P.O. Box 241, ET Coson, Colif, April 1935 Senator El Flelelin, State lafet of Bly., Sacramento, California. Vear friend brond Fletches:fust been received I will do my best to give you the muformotion which you have requested. It seems that philip Marin: met other rawhere attention a meeting at Lakesile power two in three weeks rago must that the said meeting was aldressed by Pole, who as you know took Me Savages place as Hydrawlie Engineer for the life of San Digo. Sam milned that Martin asked pyle home greations and left the said meding considerably upset as to the water right situation. Same Livelley informed What Marlin then went to see Attriney 5.5. Haling Planyer in E. W. Scriffes, (without any nutherity or little finition— Suctions) and that Halm referred markers back to hinter Aller S. S.A. seems that Martin failed to get anywhere with either Halm or Hillyan. expressed strong officitions to July bruklings being retained to handle this states question. This is afformally the reason why Martini leas relainef Wirt Francis in the matter. Ballentine tell me that mathin was very fearful that if the purt was not

filef before March 31st 1935 (which is exactly five years from Ville date of the Supreme (Just Decision) the unalus coul not thereafter file sent at alf. Apparently Martin became all exity what that print and got several land surners to goin with him nu sustituting settori un Superior low through Mirt Francis. Swant to make it putitly clear flat Swan mot consulted in any of this and it is may belief that mules Mit Francis can get fleedge Cukling to fine lime in the Rotrois as accounts consel and the mother token into Federal lower, Canfint moder any consinutances in any State lower philip mailing and the ollin frantices will get linked in the first rowned. I have buil for years to settle this matter during which Tune Shave apent at considerable sum of morney and a very great du of time. I believe Scoulf have defeated Duers in Martington three years age before the public Louds Committee. Byers has since itelf me that he realized that I had him licked and he has thanked me for letting a drimb guy "gr back there. The only way to have keft the "dunt- guy" from gring back that was to have tief lim up to keep lim lorne. He paid al of his own expenses. Many people out here have expressed suspicions of me and have about of representing your, or the lety of Sandings. It is true that I have devoted for more time out stated a cruse than my small nivertinent will ever justify. The buth is that I have been working entirely in endrawoning to right the wrong that has been done to the poor landowners - for their good for more than my own. I am sure that you realize Must heaftle sometimes fail to Mank in or affirewate our

experiences the same thing. It is my opinion that the Federal Link shoulf be pelitioned to adjudicate the mater Right as between the lift of San Diego zulthe Lanfourners. The so called framewort Right Decision does not give the City full right to of the moster must the respective right should be determined and adjudicated by an order from the Federal Court. A Federal Lourt Bould not refuse such a petition and such an adjudication would be made as would prove very favorable to all lawlernors. Such an application to the salval Court for such a Court proce (or advice of the lout) would not actail much expuse and mather would it be possible to the tity to offere it. Judge brukling will handle this very reasonably and succeptilly, I believe. I wrote Me E. M. Seriffes and soked him to let me know when be wanted me to talk with S. S. Halm. My letter has mow bein your for over a month and Shaw received no right. Me doubt Swiff be bearing from him in due course. Delies My Scrips also received one of philip Martins letters out agreement and thinks it come from me I If so, Saw not surfrise of have not hearf from him as the Marlin proprietion is entirely different from the plan I discussef with Sheline it would be fair that gust for each landsome to contribute fifty court pur acre to a for part of which would be conlinguet upon success) for our equitable selllement in Federal land. This is the plan of finance aborales by me. I further believe that since Wirt Francis has been relained by marchi and has streety alerted print against the dity in superior court, it is of greetest importance that you and b. M. Scriffs refly to marking Settles (leginiting to went Francis) stating that you will goin in by contributing fifty cents per our if fully buthing is retaining

as describe Course in a Federal But delini. Auf if puch actions is successful in restoring the water right, you will pay lifty could per some for des Disson of Tubarian lunger benefit som offen would make a red inducement for Wirt Francis to mile bubling into the case. In my opinion toubling is the only man who can liek the dity in this malles. If Conkling is left out, I predict the landowners will suffer failure - not because of any lack of effort whom the part of philip Marlin or Wirt Fancis, but because of lack of the necessary sincide knowledge. Sbeleine it to be of vital misortance Mot Elios suggestion be minuediality made to E. W. Seriffs. Houng seriff mulussef me as being theory linerable and Swoolf sincerely dislike seeing lim los line water right on Frank Rank because of the inguirance un mustakes of other people. Aluf 23 rd the dity votes on an amendment to the life that to Cruste a Water Board, former Board and Surage Ourfood Brand. St Clis carries the city will in due course attempt to have it califiefly the State Signistatione. Sections I of the proposed amendment states in part x xx and the said city is lurely declared to leave the full and free use of all of the water of the San Diego River from its some to its mould and alf of its tributaries both above grown and below xxxxxx." Even if this amendment carrief by majority wole, the State Legislature should referre to ratify it for the reason that it is obviously a thick on the gent the State Segestature to ratify something in the way of San Dieg River Waty Right which even The so called State Supreme Court paroment Right Decision Life not clearly define as entirely belonging to the said city. Mow Blones, Sakologige for writing your of

such length reform their outpect - when for the fact that I have not has this letter typewritten. I am lawing for the Blate of Met for two weeks buismens buf early it the morning - Sonsquently Mere is mortime to type this Every living contained in this litter is for your suformation stand must of course be but of confidulated. I congrabulate you upon the splustif work which you de putoring for the people of your district. If we lieve always done splenlif work, you possess remarkable ability with the property with the people of your possess remarkable. I will return linne on in about affile. Smarify Junes The Holisi

P.S. Lendre some news paper clippings. Reallem if you wish, but please return them at your bonnewiener. I will Alani the papers containing the items for your if you like will Alani the papers containing the items for your if you like

Riparian Owners Are Not Injured

Phillip P. Martin has received from the house of representatives in Washington, a copy of an amendment to the bill grating to the city of San Diego certain rights in the El Capitan Grande Indian reservation for dam and reservoir purposes which states in section 2 of the amendment: "Nothing contained in section 1 hereof shall be held, deemed or construed as affecting, altering or in anywise changing the rights of the riparian land owners under the provision in the act approved Feb. 28, 1919." This report, although contrary to San Diego reports, is authentic and should be of great interest to owners along

COURTS UPHOLD RULE RIPARIAN LAW DEAD

SAN FRANCISCO, March 1 (A.P.)-The state supreme court today affirmed its far-reaching decision overturning the trory of riparian water rights in existence in California for 50 years. On Feb. 1 the court declared "the right to waste water is no longer included in the riparian rights of California and water resources must be put to the greatest beneficial use of which they are capable." A number of landowners in Gordon valley tried to stop the city of Vallejo from impounding flood waters of Gordon Valley creek. Today they were denied a rehearing. SATTIBUTE 3/1/35

XPLAINS JOKER IN DAM BILL

Conference Set for June 9
After City Attorney Breaks
With Cosgrove; Blames
Laxity in Past Litigation.

The widely heralded victory in San Diego river water litigation is a hollow one and the battle which has required 16 years to date will have to be fought over again before the city can safely invest its money in development of the upper reaches of the river, City Attorney Frank H. Heskett told the mayor and council yester-

Hitting straight from the shoulder, Heskett said that laxity in conducting the litigation has left 25 riparian owners on the river in a position to keep the city in court indefinitely and that the El Capitan dam bill passed by congress years ago might be construed so that the city would have to furnish water to everyone on the river below the dam, leaving virtually nothing for the city.

Thunderstruck, the council set on bot plans for calling a special election to make El Capitan bond funds vailable for development at Los adres, which has been recommended by all the expert engineers the city has ever retained on river problems.

The same election probably also will call for transfer of surplus Otay pipe line and Chollas reservoir enlargement funds to the river development, as the city attorney ruled that these transfers could not be made without a vote of the people. A two-thirds majority will be required for the transfer.

A conference was set for June 9 to determine the course the procedure should take to develop water for the

In informing the council of his views on the river altuation Heskett broke sharply with T. B. Cosgrove, who has been employed as special water counsel, Heskett refused to permit the attorney to dictate the city's water policy or the policy of the city attorney's office.

"The city made a mistake in paying the government \$351,000 for Cap-



A move their would start construc-tion of El Capitan pipeline within the next three months was started

line above the dam would be available for highway purposes.

Under a water compromise with the district, the city gave the district storage rights in El Capitan and joint use of the pipeline from the dam to the district pumping plant at El Monte. The district in return abandoned its litigation against the city, gave half of El Capitan dam site to the municipality and agreed to pay the difference between the cost of a 36-inch pipeline and a 48-inch one. A 36-inch line would handle the city's water from El Capitan.

(Continued from Page One)

was awarded and the other half

was awarded and the other half in two annual installments.

Under the present plans of the district it would use its share to start a 48-inch pipeline from El Capitan and carry it as far westward toward the city as the money would permit.

The council directed City Attorney Byers and Hydraulic Engineer Pyle to confer with Lee and Engineer Harritt of the district to determine what the district's share of

termine what the district's share of the cost would be.

Byers tentatively gave an opinion yesterday that the arrangement proposed by the district is a fine proposal and cannot damage the city in any way.

In the event that the city is not ready to complete the pipeline after the district has built its portion, and the district wants some of its stored water at El Capitan it could pump from the new line to the district flume below El Capitan, Lee said.

the next three months was started by the La Mess, Lemon Grove and Spring Valley Irrigation district yesterday in a letter to the city council. The district, which is to pay part of the cost of the pipeline from El Capitan to the district pumping plant six miles from the dam, proposed that this part be expended on a section of pipeline starting from El Capitan and that the work be put under way at once.

This would aid the city by setting at rest reports that the district would not pay its share of the pipeline if the city built the line and also would aid the district in its refinancing and construction deals with the government, Albert J. Lee, attorney, informed the council. Also it would make almost immediately available a right-of-way for a road around El Capitan, as the old flume line above the dam would be available for highway purposes.

of "beneficial use" of water, the attorney general said, has established a doctrine under which "California can utilize all of the water within her boundaries.

"The waters of the state are free from the bondage heretofore existing," he continued, "for this new freedom and new opportunity the people may well be thankful." "Flood waters heretofore wasted

ence between the cost of a 36-inch pipeline and a 48-inch one. A 36-inch line would handle the city's water from El Capitan.

The district was to pay one-half the cost of its share of the pipeline within 10 days after the contract (Continued on Page 2, Col. 7)

The prohibitive price heretofore demanded by riparian owners may no longer be demanded. Industry and agriculture are thus free from the payment for water previously wasted.

Wasted."

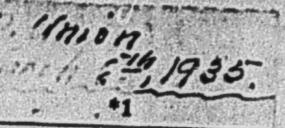
The supreme court's authority was a constitutional amendment adopted in 1928.

The right to the waste of water." said the court, "is not included in the riparian right."

Riparian owners along Sulsun creek in Solano county had sought to prevent the impounding of waters of Gordon Valley creek by the city of Vallejo, claiming they needed the water to flood their fields to carry off the sait content in the soil, and needed the pressure to force water into land strata underlying their fields.

The riparian owner is entitled to any beneficial use of the water and protection for future beneficial uses, but otherwise he has no right to keep others from using the water, the court said, under the 1928 amendment.

water, the court said, under the 1928 amendment,
"The mandates of this amendment are plain and admit of no exception, said the decision. When the supply is limited public interest requires there be the greatest number of beneficial uses which the supply can yield."



Request of several landowners in the San Diego river valley for right to pump water from their lands for use on their lands was filed by the city council yesterday as assertedly hazardous to the city's paramount water rights on the river. .

The landowners said they wanted the matter submitted to the people as part of a proposed water and power bureau amendment. They sald they have been unable to get federal financing because of the city's paramount rights on the river and feel that the people here do not want to deprive the landowners of the right to pump water on their own lands.

City Attorney Byers advised against submission of the request. He said it might be construed as limitation of the city's water rights on the river and might subject the city to damage claims in the event that wells dried up. He added that he is trying to aid landowners by endeavoring to work out some sort of three-way contract between of three-way contract between the owners, the city and the govern-ment, which would enable the owners to get federal financing.

Sau Piece Lairent Harris 1/2. Sau Piece Lairent Harris 1/2. To condest the asserted paramount rights of the city of San Diego to waters of the San Diego river, suit demanding radiudication of water

waters of the San Diego river, suit demanding "adjudication of water rights" was instituted in superior court today against the city and against Cuyamaca Water Co. and the La Mesa, Lemon Grove & Spring Valley Irrigation district by Philip P. Martin, former County Supervisor Charles L. Good and other visor Charles L. Good and others, numbering 23 plaintiffs in all, as owners of lands in the bed of the river.

In the order named, the plaintiffs were listed as follows: Martin, Anna Mae Martin, Montraville G. Robbins, (Continued on Next Page, Col. 6)

CITY NAMED IN SUIT OVER WATER RIGHTS

CONTINUED FROM PAGE ONE Marie S. Walker, Reynolds M. Kalstrom, Mary C. Kalstrom, W. H. Walker, Elizabeth M. Walker, Ed M. Walker, Good, James Ballantyne, Nellie E. Ballantyne, Samuel L. Chesley, Eva Jones Chesley, Mary Elizabeth Richardson, Frederick B. Walker jr., Harry K. Scidmore, Douglas McClain, Winifred G. McClain, George W. Gibson, Alice B. Gibson, Adolph Levi and Edgar B. Levi. Levi.

The suit alleges that the plaintiffs are suffering damage on the ground that the newly-constructed El Capitan dam reduces seepage below the river surface as well as the surface flow and that the city also is pump-ing water from river sands below the dam. In demanding adjudication of water rights, the plaintiffs seek damages, the amount, if any, to be fixed by the court.

PASSES IN S. D.

San Diego's water shortage was a thing of the past today.

Hydraulic Engineer Fred D. Pyle reported that San Diego's seven major reservoirs are 42.5 per cent full, the highest figure in months. El Capitan has 716,000,000 gallons of water. The other reser-voirs contain nearly 29 billion

CITY SUED ON WATER RIGHTS

WATER SHORTAGE

Take Capitan Dam Charges To Court

Southiegh Sum, Shares 2000. the San Diego river, below El Capitan dam, today filed suit against the city of San Diego asking the courts to determine their riparian water rights on that

The plaintiffs headed by Philip P. Martin, of Lakeside, declared that construction of the dam has taken "water rightfully belonging to the residents," and asked the court for an early adjudication.

Those filing the action in addition to Mr. Martin include Eva J. Chesley, Elizabeth Richardson, Anna M. Martin, M. G. Robbins, Marie S. Walker, Elizabeth Walker, Edward M. Walker, Charles L Good, former supervisor; Samuel L .Chesley, Eva J. Chesley as trustee under the will of James Chesley, Fred B. Walker, Harry K. Scidmore, Douglass McClain, George W. Gibson, Adolph Levi and Edgar Levi.

ON WATER RIGHTS AND OWNERS S.D. VALLEY

PROPOSED

Ed Fletcher Papers

1870-1955

MSS.81

Box: 72 Folder: 17

Writings and Interviews - Water History - "Oldtimers" interviews and letters re history (see also R. Choate and T. Van Dyke correspondence) - Robinson, Thomas B.



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