24.96'	12.278'	41° 45'
150	25	04° 46.48'	24.97'	11.459'	38° 45'
160	25	04° 28.58'	24.97'	10.743'	36° 20'
170	25	04° 12.77'	24.97'	10.111'	34° 10'
180	25	03° 58.73'	24.98'	9.549'	32° 10'
190	25	03° 46.17'	24.98'	9.047'	30° 30'
200	25	03° 34.85'	24.98'	8.594'	28° 50'
225	25	03° 10.99'	24.99'	7.640'	25° 40'
250	25	02° 51.89'	24.99'	6.876'	23° 00'
275	25	02° 36.26'	24.99'	6.250'	20° 55'
300	25	02° 23.24'	25.00'	5.730'	19° 10'
325	25	02° 12.21'	25.00'	5.288'	17° 40'
350	25	02° 02.78'	25.00'	4.911'	16° 23'
375	25	01° 54.59'	25.00'	4.584'	15° 19'
400	25	01° 47.43'	25.00'	4.297'	14° 20'
425	25	01° 41.11'	25.00'	4.044'	13° 30'
450	25	01° 35.49'	25.00'	3.820'	12° 45'
475	25	01° 30.46'	25.00'	3.618'	12° 05'
500	50	02° 51.89'	49.98'	3.438'	11° 29'
525	50	02° 43.70'	49.98'	3.274'	10° 55'
550	50	02° 36.26'	49.98'	3.125'	10° 25'
575	50	02° 29.47'	49.99'	2.989'	09° 58'
600	50	02° 23.24'	49.99'	2.865'	09° 34'
625	50	02° 17.51'	49.99'	2.750'	09° 11'

**TABLE OF EVEN RADIUS CURVES**

Radius	Station Length for one Station	Deflection for one Station	Chord for one Station	Defl. for one foot	Degrees Approximate
650	50	02° 12.22'	50.00'	2.644'	08° 50'
675	50	02° 07.32'	50.00'	2.546'	08° 30'
700	50	02° 02.78'	50.00'	2.456'	08° 11'
725	50	01° 58.54'	50.00'	2.371'	07° 55'
750	100	03° 49.19'	99.93'	2.292'	07° 39'
775	100	03° 41.79'	99.93'	2.218'	07° 24'
800	100	03° 34.86'	99.93'	2.149'	07° 10'
825	100	03° 28.34'	99.94'	2.083'	06° 57'
850	100	03° 22.22'	99.94'	2.022'	06° 45'
875	100	03° 16.44'	99.94'	1.964'	06° 33'
900	100	03° 10.99'	99.95'	1.910'	06° 22'
925	100	03° 05.82'	99.95'	1.858'	06° 12'
950	100	03° 00.93'	99.95'	1.809'	06° 02'
975	100	02° 56.29'	99.95'	1.763'	05° 53'
1000	100	02° 51.89'	99.96'	1.719'	05° 44'
1025	100	02° 47.69'	99.96'	1.677'	05° 35'
1050	100	02° 43.70'	99.96'	1.637'	05° 27'
1075	100	02° 39.89'	99.96'	1.599'	05° 20'
1100	100	02° 36.26'	99.96'	1.563'	05° 13'
1125	100	02° 32.79'	99.96'	1.528'	05° 05'
1150	100	02° 29.47'	99.97'	1.495'	04° 59'
1175	100	02° 26.29'	99.97'	1.463'	04° 53'
1200	100	02° 23.24'	99.97'	1.432'	04° 46'
1225	100	02° 20.32'	99.97'	1.403'	04° 41'
1250	100	02° 17.51'	99.97'	1.375'	04° 35'
1300	100	02° 12.22'	99.97'	1.322'	04° 24'
1350	100	02° 07.32'	99.97'	1.273'	04° 15'
1400	100	02° 02.78'	99.98'	1.228'	04° 06'
1450	100	01° 58.54'	99.98'	1.185'	03° 57'
1500	100	01° 54.59'	99.98'	1.146'	03° 49'
1550	100	01° 50.89'	99.98'	1.109'	03° 42'
1600	100	01° 47.43'	99.98'	1.074'	03° 35'
1650	100	01° 44.17'	99.98'	1.042'	03° 28'



A - Dia of Pipe	B when C = 24"	A - Dia of Pipe	B when C = 24"
8"	13"	30"	35"
10"	15"	36"	41"
12"	17"	42"	47"
15"	20"	48"	53"
18"	23"	60"	65"
21"	26"	72"	77"
24"	29"	84"	89"
27"	32"		

**ENTRANCE TAPERS**

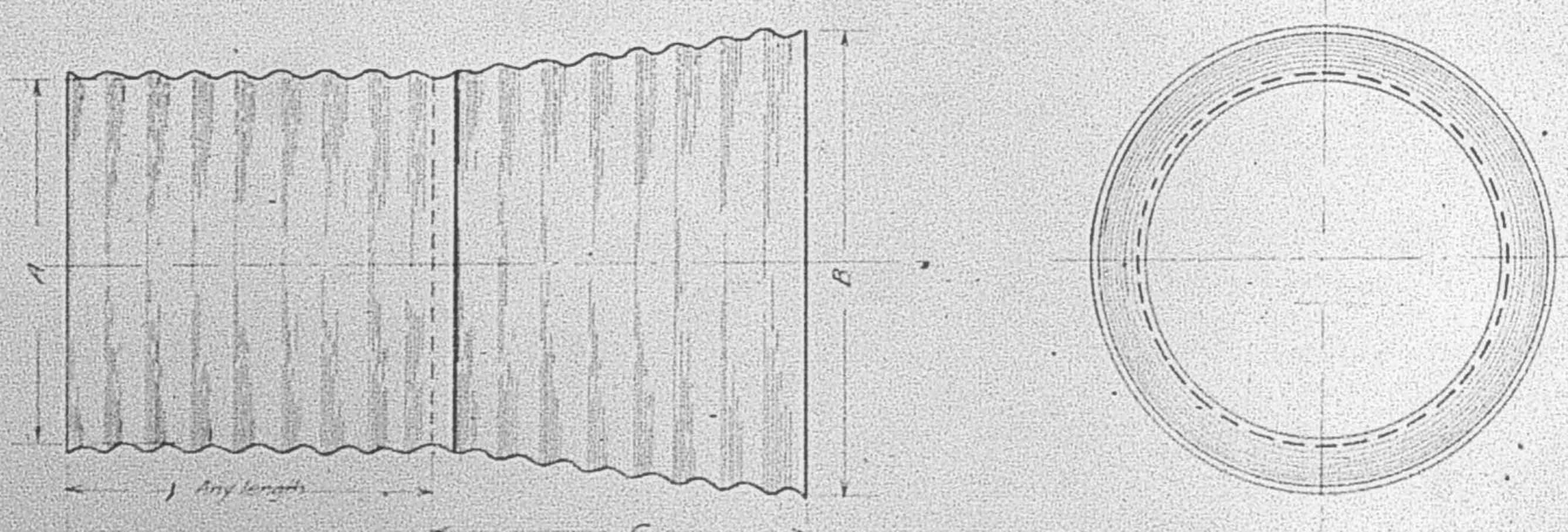
Table giving sizes of entrance tapers for standard Corrugated Iron Culverts

**TABLE OF EVEN RADIUS CURVES**

Radius	Station Length	Deflection for one Station	Chord for one Station	Defl. for one foot	Degrees Approximate
50	25	14° 19.43'	24.74'	34.377	115° 00'
60	25	11° 56.20'	24.82'	28.648	100° 00'
70	25	10° 13.88'	24.87'	24.555	80° 00'
80	25	08° 57.15'	24.90'	21.486	70° 00'
90	25	07° 57.47'	24.92'	19.099	64° 00'
100	25	07° 09.71'	24.93'	17.188	60° 00'
110	25	06° 30.65'	24.95'	15.626	54° 10'
120	25	05° 58.10'	24.96'	14.324	49° 0'
130	25	05° 30.55'	24.96'	13.222	45° 00'
140	25	05° 06.94'	24.96'	12.278	41° 45'
150	25	04° 46.48'	24.97'	11.459	38° 45'
160	25	04° 28.58'	24.97'	10.743	36° 20'
170	25	04° 12.77'	24.97'	10.111	34° 10'
180	25	03° 58.73'	24.98'	9.549	32° 10'
190	25	03° 46.17'	24.98'	9.047	30° 30'
200	25	03° 34.85'	24.98'	8.594	28° 50'
225	25	03° 10.99'	24.99'	7.640	25° 40'
250	25	02° 51.89'	24.99'	6.876	23° 00'
275	25	02° 36.26'	24.99'	6.250	20° 55'
300	25	02° 23.24'	25.00'	5.730	19° 10'
325	25	02° 12.21'	25.00'	5.288	17° 40'
350	25	02° 02.78'	25.00'	4.911	16° 23'
375	25	01° 54.59'	25.00'	4.584	15° 19'
400	25	01° 47.43'	25.00'	4.297	14° 20'
425	25	01° 41.11'	25.00'	4.044	13° 30'
450	25	01° 35.49'	25.00'	3.820	12° 45'
475	25	01° 30.46'	25.00'	3.618	12° 05'
500	50	02° 51.89'	49.98'	3.438	11° 29'
525	50	02° 43.70'	49.98'	3.274	10° 55'
550	50	02° 36.26'	49.98'	3.125	10° 25'
575	50	02° 29.47'	49.99'	2.989	09° 58'
600	50	02° 23.24'	49.99'	2.865	09° 34'
625	50	02° 17.51'	49.99'	2.750	09° 11'

**TABLE OF EVEN RADIUS CURVES**

Radius	Station Length	Deflection for one Station	Chord for one Station	Defl. for one foot	Degrees Approximate
650	50	02° 12.22'	50.00'	2.644	08° 50'
675	50	02° 07.32'	50.00'	2.546	08° 30'
700	50	02° 02.78'	50.00'	2.456	08° 11'
725	50	01° 58.54'	50.00'	2.371	07° 55'
750	100	03° 29.19'	99.93'	2.292	07° 39'
775	100	03° 41.79'	99.93'	2.218	07° 24'
800	100	03° 34.86'	99.93'	2.149	07° 10'
825	100	03° 28.34'	99.94'	2.083	06° 57'
850	100	03° 22.22'	99.94'	2.022	06° 45'
875	100	03° 16.44'	99.94'	1.964	06° 33'
900	100	03° 10.99'	99.95'	1.910	06° 22'
925	100	03° 05.82'	99.95'	1.858	06° 12'
950	100	03° 00.93'	99.95'	1.809	06° 02'
975	100	02° 56.29'	99.95'	1.763	05° 53'
1000	100	02° 51.89'	99.96'	1.719	05° 44'
1025	100	02° 47.69'	99.96'	1.677	05° 35'
1050	100	02° 43.70'	99.96'	1.637	05° 27'
1075	100	02° 39.89'	99.96'	1.599	05° 20'
1100	100	02° 36.26'	99.96'	1.563	05° 13'
1125	100	02° 32.79'	99.96'	1.528	05° 05'
1150	100	02° 29.47'	99.97'	1.495	04° 59'
1175	100	02° 26.29'	99.97'	1.463	04° 53'
1200	100	02° 23.24'	99.97'	1.432	04° 46'
1225	100	02° 20.32'	99.97'	1.403	04° 41'
1250	100	02° 17.51'	99.97'	1.375	04° 35'
1300	100	02° 12.22'	99.97'	1.322	04° 24'
1350	100	02° 07.32'	99.97'	1.273	04° 15'
1400	100	02° 02.78'	99.98'	1.228	04° 06'
1450	100	01° 58.54'	99.98'	1.185	03° 57'
1500	100	01° 54.59'	99.98'	1.146	03° 49'
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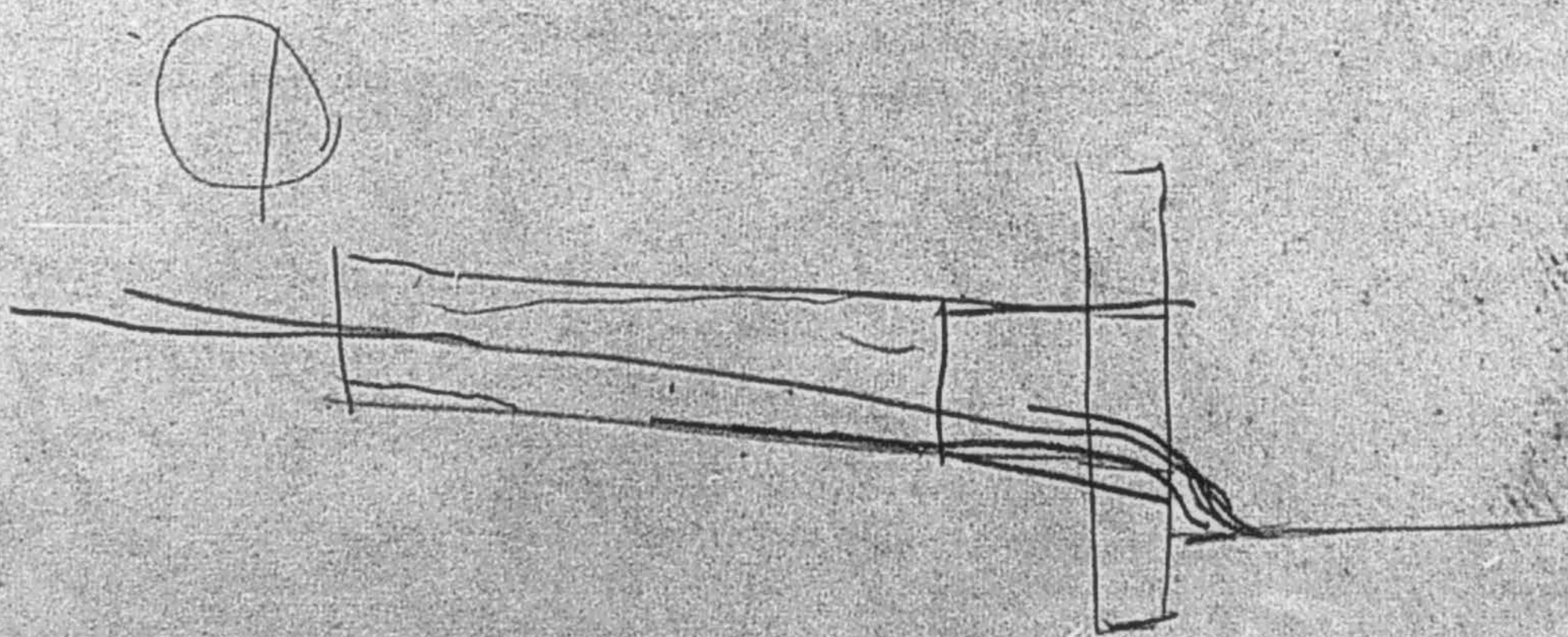


A - Dia of Pipe	B when C = 24"	A - Dia of Pipe	B when C = 24"
8"	13"	30"	35"
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15"	20"	48"	53"
18"	23"	60"	65"
21"	26"	72"	77"
24"	29"	84"	89"
27"	31"		

**ENTRANCE TAPERS**

Table giving Sizes of entrance tapers for standard Corrugated Iron Culverts.

CLING McWAIN





## MUNICIPAL WATER SUPPLY FOR SAN DIEGO, CAL.

MARCH 15, 1918.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RAKER, from the Committee on the Public Lands, submitted the following

### REPORT.

[To accompany H. R. 10587.]

The Committee on the Public Lands has had under consideration bill H. R. 10587, a bill "granting to the city of San Diego certain lands in the Cleveland National Forest and the Capitan Grande Indian Reservation for dam and reservoir purposes for the conservation of water, and for other purposes." Having had the same under consideration and after full hearing and due consideration thereof, the committee reports that the bill be amended and as amended the bill do pass. The committee recommends the following amendments to the bill H. R. 10587, namely:

1. On page 2, line 14, strike out the word "corner" and insert in lieu thereof the word "quarter."
2. On page 4, line 1, after the word "Indians," insert the following words: "and the United States."
3. On page 5, line 9, strike out the words "expense of satisfying" and substitute therefor "amount necessary to satisfy."
4. On page 5, line 16, strike out the words "sixty days" and insert in lieu thereof the words "six months."
5. On page 7, line 15, after the words "San Diego," insert a comma, strike out the word "and" between the words "San Diego" and "State," and insert a comma after the word "California."
6. On page 9, strike out all of lines 9 and 10, which read as follows:

Sec. 5. This act shall take effect and be in force from and after its passage.

The bill as finally passed upon and unanimously approved by the committee is as follows:

[H. R. 10587, Sixty-fifth Congress, second session.]

A BILL Granting to the city of San Diego certain lands in the Cleveland National Forest and the Capitan Grande Indian Reservation for dam and reservoir purposes for the conservation of water, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the south half of the northeast quarter of the northwest quarter and the north half of the southwest quarter of section eight; the west half of the southwest quarter of the southwest quarter and the west half of the northeast

quarter of the northwest quarter of section nine, all in township fifteen south, range two east, San Bernardino base and meridian, within the Cleveland National Forest; and the southeast quarter of the southwest quarter and the southwest quarter of the southeast quarter of section fifteen; the northeast quarter of the southeast quarter of section twenty-one; 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; and 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, are hereby granted to the city of San Diego, a municipal corporation in said county and State, for dam and reservoir purposes for the conservation and storage of water, whenever said city shall have provided compensation as hereinafter specified for all property rights and interests and damages done to Mission Indians located upon the Capitan Grande Indian Reservation: *Provided*, That the lands herein granted shall not be sold, assigned, transferred, or conveyed to any private person, corporation, or association; and in case of any attempt to sell, assign, transfer, or convey, or upon a failure to use and apply said lands exclusively to the purposes herein specified, this grant shall revert to the United States.

SEC. 2. That the lands herein granted are and shall be subject to all legal rights heretofore acquired by any person, persons, or corporation in or to the above described premises, or any part thereof, and now existing under and by virtue of the laws of the United States, and no private right, title, interest, or claim of any person, persons, or corporation in or to any of such lands shall be interfered with or abridged, except with the consent of the owner or owners, or claimant or claimants thereof, or by due process of law and just compensation paid to such owner or claimant: *Provided*, That the rights and claims of the Mission Indians of the Capitan Grande Indian Reservation, located upon the lands herein described and affected by the grant herein, shall be protected and provided for as hereafter set forth in section three of this act.

SEC. 3. That the law of eminent domain of the State of California is hereby extended over and made to apply to said lands, and the Secretary of the Interior or his duly authorized representative is hereby directed to appear on behalf of, in the name of, and to represent the Capitan Grande Band of Indians and the United States in any proceedings instituted by the city of San Diego to condemn the interest of said Indians in said lands: *Provided*, That any judgment or order of condemnation entered in such proceeding shall be binding upon said Capitan Grande Band of Indians only upon the approval by the Secretary of the Interior of the terms of said judgment: *Provided further*, That the Secretary of the Interior shall require from the city of San Diego in addition to the award of condemnation such further sum which, in his opinion, when added to said award, will be sufficient in the aggregate to provide for the purchase of additional lands for the Capitan Grande Band of Indians, the erection of suitable homes for the Indians on the lands so purchased, the erection of such schools, churches, and administrative buildings, the sinking of such wells and the construction of such roads and ditches, and providing water and water rights and for such other expenses as may be deemed necessary by the Secretary of the Interior to properly establish these Indians permanently on the lands purchased for them; and the Secretary of the Interior is hereby authorized to expend the proceeds or any part thereof, derived from this grant for the purposes above enumerated, for the exclusive use and benefit of said Indians: *And provided further*, That the grant made in this act shall not become effective until payment has been made of the sums herein provided for.

SEC. 4. That within one year after the approval of this act the city of San Diego shall commence condemnation proceedings to acquire the lands herein described and shall diligently prosecute such proceedings to a final judgment. Within two years after the approval by the Secretary of the Interior of any such judgment of condemnation the city of San Diego shall institute, and thereafter shall diligently prosecute, proceedings for the issuance and sale of municipal bonds to defray the amount necessary to satisfy any such judgment of condemnation, paying such additional sum as the Secretary of the Interior may require, as provided for in section three, and providing for the acquisition, construction, and completion of a dam, reservoir, pipe line, and appurtenances thereto necessary or convenient to the storage and

conservation of water upon the lands herein described for the purposes set forth in this bill. Within six months from the time of payment into the city treasury of the moneys realized from the sale of municipal bonds issued as herein provided the city of San Diego shall commence the construction of said dam and reservoir, and the same shall be prosecuted diligently, and no cessation of such construction shall continue for a period of three consecutive years, and in the event that the Secretary of the Interior shall find and determine that there has not been diligent prosecution of the work or that there has been a cessation of such construction for a period of three consecutive years, or that said condemnation proceedings have not been commenced and diligently prosecuted, or that municipal bonds have not been issued and sold as herein provided, then he may declare forfeited all rights of the grantees herein and request the Attorney General, on behalf of the United States, to commence suits or proceedings in the proper court having jurisdiction thereof for the purpose of procuring a judgment declaring all rights to be forfeited to the United States, and upon such request it shall be the duty of said Attorney General to cause to be commenced and prosecuted to a final judgment such suits or proceedings: *Provided*, That the Secretary of the Interior shall make no such findings and take no such action if he shall find that the issuance or sale of municipal bonds or the construction or progress of the dam or reservoir has been delayed or prevented by the act of God or the public enemy or by legal, engineering, or other difficulties that could not have been reasonably foreseen and overcome, or by other special or peculiar difficulties beyond the control of said grantees: *Provided further*, That in the exercise of the rights granted by this act the grantees shall at all times comply with the regulations herein authorized, and in the event of any material departure therefrom the Secretary of the Interior or the Secretary of Agriculture, respectively, may take such action as may be necessary in the courts or otherwise to enforce such regulations: *Provided further*, That if such dam be built the Indians of the Capitan Grande Reservation shall be permitted to reside on, occupy, and cultivate the lands of their present reservation up until within ninety days of the time when water for storage purposes will be turned into the reservoir to be constructed hereunder, provided such occupancy by the Indians will not materially hinder the construction of the dam and storage work, which fact is to be determined by the Secretary of the Interior.

SEC. 5. That said reservoir, when constructed, shall be maintained and controlled by the city of San Diego for the use and benefit of said city 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, and for the use and benefit of riparian owners along the San Diego River below the lands herein described and for the benefit of persons, corporations, or municipalities situated along or adjacent to the pipe lines of said city of San Diego for the conservation and storage of water for domestic, irrigation, or municipal uses: *Provided*, That the city of San Diego shall sell to the United States for the use of the War and Navy Departments such water as the War and Navy Departments, or either of them, may elect to take, and shall deliver the same through its system in or near the city of San Diego to the mains or systems of such military or naval reservations in that vicinity as may be designated by the Secretary of War or the Secretary of the Navy, or both, under such rules and regulations as they or either of them may prescribe. In payment of such water and the delivery thereof the United States shall pay to said city of San Diego a rental to be calculated at a fixed rate per one thousand gallons, said rate not to exceed the actual cost of such water to said city for all water so furnished as determined by meter measurements: *Provided, however*, That the grantee shall at all times comply with and observe on its part all of the conditions specified in this act, and in the event that the same are not reasonably complied with and carried out by the grantee upon written request by the Secretary of the Interior it is made the duty of the Attorney General, in the name of the United States, to commence all necessary suits or proceedings in the proper court having jurisdiction thereof for the purpose of enforcing and carrying out the provisions of this act.

SEC. 6. That this act is a grant upon certain express conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water used in irrigation, or for municipal or other uses or any vested rights acquired thereunder, and the Secretary of the Interior and the city of San Diego in carrying out the provisions of this act shall proceed in conformity with the laws of said State.

SEC. 7. That the grantee shall file with the Secretary of the Interior, within six months after the approval of this act, its acceptance of the terms and conditions of this grant.

Bill H. R. 10587 was substituted for the bill H. R. 4037, Sixty-fifth Congress, first session. Full and exhaustive hearings were had by the Committee on the Public Lands on the bill H. R. 4037, which hearings were printed. Bill H. R. 4037, after such hearings by the full committee, was referred to a subcommittee of the committee. The subcommittee, after full and due consideration of the bill H. R. 4037, made certain amendments thereto. The bill, as thus amended by the subcommittee, was introduced at the request of said subcommittee by the author of the original bill and assigned No. H. R. 10587. Bill H. R. 10587 was thereupon considered and adopted by the said committee as its report to the full Committee on the Public Lands on bill H. R. 4037. The bill H. R. 10587 (being a substitute for H. R. 4037) was then heard and fully considered by the full Committee on the Public Lands and, with some slight amendments, was approved and adopted by the committee.

Bill H. R. 10587 was referred to the Department of the Interior, and on March 11, 1918, Hon. Franklin K. Lane, Secretary of the Interior, made report thereon, which report is as follows:

DEPARTMENT OF THE INTERIOR,  
Washington, March 11, 1918.

My DEAR MR. FERRIS: I have your letter of March 9 wherewith you transmit a copy of H. R. 10587, being a bill "granting to the city of San Diego certain lands in the Cleveland National Forest and the Capitan Grande Indian Reservation for dam and reservoir purposes for the conservation of water, and for other purposes," and request a report thereon.

The aforesaid bill, as submitted, is satisfactory and I should be glad to see it enacted into law. In this connection your attention is invited to my report to you concerning the same matter dated January 7, 1918.

Cordially, yours,

FRANKLIN K. LANE, Secretary.

Hon. SCOTT FERRIS,  
Chairman Committee on the Public Lands,  
House of Representatives.

The report of January 7, 1918, concerning the same matter referred to by the Secretary of the Interior in his report to the committee, under date of March 11, 1918, is a favorable report upon H. R. 4037 and is as follows:

DEPARTMENT OF INTERIOR,  
Washington, January 7, 1918.

Hon. SCOTT FERRIS,  
Chairman Committee on Public Lands,  
House of Representatives.

DEAR MR. FERRIS: The department is in receipt, by reference of the Commissioner of Indian Affairs, of your letter of December 7, 1917, inclosing for report a copy of House bill No. 4037, Sixty-fifth Congress, entitled "A bill to grant rights of way over Government lands for reservoir purposes for the conservation and storage of water to be used by the city of San Diego, Cal., and adjacent communities."

This bill is similar to H. R. 11540, Sixty-fourth Congress, on which a preliminary report was submitted by this department under date of May 10, 1916.

The object of the proposed legislation is to enable the city of San Diego to install its own water supply by the construction of a storage dam 160 feet high, costing approximately \$2,000,000, across the San Diego River some 35 miles above the city.

This would result in submerging practically all of the lands described in the bill. Of these lands the SE.  $\frac{1}{4}$  of the SE.  $\frac{1}{4}$ , sec. 21, T. 14 S., R. 3 E., San Bernardino meridian, has passed into private ownership, patent therefor having been issued November 24, 1890, to Frederick S. Anderton, under preemption cash entry No. 2545.

The S.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  and N.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , sec. 8; the W.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  and W.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$ , sec. 9, T. 15 S., R. 2 E., San Bernardino meridian, are vacant according to the records of the General Land Office, yet they were included within the Cleveland National Forest by the President's withdrawal of July 2, 1908. All of the remaining lands described in the bill lie within the Capitan Grande Indian

Reservation and are covered by tribal trust patents issued under the provisions of the acts of January 12, 1891 (26 Stat., 712), and March 1, 1907 (34 Stats., 1015-1022).

Lands in private ownership not being subject to rights of way as public lands of the United States, it is suggested that the SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  of sec. 21, T. 14 S., R. 2 E., be eliminated from the bill. This can best be accomplished by striking out the words "east half," line 2, page 2, and substituting therefor the words "northeast quarter."

As lands within national forests are, in part, under supervision of the Department of Agriculture, the approval of the Secretary of that department should be had as to any easements affecting lands within the Cleveland National Forest. The bill should be further amended, therefore, by inserting the words "and the Secretary of Agriculture," after the word "Interior," line 25, page 2.

The act of January 12, 1891, supra, authorized the issuance of tribal 25-year trust patents to the bands or villages of Mission Indians in California, and the majority of the lands within the Capitan Grande Reservation were patented to this band under date of March 1, 1894. The original trust period covering these lands will expire, therefore, on March 1, 1919. The act of March 2, 1917 (39 Stats., 969-976), however, authorizes the President, in his discretion, to extend the trust period for such time as may be deemed advisable. As the lands within the Capitan Grande Reservation have not been allotted in severalty, it is expected that prior to March 1, 1919, the matter will be placed before the President with recommendation that the trust period be extended in this case.

Section 8 of the act of January 12, 1891, supra, contains authority for the construction by any citizen of the United States, firm, or corporation, of flumes, ditches, canals, pipes, or other appliances for the conveyance of water over, across, or through the Mission Indian Reservation for agricultural, manufacturing, or other purposes. On September 16, 1892, the then Acting Secretary of the Interior granted to the San Diego Flume Co., its assigns and successors, a right of way for a flume through the Capitan Grande Indian Reservation. The San Diego Flume Co. assigned its interests to other parties and the concern is now known as the Cuyamaca Water Co., which company, in part, furnishes the water supply now available to the city of San Diego.

February 12, 1912, one W. B. Hamilton filed with this department an application for a reservoir site on the San Diego River, affecting lands lying partly within the Capitan Grande Indian Reservation and the Cleveland National Forest. Messrs. Fletcher and Murray, representing the Cuyamaca Water Co., protested against the granting of this application; the Commissioner of Indian Affairs also protested, representing that a large area of Indian lands would be submerged, and the interests of the Indians seriously jeopardized by the construction of the proposed dam.

A hearing in the case was ordered. This was held in the city of Los Angeles during the winter of 1915-16, at which all parties interested were represented. In the meantime, W. B. Hamilton assigned his interests in this matter to the city of San Diego and the city elected to proceed with its application under the provisions of the act of February 15, 1901 (31 Stat., 791). This act is general in its nature and provides for the issuance of a revocable permit covering the easements desired, which is not altogether satisfactory, as, where expensive permanent structures are involved, a grant more stable than a revocable permit is preferable.

By decision rendered in July, 1916, the Commissioner of the General Land Office dismissed the protest of Messrs. Fletcher and Murray against the city's application, but found also that the application of the city could not be granted under the provisions of the act of February 15, 1901, supra because of the fact that the act is general in its nature, while section 8 of the act of January 12, 1891, provides a specific and exclusive manner for obtaining rights of way across lands of the Mission Indian Reservation in California.

There is sufficient room to doubt the applicability of the act of February 15, 1901, to the case in question, but undoubtedly the city would prefer to obtain a more permanent easement for the construction of these works than a revocable permit. Again, the interests of the Indians in the matter are large, and this department would prefer to see additional legislation had before proceeding further.

The Commissioner of Indian Affairs during a recent trip through the southwest visited the city of San Diego and the Capitan Grande Indians for the purpose of going into this matter personally. He finds that the city officials are willing and anxious to make full compensation to the Indians for any loss or injury to their property resulting from the construction of the proposed dam; that the property interests of the Indians can be fully protected by the purchase of land for them elsewhere, possibly to their future advantage; that the sentiment among the Indians, as expressed in open meeting, in favor of a more desirable location elsewhere is practically unanimous, and that enlarged water facilities are absolutely essential to the future expansion and development of the city of San Diego.

Section 5 of the bill contemplates payment by the city for damages resulting to the Indians by the construction of the proposed dam, in a sum not exceeding \$100,000, however. Investigation discloses that this is not sufficient. May 15, 1916, the Common Council of the City of San Diego passed a resolution authorizing and directing the city attorney to agree to any amendments to the pending legislation deemed necessary "to secure favorable consideration and passage of the act." By the same resolution the city council also specifically authorized the city attorney to agree to such amendments to section 5 of the bill as would "eliminate from said section the mention of any sum whatsoever and provide for the payment into the Treasury of the United States of such sum as may be designated by the Secretary of the Interior, or such officer or department as he may appoint, for the purpose of compensating the Mission Indians located upon the Capitan Grande Indian Reservation affected by this grant for actual damage sustained by them by reason of the rights of way sought."

It is recommended, therefore, that the words and figures "but not to exceed \$100,000," lines 20 and 21, page 6, be eliminated from the bill. Should the proposed legislation be enacted and payment in behalf of the Indians made, the funds received should be available for the purchase of land elsewhere and for expenditure in the erection of homes, schools, churches, etc., in lieu of those now provided for those Indians on their present reservation. The following should be added to the bill, page 6, line 24, after the word "granted:" "and the Secretary of the Interior is hereby authorized to expend the proceeds, or any part thereof, derived from the granting of these rights of way, in the purchase of additional land for the Capitan Grande Band of Indians, the erection of suitable homes for the Indians on the lands so purchased, the erection of such schools, churches, and administrative buildings, the sinking of such wells and the construction of such roads and ditches and for such other expenses as may be deemed necessary by the Secretary of the Interior to properly establish these Indians permanently on the lands purchased for them."

In this connection it may be said that the Capitan Grande Indians number approximately 131, all told, divided into 29 families, for whom it would be necessary to construct new houses, fences, churches, schools, farm buildings, etc., in order to properly establish them in their new location.

Should the bill be enacted, and the rights of way desired finally obtained by the city, it would still require possibly considerable time to work out all details and complete a storage dam of the magnitude contemplated. It is thought that the Indians should be permitted to reside on their present reservation until within a reasonable time when their lands will actually be flooded. It is recommended, therefore, that the following be added to section 6 of the bill, after the word "States," line 14, page 7:

"Provided further, That if such dam be built the Indians of the Capitan Grande Reservation shall be permitted to reside on, occupy, and cultivate the lands of their present reservation up until within ninety days of the time when water for storage purposes will be turned into the reservoir to be constructed hereunder, provided such occupancy by the Indians will not materially hinder the construction of the dam and storage works, which fact is to be determined by the Secretary of the Interior."

Several minor amendments to the bill are desirable. Insert the words "and approved" after the word "filed," line 14, page 3. Strike out the words "and approved by the Secretary of the Interior," lines 14 and 15, page 3. Strike out the words "of the Secretary of the Interior," lines 21 and 22, same page. Strike out the words "by the Secretary of the Interior," lines 3 and 4, page 4. As the rights of way are to be approved in part by the Secretary of Agriculture, these changes are desirable so as to bring section 2 in line with section 1 of the bill.

Strike out the words "forest officers, officers of the Department of Indian Affairs, and the officers of the Interior Department," lines 21, 22, and 23, page 5, inserting in lieu thereof, "officers and employees of the United States." Strike out the words "the Forest Service," line 24, page 5, and insert in lieu thereof the words "officers and employees." Strike out the words "Department of Agriculture, to the officers of the Department of Indian Affairs and to the officers of the Interior Department," lines 1 to 3, page 6. Strike out the words "said Forest Service, Indian Service, or of the Interior Department," lines 7 and 8, page 6, inserting in lieu thereof the words "the United States Government." After the word "for," line 1, page 8, insert "the conservation and storage of water for."

There is great need of an additional water supply for the city of San Diego, which is rapidly becoming imperative. The city has recently entered into a contract to supply the Army cantonment at Camp Kearney with water, thus making an additional drain on the city's limited available supply. The interests of the Indians can be fully protected elsewhere, and, if amended as suggested, I would be glad to see the bill given favorable consideration.

Cordially, yours,

FRANKLIN K. LANE, Secretary.

Bill H. R. 4037 (for which H. R. 10587 has been substituted) was also referred to Hon. David F. Houston, Secretary of Agriculture, whose report thereon is as follows:

DEPARTMENT OF AGRICULTURE,  
Washington, February 15, 1918.

Hon. SCOTT FERRIS,

Chairman Committee on Public Lands, House of Representatives.

DEAR MR. FERRIS: Receipt is acknowledged of a copy of H. R. 4037, "to grant rights of way over Government lands for reservoir purposes for the conservation and storage of water to be used by the city of San Diego, Cal., and adjacent communities," with the request that your committee be sent such suggestions and recommendations as this department may see fit to offer.

By far the greater part of the area described in the bill is within the Capitan Grande Indian Reservation. Only those tracts in sections 8 and 9, township 15, range 2 east, San Bernardino meridian, aggregating about 150 acres, are within the Cleveland National Forest. The department would have no objection to the use of these lands by the city of San Diego for the purposes contemplated in H. R. 4037. It is, however, reported that strong objection to the grant of the right of way has been made by other claimants to the waters of the San Diego River, particularly by the Guyamaca Water Co., and that extensive hearings have been held in Los Angeles, Cal., before the register and receiver of the local land office. It is also alleged that the grant, if made, would seriously interfere with the rights of the Indians on the Capitan Grande Indian Reservation. This is a matter, however, upon which the Secretary of the Interior will be best able to express an opinion. In view of the foregoing objections which have been brought to the attention of this department, the department confines its expression of approval solely to the use of the lands within the Cleveland National Forest and does not consider that it has sufficient information upon which to express an opinion upon the general merits of the bill, particularly when the necessary information appears to be in the possession of another department and doubtless readily available for your use.

The bill grants a right of way for a reservoir only. Later on in the bill, however, provision is made that any wagon road constructed by the city within the national forest or Indian reservation shall be subject to free use by officers of the Forest Service and Interior Department, and by the public, and that any telephone or telegraph lines constructed and maintained by the city within the national forest or on the public lands shall be subject to free use by officer of the Forest Service and the Interior Department for official business, and to the right to connect with any such telephone lines private telephone wires for the exclusive use of the Forest Service or Interior Department. If it is intended to grant rights of way for such purpose in this bill, it is believed that they should be specifically enumerated in section 1. In the absence of such a provision, it is assumed that it is the intention of Congress that rights of way for these uses are to be acquired by the city under existing laws, subject to the additional restrictions imposed by the bill.

The bill does not grant any right of way for pipe lines or other water conduits to convey the water from the reservoir to the city, and it is presumed that none of the lands mentioned in section 1 of the bill is intended to be used for such purpose. However, if it is intended that these lands shall be used for pipe lines, dams, water plants, canals, or ditches in connection with the distribution of the water, such rights should be expressly given in the granting clause.

If other rights of way than for the reservoir are to be granted under this bill; it is suggested that section 4 be amended in line 3 of page 5 by striking out the phrase "construct and clear its reservoir," and substituting in lieu thereof "construct its reservoirs and clear and occupy the rights of way hereby granted," in order that the cutting of timber upon all of the rights of way shall be limited to that actually necessary to the occupation thereof for the purposes granted. It is also suggested that section 4 be further amended in line 4, page 5, by substituting "United States" for the phrase "forest supervisors of the Department of Agriculture." Section 4 provides that the city shall pay the full value of all timber cut on the rights of way within the national forest, but no provision is made for the determination of such value. It is therefore suggested that line 5, page 5, be amended by inserting "as determined by the Secretary of Agriculture" after the word "value."

If rights of way for purposes other than a reservoir are granted by the bill, it is believed that the provision requiring the city to clear such rights of way of inflammable material should be made a continuing obligation, and to that end it is suggested that after the word "clear," line 15, page 5, the phrase "and keep clear" be inserted. It is noted that the bill refers in several places to the "Department of Indian Affairs" rather than to the Office of Indian Affairs.

If only a right of way for a reservoir is to be granted, the title should be amended by substituting "right of way" for "rights of way" in the first line, and in any event, since the bill provided for other purposes than the grant of a right of way, the phrase "and for other purposes" should be added at the end in order that the bill itself shall not be broader than the title.

Very truly, yours,

D. F. HOUSTON, *Secretary.*

For the purpose of presenting bill H. R. 10587 with its provisions fully before the House, analysis is made thereof as follows:

#### ANALYSIS OF H. R. 10587.

[A bill granting to the city of San Diego certain lands in Cleveland National Forest and the Capitan Grande Indian Reservation for dam and reservoir purposes for the conservation of water, and for other purposes.

Section 1 provides a grant of approximately 1,900 acres of land located in the Cleveland National Forest and Capitan Grande Indian Reservation to the city of San Diego for a dam and reservoir site for the conservation of water for use by the city of San Diego and adjacent communities. The grant is dependent on the city of San Diego providing compensation as outlined in section 3 of the bill for the use of Indians affected by the grant. Upon an attempted assignment or transfer of the lands granted or upon a failure to use them exclusively for dam and reservoir purposes the grant reverts to the United States.

Section 2: This section protects all existing rights upon the land granted and provides that no private right, title, interest, or claim in or to any of such lands shall be interfered with or abridged except by due process of law. The interest of Mission Indians is fully and amply provided for as set out in section 3.

Section 3 extends the law of eminent domain of the State of California over the lands described in the bill. The Secretary of the Interior, or his representative, is directed to appear on behalf of the United States and the Mission Band of Indians in any proceeding of condemnation instituted by the city of San Diego. Any judgment of condemnation is binding upon the Indians only upon the approval of such judgment by the Secretary of the Interior, who is authorized and directed to require from the city of San Diego in addition to the amount of the judgment of condemnation an additional sum, which, when added to said judgment, will be sufficient in the aggregate to provide for the purchase of additional lands for the Capitan Grande Band of Indians, the erection of suitable homes for the Indians on the land so purchased, the erection of such schools, churches, and administrative buildings, the sinking of such wells and the construction of such roads and ditches, and providing water and water rights and for such other expenses as may be deemed necessary by the Secretary of the Interior to properly establish those Indians permanently on the land purchased for them. The payment of such sum by the city is a condition precedent to the effectiveness of the grant.

Section 4 requires the city to proceed with diligence in the commencement and prosecution of condemnation proceedings, the issuance and sale of municipal bonds, and the construction of its dam and reservoir. The Secretary of the Interior is directed to request the Attorney General of the United States to institute proceedings, to declare a forfeiture of the rights of the city of San Diego, in the

event of a failure by the city to prosecute its undertakings diligently. Provision is also made that the Indians living in the reservoir site are not to be disturbed until the Secretary of the Interior finds that water is about to be turned into the reservoir.

Section 5 provides that the reservoir shall be a purely municipal enterprise controlled and operated by the city of San Diego. Requirement is made that the Army and Navy Department of the United States shall be furnished with water at cost. Provision is again made for forfeiture by the city upon failure to reasonably comply with the conditions of the grant.

Section 6 is analogous to and practically identical with a provision of the Hetch Hetchy act providing a water-supply system for the city of San Francisco approved December 19, 1913 (Public—No. 41—63d Cong.). Under this provision all questions relating to the control, appropriation, use, or distribution of water for any beneficial purpose are governed entirely by the laws of the State of California. This section is intended to and actually does protect and safeguard all existing water rights recognized by the laws of the State of California. The Secretary of the Interior and the city of San Diego in carrying out the provisions of this act are required to proceed in conformity with the laws of said State.

Section 7 imposes upon the city of San Diego the duty of accepting this act according to its terms and conditions within six months after its approval.

#### NEEDS OF THE CITY OF SAN DIEGO FOR ADDITIONAL WATER SUPPLY.

In addition to the facts disclosed at the hearings before the committee the following paragraphs, taken from the report of the Secretary of the Interior on H. R. 4037, indicate the need of immediate action upon bill H. R. 10587.

The Commissioner of Indian Affairs during a recent trip through the Southwest visited the city of San Diego and the Capitan Grande Indians for the purpose of going into this matter personally. He finds that the city officials are willing and anxious to make full compensation to the Indians for any loss or injury to their property resulting from the construction of the proposed dam; that the property interests of the Indians can be fully protected by the purchase of land for them elsewhere, possibly to their future advantage; that the sentiment among the Indians, as expressed in open meeting in favor of a more desirable location elsewhere is practically unanimous; and that enlarged water facilities are absolutely essential to the future expansion and development of the city of San Diego.

There is great need of an additional water supply for the city of San Diego, which is rapidly becoming imperative. The city has recently entered into a contract to supply the Army cantonment at Camp Kearney with water, thus making an additional drain on the city's limited available supply. The interests of the Indians can be fully protected elsewhere, and if amended as suggested I would be glad to see the bill given favorable consideration.

Since the year 1900 but 16.6 per cent of the water passing the land herein described and sought by the city for a reservoir site has been appropriated and put to beneficial use. (Hearings, pp. 68, 69.) The plan of the city of San Diego contemplates constructing a dam and reservoir on the lands herein described, 10 miles below the point of diversion of the Cuyamaca Water Co. and conserving a portion of the water that heretofore has gone and now goes to waste into the Pacific Ocean. (Hearings, pp. 74, 82.)

When it is considered that San Diego is growing very rapidly—in fact such growth is by "leaps and bounds"—and that whole districts

can not be improved, homes built, and sanitary requirements fulfilled because of lack of water, it is apparent that San Diego must have more water than is available from any nearby or other source.

San Diego demonstrated to the world what could be done by her and her enterprising people in her World International Exposition, which continued for two whole years. This exposition brought many people, as well as many and various important industries and enterprises. She must have water and plenty of it for the needs of her people.

The Government has many important activities in and about San Diego, and this adds another important requirement on behalf of the city, which she is ready and willing to meet and fulfill if given the opportunity.

The committee was deeply impressed as to the needs of San Diego for an enlarged and additional water supply at the hearing. The present bill will assist the city in meeting these pressing and important needs, and your committee therefore urges upon the House the real necessity of the early passage of this legislation.

○

# Calendar No. 215.

65th CONGRESS,  
2d Session.

SENATE.

REPORT  
No. 239.

## WATER SUPPLY OF SAN DIEGO, CAL.

JANUARY 31, 1918.—Ordered to be printed.

Mr. PHELAN, from the Committee on Public Lands, submitted the following

### REPORT.

[To accompany S. 3646.]

The Committee on Public Lands, to which was referred the bill (S. 3646) to grant rights of way over Government lands for reservoir purposes for the conservation and storage of water to be used by the city of San Diego, Cal., and adjacent communities, having had the same under consideration, begs leave to report it back to the Senate with amendments and as amended recommend that the bill do pass.

A bill (H. R. 4037) identical with the present measure is pending in the House of Representatives. On this bill in the House the Secretary of the Interior has submitted the following report to the honorable chairman of the House Committee on Public Lands:

JANUARY 7, 1918.

HON. SCOTT FERRIS,

*Chairman Committee on the Public Lands, House of Representatives.*

DEAR MR. FERRIS: The department is in receipt, by reference of the Commissioner of Indian Affairs, of your letter of December 7, 1917, inclosing for report a copy of House bill 4037, Sixty-fifth Congress, entitled, "A bill to grant rights of way over Government lands for reservoir purposes for the conservation and storage of water to be used by the city of San Diego, Cal., and adjacent communities."

This bill is similar to H. R. 11540, Sixty-fourth Congress, on which a preliminary report was submitted by this department under date of May 10, 1916.

The object of the proposed legislation is to enable the city of San Diego to install its own water supply by the construction of a storage dam 160 feet high, costing approximately \$2,000,000, across the San Diego River some 35 miles above the city.

This would result in submerging practically all of the lands described in the bill. Of these lands the SE.  $\frac{1}{4}$  of the SE.  $\frac{1}{4}$ , sec. 21, T. 14 S., R. 3 E., San Bernardino meridian, has passed into private ownership, patent therefor having been issued November 24, 1890, to Frederick S. Anderton, under preemption cash entry No. 2545.

The S.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  and N.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , sec. 8; the W.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  and W.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$ , sec. 9, T. 15 S., R. 2 E., San Bernardino meridian, are vacant, according to the records of the General Land Office, yet they were included within the Cleveland National Forest by the President's withdrawal of July 2, 1908. All of the remaining lands described in the bill lie within the Capitan Grande Indian Reservation and are covered by tribal trust patents issued under the provisions of the acts of January 12, 1891 (26 Stat., 712) and March 1, 1907 (34 Stats., 1015-1022).

Lands in private ownership not being subject to rights of way as public lands of the United States, it is suggested that the SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  of sec. 21, T. 14 S., R. 2 E., be eliminated from the bill. This can best be accomplished by striking out the words "east half," line 2, page 2, and substituting therefor the words "northeast quarter."

As lands within national forests are, in part, under supervision of the Department of Agriculture, the approval of the Secretary of that department should be had as to any easements affecting lands within the Cleveland National Forest. The bill should be further amended, therefore, by inserting the words "and the Secretary of Agriculture," after the word "Interior," line 25, page 2.

The act of January 12, 1891, supra, authorized the issuance of tribal 25-year trust patents to the bands or villages of Mission Indians in California, and the majority of the lands within the Capitan Grande Reservation were patented to this band under date of March 1, 1894. The original trust period covering these lands will expire, therefore, on March 1, 1919. The act of March 2, 1917 (39 Stats., 969-976), however, authorizes the President, in his discretion, to extend the trust period for such time as may be deemed advisable. As the lands within the Capitan Grande Reservation have not been allotted in severalty, it is expected that prior to March 1, 1919, the matter will be placed before the President with recommendation that the trust period be extended in this case.

Section 8 of the act of January 12, 1891, supra, contains authority for the construction by any citizen of the United States, firm, or corporation, of flumes, ditches, canals, pipes, or other appliances for the conveyance of water over, across, or through the Mission Indian Reservation for agricultural, manufacturing, or other purposes. On September 16, 1892, the then Acting Secretary of the Interior granted to the San Diego Flume Co., its assigns and successors, a right of way for a flume through the Capitan Grande Indian Reservation. The San Diego Flume Co. assigned its interests to other parties and the concern is now known as the Cuyamaca Water Co., which company, in part, furnishes the water supply now available to the city of San Diego.

February 12, 1912, one W. B. Hamilton filed with this department an application for a reservoir site on the San Diego River, affecting lands lying partly within the Capitan Grande Indian Reservation and the Cleveland National Forest. Messrs. Fletcher and Murray, representing the Cuyamaca Water Co., protested against the granting of this application; the Commissioner of Indian Affairs also protested, representing that a large area of Indian lands would be submerged, and the interests of the Indians seriously jeopardized by the construction of the proposed dam.

A hearing in the case was ordered. This was held in the city of Los Angeles during the winter of 1915-16; at which all parties interested were represented. In the meantime W. B. Hamilton assigned his interests in this matter to the city of San Diego, and the city elected to proceed with its application under the provisions of the act of February 15, 1901 (31 Stat., 791). This act is general in its nature and provides for the issuance of a revocable permit covering the easements desired, which is not altogether satisfactory, as, where expensive permanent structures are involved, a grant more stable than a revocable permit is preferable.

By decision rendered in July, 1916, the Commissioner of the General Land Office dismissed the protest of Messrs. Fletcher and Murray against the city's application, but found also that the application of the city could not be granted under the provisions of the act of February 15, 1901, supra, because of the fact that the act is general in its nature, while section 8 of the act of January 12, 1891, provides a specific and exclusive manner for obtaining rights of way across lands of the Mission Indian Reservation in California.

There is sufficient room to doubt the applicability of the act of February 15, 1901, to the case in question, but undoubtedly the city would prefer to obtain a more permanent easement for the construction of these works than a revocable permit. Again, the interests of the Indians in the matter are large, and this department would prefer to see additional legislation had before proceeding further.

The Commissioner of Indian Affairs during a recent trip through the Southwest visited the city of San Diego and the Capitan Grande Indians for the purpose of going into this matter personally. He finds that the city officials are willing and anxious to make full compensation to the Indians for any loss or injury to their property resulting from the construction of the proposed dam; that the property interests of the Indians can be fully protected by the purchase of land for them elsewhere, possibly to their future advantage; that the sentiment among the Indians, as expressed in open meeting, in favor of a more desirable location elsewhere is practically unanimous; and that enlarged water facilities are absolutely essential to the future expansion and development of the city of San Diego.

Section 5 of the bill contemplates payment by the city for damages resulting to the Indians by the construction of the proposed dam, in a sum not exceeding \$100,000,

however. Investigation discloses that this is not sufficient. May 15, 1916, the common council of the city of San Diego passed a resolution authorizing and directing the city attorney to agree to any amendments to the pending legislation deemed necessary "to secure favorable consideration and passage of the act." By the same resolution the city council also specifically authorized the city attorney to agree to such amendments to section 5 of the bill as would "eliminate from said section the mention of any sum whatsoever and provide for the payment into the Treasury of the United States of such sum as may be designated by the Secretary of the Interior, or such officer or department as he may appoint, for the purpose of compensating the Mission Indians located upon the Capitan Grande Indian Reservation affected by this grant for actual damage sustained by them by reason of the rights of way sought."

It is recommended, therefore, that the words and figures "but not to exceed \$100,000," lines 20 and 21, page 6, be eliminated from the bill. Should the proposed legislation be enacted and payment in behalf of the Indians made, the funds received should be available for the purchase of land elsewhere and for expenditure in the erection of homes, schools, churches, etc., in lieu of those now provided for those Indians on their present reservation. The following should be added to the bill, page 6, line 24, after the word "granted": "and the Secretary of the Interior is hereby authorized to expend the proceeds, or any part thereof, derived from the granting of these rights of way in the purchase of additional land for the Capitan Grande Band of Indians, the erection of suitable homes for the Indians on the lands so purchased, the erection of such schools, churches, and administrative buildings, the sinking of such wells and the construction of such roads and ditches, and for such other expenses as may be deemed necessary by the Secretary of the Interior to properly establish these Indians permanently on the lands purchased for them."

In this connection it may be said that the Capitan Grande Indians number approximately 131, all told, divided into 29 families, for whom it would be necessary to construct new houses, fences, churches, schools, farm buildings, etc., in order to properly establish them in their new location.

Should the bill be enacted and the right of way desired finally obtained by the city, it would still require possibly considerable time to work out all details and complete a storage dam of the magnitude contemplated. It is thought that the Indians should be permitted to reside on their present reservation until within a reasonable time when their lands will be actually flooded. It is recommended, therefore, that the following be added to section 6 of the bill, after the word "States," line 14, page 7: "Provided further, That if such dam be built the Indians of the Capitan Grande Reservation shall be permitted to reside on, occupy, and cultivate the lands of their present reservation up until within ninety days of the time when water for storage purposes will be turned into the reservoir to be constructed hereunder, provided such occupancy by the Indians will not materially hinder the construction of the dam and storage works, which fact is to be determined by the Secretary of the Interior."

Several minor amendments to the bill are desirable. Insert the words "and approved" after the word "filed," line 14, page 3. Strike out the words "and approved by the Secretary of the Interior," lines 14 and 15, page 3. Strike out the words "of the Secretary of the Interior," lines 21 and 22, same page. Strike out the words "by the Secretary of the Interior," lines 3 and 4, page 4. As the rights of way are to be approved in part by the Secretary of Agriculture, these changes are desirable so as to bring section 2 in line with section 1 of the bill.

Strike out the words "forest officers, officers of the Department of Indian Affairs, and the officers of the Interior Department," lines 21, 22, and 23, page 5, inserting in lieu thereof "officers and employees of the United States." Strike out the words "the Forest Service," line 24, page 5, and insert in lieu thereof the words "officers and employees." Strike out the words "Department of Agriculture, to the officers of the Department of Indian Affairs, and to the officers of the Interior Department," lines 1 to 3, page 6. Strike out the words "said Forest Service, Indian Service, or of the Interior Department," lines 7 and 8, page 6, inserting in lieu thereof the words "the United States Government." After the word "for," line 1, page 8, insert "the conservation and storage of water for."

There is great need of an additional water supply for the city of San Diego, which is rapidly becoming imperative. The city has recently entered into a contract to supply the Army cantonment at Camp Kearney with water, thus making an additional drain on the city's limited available supply. The interests of the Indians can be fully protected elsewhere, and if amended as suggested I would be glad to see the bill given favorable consideration.

Cordially, yours,

F. K. LANE, Secretary.



ESTIMATED DAMAGES CAPITAN GRANDE RESERVATION, CAL.

Estimate includes amounts necessary to reimburse for relinquishment of lands, water rights and improvements, including removing Indians from Capitan Grande Indian Reservation, exclusive of burying grounds, abandonment, and other indeterminate personal injuries to the Indians.

	<u>Capitan Grande</u>	<u>Canajos</u>	<u>Total</u>
Irrigated & cultivated land	203	25	(228 @ \$400 \$91,200
Irrigable " " "	300	100	(400 @ \$100 40,000
Arable " " "	197	313	(510 @ \$30 15,300
Grazing land,			16422 @ \$3 49,266
<b>Total</b> - - - - -			<b>17540 \$195,566.</b>

\* \* \* \* \*

To renew government buildings, (school house & cottage)	\$3,000
To provide 29 new houses @ \$300 each - - - - -	8,700
To " new church, - - - - -	500
To expense of keeping 131 Indians one year after removal @ \$50 each - - - - -	6,550
To expense of moving Indians to new homes - - - - -	<u>2,000</u>
<b>Total</b> - - - - -	<b>\$216,516.</b>

FLOODED LAND

Irrigated land - - -	124 acres
Irrigable " - - -	200 "
Grazing " - - -	<u>416</u> "
<b>Total</b> - - - - -	<b>740 acres.</b>

\* \* \* \* \*

U. A. & VI

DATA REGARDING RIPARIAN LANDS

	<u>Above Lakeside</u>	<u>Below Lakeside</u>	<u>Mission Valley</u>	<u>San Vicente Creek</u>	<u>Los Coches Creek</u>
Area irrigated	70	973	1640	207	115
Total area susceptible of irrigation	1364	4857	3540	582	115
Total amount of water required for full development	3410	12143	8850	1450	290
Evaporation	<del>405-2575</del> 4052575	1162	8240	110	40
Total water requirement	3815- 5985	13305	17090	1560	330
Storage capacity of sands	5700	9680	6666	1600	400
Underground water received from basin above	0	405	0	--	--
Underground water passing to basin below	405	0	0	0	0

Acre Feet

ANNUAL RUN-OFF FROM VARIOUS WATER-SHEDS IN ACRE FEET

<u>Year</u>	<u>#1</u>	<u>#2</u>	<u>#3</u>	<u>#4</u>	<u>#5</u>	<u>#6</u>
1890-91	48100	2000	4940	820	1668	
91-92	11300	920	1240	110	638	
92-93	4100	1480	3040	430	1100	
93-94	0	420	0	0	218	
94-95	24300	2240	5280	810	1910	
95-96	0	320	0	0	145	
96-97	3400	1560	2280	260	1190	
97-98	0	350	0	0	175	
98-99	0	280	0	0	116	
99-1900	0	600	0	0	362	
1900-01	0	1060	560	0	754	
01-02	0	670	340	0	435	
02-03	4713	1680	3740	190	1305	
03-04	0	250	0	0	15	
04-05	26255	2920	7080	1210	2695	
05-06	65305	3300	9240	1670	2900	73317
06-07	40957	1780	4040	640	1400	49615
07-08	11256	940	1340	120	652	14057
08-09	36854	1620	3540	530	1247	43200
09-10	20727	1220	2240	290	900	23000
10-11	12698	1380	2740	360	1015	15500
11-12	9944	1220	2240	290	900	15800
12-13	<u>2708</u>	<u>630</u>	<u>240</u>	<u>0</u>	<u>400</u>	<u>--</u>
TOTAL	322617	28840	54120	7730	22145	
MEAN	14027	1254	2353	336	963	

NB. Explanations of Columns on following page.

Sheet No. 2.

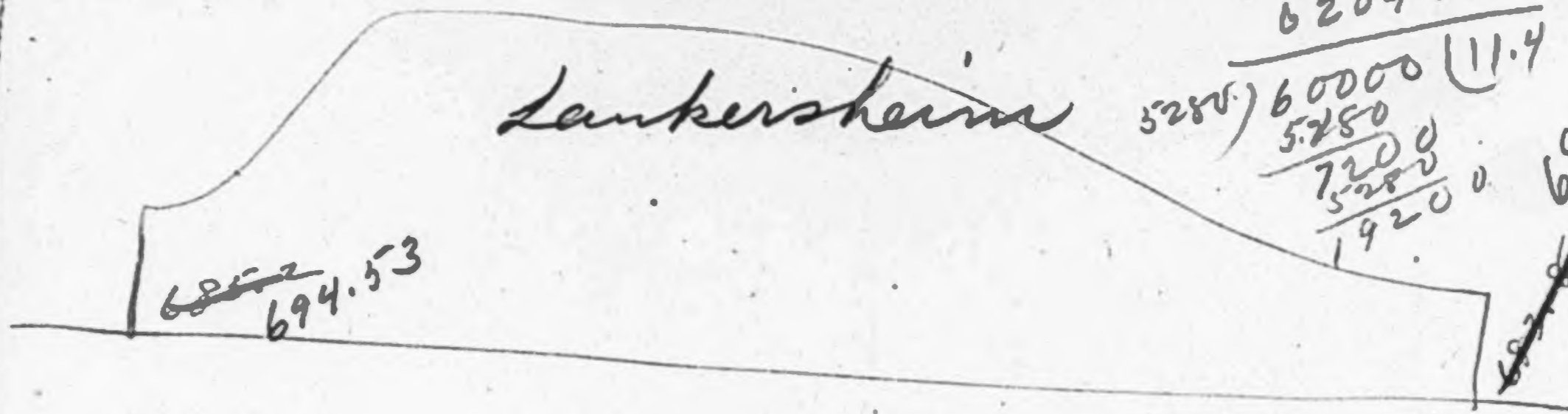
Column

- No. 1 Run-off of San Diego River at El Capitan Grande dam after deducting 5600 acre feet for Cuyamaca diversion.
- No. 2 Run-off from Monte Water-shed.
- No. 3. Run-off from San Vicente Creek after deducting amount required on riparian lands along San Vicente Creek.
- No. 4 Run-off from Los Coches Creek after deducting water used on riparian lands and Los Coches Creek.
- No. 5 Run-off from portion of El Cajon Water-shed on north side of the river.
- No. 6 Geological Survey gagings at Lakeside, including flume.

Column No. 1, 1898-99 to 1912-13 inclusive from records of Cuyamaca Water Co.

Columns 2 to 5 inclusive and Column 1, 1890-91 to 93-94, from rain fall records.

El Capitan



$$\begin{array}{r} 1320 \\ 620 + 00 \\ \hline 5280 \end{array}$$

$$\begin{array}{r} 60000 \\ 5280 \\ \hline 7200 \\ 5280 \\ \hline 19200 \end{array}$$
 (11.4)

1306 + 53.6

$$\begin{array}{r} 1327 \quad 52 \\ 1305 + 44 \\ \hline \end{array}$$

2208 ft long

River Bed

Elev. 570

$$\begin{array}{r} 160 \\ \hline 730 \end{array}$$

11 miles plus  
 distance  
 El Capitan to Sankersheim

flume }  
 grade } 762

~~1320~~  
~~620~~  
 9.3  
 El Capitan  
 692.83

1.08

SUNDAY

AUGUST, 1917.

AUG. 26

MONDAY

27

TUESDAY

28

WEDNESDAY

29

THURSDAY

30

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SATURDAY

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SEPTEMBER, 1917.

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## EL CAPITAN

Records in the City Hall show that Mr. Savage prospected for bedrock at El Capitan for two and one-half years. On Jan. 24, 1922, while this work was continuing night and day, the San Diego County Water Co. made an offer to the Council of ten million gallons of water daily from the Henshaw and Hodges systems at 11¢ per 1000 gallons. Being forewarned of this offer, Mr. Savage hurried to the Council on Jan. 14th with his San Diego River report, for which they had been impatiently waiting ever since 1919. In this report he recommended the development of Mission Gorge Res'r No. 2, the water from which his estimate showed would cost but 7.67¢ per 1000 gallons, while his estimate for El Capitan showed a cost of 16.05¢ per 1000 gallons. El Capitan, his report read, was prominently expensive. Mar. 30th, following, all investigation work at El Capitan was discontinued, and the attention of his office was centered on Mission Gorge.

When the present City Council refused to consider the offer of the Henshaw-Hodges water, the City became the victim of one of the greatest mistakes in its history, and simply because the council considered the Henshaw offer another attempt to block their El Capitan plans. While the Mayor and Mr. Savage were fighting for Mission Gorge No. 2, and the Council for El Capitan, practically the entire output of the two watersheds representing one-half of the available water in the county was rejected as not needed and not wanted, and was thus forever lost to the City, as it has been sold since to irrigation districts in the northern part of the county. But the fight between an

El Capitan Council and a Mission Gorge Mayor and Engineer continued with much bitter feeling until the Council had Mr. Savage removed from office in June, 1923.

The Council next, at an enormous expense, employed Engineer Freeman, but he also proved to be a great disappointment. His report of May 16, 1924, with the exception of the San Vicente Reservoir, arrived at exactly the same recommendations as contained in the Savage report of Jan. 14, 1922, in spite of persistent and strenuous hammering by the Council in favor of El Capitan. Through the influence of the Mayor, the Freeman-Savage recommendation was put to a vote of the people on Sept. 10, and defeated nine to five.

Following this decisive victory, the Council instructed City Manager Rhodes, who is also City Engineer, to make a report outlining a plan for water development that would be logical and agreeable to all. In other words, the Council ordered their own engineer, who holds his office at their pleasure, to make an official report recommending the construction of El Capitan dam. He did so on Oct. 2, in a way highly pleasing to the Council, who immediately voted to call an election on Nov. 18th to vote \$4,500,000 in bonds with which to start the construction of the dam.

Although the City's interests in El Capitan date back to Feb. 12, 1912, when W. B. Hamilton filed an application with the Dept. of the Interior for permission to flood government lands and although this right was granted the City Feb. 28, 1919, on the grounds that the City needed the water at El Capitan and not on its merits as a damsite, the Rhodes report in 1924 was the first report by any engineer recommending the development of



El Capitan. In other words, it has taken twelve years of constant agitation, at an expense of over \$100,000, for the Council to obtain a report recommending the construction of El Capitan. But even if the bond election of Nov. 18 should carry, the City Attorney says that at the least calculation it will take three years to settle the present lawsuit the Cuyamaca Water Company has brought against the City preventing all work at El Capitan. But in spite of all this, and in spite of the adverse report in Aug. 1924, by the citizens' water committee of fifty leading men and in spite of the adverse reports of Mr. Savage and Mr. Freeman, two hydraulic engineers generally considered among the best in the country, the Council is proceeding to follow out the Rhodes report.

The recommendations in this report are as follows:

"First: That your honorable body immediately call an election for a bond issue of \$4,500,000 for the acquisition of lands and the construction of a gravity arch type dam to the 150-foot elevation above stream bed at El Capitan dam site No. 2, and the construction of a pipeline from said El Capitan dam to the University Heights reservoir.

"Second: That the city of San Diego acquire all the interests of the Cuyamaca Water Company upon the San Diego river.

"Third: That the city of San Diego continue its suits for the acquisition of the Sutherland dam site and reservoir site for the purpose of diverting the water supply from the Sutherland watershed into the San Vicente reservoir."

The second recommendation would remove the lawsuit over El Capitan, and is good advice for other reasons.

The third recommendation would give the City the water from Sutherland which is also a good plan.

While the first recommendation provides for the building of El Capitan. His argument for the building of El Capitan

appears in the following paragraph:

"EL CAPITAN.

A dam at El Capitan built 200 feet above stream bed, with net safe yield of 11 million gallons per day would cost about \$9,000,000. Mr. Savage's estimate of the cost of water is 16.05 cents per thousand gallons. The construction of El Capitan as a separate unit would be the most expensive development upon the river. Development of a dam at El Capitan in conjunction with a 215-foot dam at San Vicente would give a larger safe net yield than the combination of any two dams that could be built. The safe net yield of El Capitan is 11 million gallons per day and of San Vicente 3.5 million. The available storage at San Vicente would be considerably greater than would be required for its drainage area, and the reservoir at El Capitan would not have storage capacity enough to conserve the waters of its watershed.

By connecting the two reservoirs with a five-foot pipeline it is possible to increase the safe net yield of the separate drainage areas from 14.5 to 20 million gallons per day by diverting the water from El Capitan during the summer months to San Vicente and having available storage at El Capitan to catch all flood runoff. ~~The total cost of this development, with a pipeline to the City from El Capitan, a 200-foot gravity arch type dam at El Capitan, and a 215-foot gravity arch type dam at San Vicente would be approximately \$12,500,000. The cost of water to the city would be about 11 cents per thousand gallons for final development. I might add right here, that water from our present system is costing 19 cents. This last combination of reservoirs will give the most water from the river and will support an additional population of 200,000. It would conserve the water in the reservoirs at the greatest depth and give least losses by evaporation.~~

After stating "The construction of El Capitan as a Separate unit would be the most expensive development upon the river", he suggests an ingenious scheme, not of reducing the cost of the dam, but of increasing its reservoir yield. The Council's scheme originally was for the Eastwood multiple arch dam, which contains less concrete than other types of dam, and later they shifted to the Jorgenson constant angle single arch dam. And now they finally approve the most expensive type of dam it is possible

to build - the solid concrete gravity dam. So that now the question arises, is the Rhodes scheme feasible of increasing the El Capitan yield by hooking the reservoir up to one at San Vicente with a five foot pipe line?

A detailed study based on the data contained in the Savage report shows that the joint operation of a 119,000 ac. ft. reservoir at San Vicente and a 122,000 ac. ft. reservoir at El Capitan by a five foot connecting pipe conserving a reasonable portion of the spills at El Capitan, would give a safe yield of 18.3 million gallons daily. The total spill shown in the Savage report at El Capitan is 274,000 ac. ft., and it was estimated 181,000 ac. ft. of this would have wasted. It was assumed the capacity of the pipe line was 125 sec. ft., or 7500 ac. ft. per month. A yield of 18 m.g.d. for the two reservoirs was also obtained by operating El Capitan independently and assuming the dam to be high enough to prevent all spills.

But this yield of 18.3 m.g.d. is with no allowance whatever for water for the riparian lands in the forty miles of river bottom lands between these dams and the ocean. There are over 5000 acres of these privately owned lands under cultivation at the present time, with two hundred or more pumping plants. This means a net irrigation requirement of from 5,000 to 10,000 ac. ft. annually or from 4.5 to 9 million gallons daily, with allowances made for return water to the ground storage. The Cuyamaca Water Co. as owners of riparian rights acquired when they built Cuyamaca Dam, have pumped thousands of acre feet during dry periods into their flume. With the stream flow of the river

bottled up water tight by two big dams, these river bottom lands will be left as high and dry as though on top of Otay Mesa. The natural normal depth to the water plane under these lands is from 8 to 15 ft., but with all replenishment cut off from outside drainage areas, this water plane certainly will drop to 15, 20 and 30 ft. below the surface, which would mean that many of the outlying and upper sections would be entirely dry. A hydrograph of the San Diego River water plane covering a period of 13 yrs. shows what happens during one of our dry spells, when the flow of the river is reduced to a minimum for several successive years - there is a continuous descent year after year from the peak of the wet season to a point 10 or 15 ft. lower. The San Vicente and El Capitan dams, with no spills and no releases, bottling up the river at those points like a jug, would produce a continuous and perpetual drought in these river bottom lands, in other words, ruining their value as among the best farm lands in the county.

These land owners cannot be expected to sit idly by while being deprived forever of their present cheap water supply. The Coronado Water Co. has been trying for several years to pump 5 m.g.d. from the Tijuana River bottom, but is blocked by court injunction by the riparian owners, although they possess official permission to do so from the State Water Commission. Likewise, permission from the Federal government to build El Capitan does not settle the water rights on the San Diego River. The San Diego County Water Co. years ago at a large expense bought up all the riparian rights on the San Luis Rey River from the dam to the ocean. Before Hodges Dam was built it was necessary to guarantee the water rights of the riparian owners below. Although the City

of Los Angeles, after a long fight, won its suit against the San Fernando ranchers, they are now actually furnishing water to this land, for the good of the whole community.

In the light of these indisputable facts, it is absurd to attempt to turn the entire flow of the San Diego River at the San Vicente and El Capitan damsites into a net safe yield estimate. No other engineer ever has attempted to do so. Mr. Freeman dwells on this matter at length, and advises that the riparian owners be supplied with water by direct pipe line from El Capitan. He estimates the El Monte lands alone will require releases of 2 to 4 m.g.d. Reclamation engineer, John S. Longwell, in his detailed report of Feb., 1920, estimated that a release of at least 1.6 m.g.d. would be required for these lands. In addition to these requirements will be those for all the district between Lakeside and Foster and Lakeside and the ocean. A conservative estimate of the total releases from El Capitan and San Vicente to satisfy the riparian owners below would be 4 million gallons daily.

The yield of these two reservoirs, therefore, would be reduced from 18.3 m.g.d. to 14.3 m.g.d. or 28 $\frac{1}{2}$ % less, with a corresponding increase in the cost per thousand gallons of yield. Which means that the building of these two dams not only would stir up a hornet's nest of lawsuits but would develop water at twice the unit expense of the lower Mission Gorge site No. 3. This gorge is the only deep water storage gorge in the county - an enormous chasm out of the Poway Mesa, and all mean depth and yield curves below a capacity of 44,000 ac. ft. show it to be far superior to anything else in the county. And another great advantage is a freedom from lawsuits. With a wet season this

coming year, the City could start a dam there now and be drawing water from it within a year and a half, thus reducing the expense by getting early returns on the money invested. With all the legal and construction difficulties with which El Capitan is hampered, it would be many years before the dam would pay any returns - thus running the cost of the water up enormously. A 230 or 250 ft. dam first at Gorge No. 3 site and the other dams later would be the safe and wise development of the river.

JAN 24 1919

Intake to flume at Diverting Dam -----	811 feet
Elevation of flume at El Capitan Damsite -----	755 feet
Elevation of river bottom at El Capitan Damsite -----	563 feet
Elevation top contour of 160 ft. dam at El Capitan Site -----	723
Elevation Conejos Reservoir Outlet -----	1580
Intake to South Fork feeder which handles Conejos water -----	797
Grade at junction of South Fork Feeder with main flume	773

all Elevation referred to  
U S G S Datum

TWK

~~Dec~~ Jan 24 / 19

**Ed Fletcher Papers**

**1870-1955**

**MSS.81**

**Box: 61 Folder: 2**

**Business Records - Water Companies -  
Cuyamaca Water Company - El Capitan  
Dam - Office file: expenses, tables, etc.**



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