

EXHIBIT 1

BEFORE THE DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

oOo

IN THE MATTER OF APPLICATION NO. 3883 OF THE
SHEEP CREEK WATER COMPANY TO APPROPRIATE FROM SURFACE
AND SUB-SURFACE FLOW OF SHEEP CREEK, TRIBUTARY
TO THE MOJAVE DESERT DRAINAGE AREA IN
SAN BERNARDINO COUNTY FOR
IRRIGATION AND DOMESTIC
PURPOSES

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Decision No. 3883 D 119

Decided August 24, 1926

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APPEARANCES AT HEARING HELD SEPTEMBER 22, 1925, FEBRUARY
5, 1926, AND MARCH 9-10, 1926

For Applicant:

Sheep Creek Water Company

Swing and Wilson
By Ralph E. Swing

For Protestants:

James M. Oliver, A. J. Wheeler,)
Sumner B. Wright, Kate S. Wright,)
Wrightwood Beneficial Owners,)
Pacific Southwest Trust & Savings Bank.)

Leonard, Surr & Hellyer
By Mr. Surr and
James M. Oliver

El Mirage Land Owners Ass'n.

Mrs. L. L. Whitlock
Donald M. Baker

County of Los Angeles

E. W. Mattoon
E. T. Bishop
Ernest Purdum

For Certain Interested Parties:

E. H. Hess and Linford E. Hess

Mrs. E. H. Hess

United States Forest Service

Geo. H. Cecil
H. P. Dechant

EXAMINER:

Edward Hyatt, Jr.
Chief of the Division of Water Rights

O P I N I O N

On June 12, 1917, the Sheep Creek Water Company filed application No. 12-718 for a certificate of diligence requesting that a time be prescribed for complete application of water to beneficial use.

Due consideration having been given to this application, a field investigation having been made, and the Water Commission having found that the project had merit and that a bona fide attempt had been made toward the completion of same, Certificate 12-5 was granted on September 19, 1918, allowing until December 21, 1921 for the complete application of the water to be applied to beneficial use.

Due to adverse conditions prevailing at that time, the Company was unable to complete the project within the time specified and a further extension was granted until September 1, 1923, the Company being advised that if it were unable to complete the project within the extended time, it would be advisable to file a new application under section 11 of the Water Commission Act and ask for the revocation of the former application.

The Company failed to complete construction work within the extended time and accordingly filed application No. 3883 on March 3, 1924.

Under application No. 3883 it is proposed to appropriate 4000 acre feet per annum throughout the entire year from Sheep Creek, surface and sub-surface flow, to be diverted at a maximum rate of 40 cubic feet per second, to storage in Horse Canyon Reservoir, which will have a capacity of 1300 acre feet. The surface waters of Sheep Creek will be diverted from a point in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9, T 3 N, R 7 W, S.B.M. and the sub-surface waters from a tunnel in the E $\frac{1}{2}$ of Section 9 and NW $\frac{1}{4}$ Section 10, T 3 N, R 7 W, S.B.B. & M.

The water will be re-diverted from the Horse Canyon Reservoir at a point in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T 4 N, R 7 W, S.B.B. & M. and used for the irrigation of 1920 acres of general crops owned by the stockholders of the Company and lying within Sections 12, 13 and 24, T 4 N, R 7 W, and Sections 7, 18 and 19, T 4 N, R 6 W, S.B.B. & M. The irrigation season will be from about March 1 to about September 30 of each year.

Application 12-718 sought to appropriate 18 cubic feet per second which is equivalent to 13,300 acre feet per annum, which is more than three times the amount of water named in application No. 3883.

The points of diversion named in the two applications are practically the same and the water was to have been used upon the same area of 1920 acres.

Application No. 3883 was completed in accordance with the Water Commission Act and the requirements of the Rules and Regulations of the Division of Water Rights and being protested was set for a public hearing at the law library of the Court House, San Bernardino, at 10:00 o'clock A.M. on September 22, 1925, re-convened and continued in room No. 818, Pacific Finance Building, Los Angeles, at 9:30 o'clock A.M. on February 5, 1926, and again re-convened and continued in room No. 818, Sun Finance Building, Los Angeles at 10:00 o'clock A.M. on March 9, 1926. Of the hearing, applicant and protestants were duly notified.

The protest of the Land Owners of El. Mirage Valley against application No. 3883 was filed October 21, 1924.

The protest was signed by 23 individual protestants who claim that they are land owners overlying a basin of underground water supplied by Sheep Creek, all of the water of Sheep Creek percolating into the basin,

that their right is based upon use by pumping from the underground basin, the first well being drilled in 1910, increasing in number until at the present time, there are about 100 wells in El Mirage Valley from which source a domestic and an irrigation water supply is obtained for at least 500 acres of land.

The protest of James M. Oliver, A. J. Wheeler, Sumner B. Wright, and Kate S. Wright as Wrightwood Beneficial Owners and the Pacific Southwest Trust and Savings Bank, record holders of title as trustee for aforesaid Beneficial Owners, was filed October 23, 1924.

Protestants claim that they are owners of about 1000 acres of land which are riparian to Swartout Creek, a tributary of Sheep Creek; that they are entitled to the use of the waters of Swartout Creek under riparian and prescriptive rights for the irrigation of a large portion of these lands; that during each irrigation season since 1888, except in one or two years of extraordinary heavy rainfall, all of the waters flowing in Swartout Creek and Sheep Creek have been used by the protestants and their predecessors in interest for irrigation and domestic purposes, and that during most of the years, the water flowing in the stream has been insufficient to adequately irrigate the crops growing upon said lands; that at the present time, the protestants are making arrangements for extensive subdivision of said lands and have already subdivided a large portion thereof; that if the application was approved it would result in the construction of a permanent drain which would very substantially lower the water plane for a great distance in all directions from the head of the proposed tunnel, thereby draining into said tunnel waters which would otherwise enter the ditches of the protestant; that the proposed diversion

will divert water from the watershed of Sheep Creek, where it rightfully belongs, into another watershed.

The protest of the County of Los Angeles was submitted at the hearing on Sept. 22, 1925.

Protestant claims a riparian right to the use of the waters of Swartout Creek and rights under permits issued by the Division of Water Rights on applications 3868, 3869, 3870 and 3878 for use in a public park and recreation camp, and allege in effect that the proposed development and use of water by the applicant would result in such underground drainage and depletion of the natural storage supply as would materially lower the water plane, rendering the sources relied on by protestants unavailable and the supply required by protestants' needs for domestic purposes entirely inadequate.

Relative to the protest of the Mirage Valley Land Owners, it may be said that while upwards of 75,000 acres of land in Mirage Valley appear to have been taken up under Desert or Homestead entries, very little land has actually been irrigated, and practically no crops have been harvested, the little irrigation that has been practiced being that required to prove up on a desert land entry, after which the land has reverted to its original condition, little if any benefit being derived from the crops planted.

In the years 1917 and 1918, there appears to have been about 50 families residing in the valley and about 200 acres of land irrigated, but at the present time, there are about 1/3 as many families and a maximum irrigated area of about 17 acres. That many were holding on to their properties for speculative purposes only, hoping that some day transportation facilities would be available, was clearly brought out at the hearing.

While Sheep Creek may contribute something to the underground supply

of Mirage Valley, it is not the only source of supply. It appears as likely that Mirage Valley and its surrounding country receives also the runoff from a large area of the northerly slope of the Sierra Madres, the main drains of which aside from Swartout and Sheep Creeks being Boneyard Canyon, Le Montaine Creek, Mescat Creet, Deadmans Canyon and Bob Canyon.

Much stress was laid at the hearing by the protestants upon the fact that there is a divide which prevents the waters of Sheep Creek from reaching the lands of the applicant, and that any diversion made by the applicant would take water from the watershed tributary to Mirage Valley and carry it into a foreign watershed.

An inspection of the map which was made to accompany the Report of the Mojave River Commission would appear to indicate that the flow of Sheep Creek is in close proximity to the so-called natural divide between the two alleged watersheds, and as the underground flow of a stream has a tendency to spread out laterally from the stream itself, it is not at all unlikely that a portion of the underground waters of Sheep Creek finds its way northeasterly to feed an underground basin underlying the lands which the applicant proposes to irrigate. The entire country appears to be an alluvial fill made by an antecedent stream, and the fact that a low surface divide has been formed probably in recent years would not necessarily limit the easterly percolation of the underflow of Sheep Creek Canyon as it leaves the foothills.

Just what the actual conditions of flow of the underground waters are, can only be determined by a hydrographic survey. The fact remains, however, that there is water from sheep Creek during certain times of the

year which passes into the Mojave Desert, and which is either lost by evaporation or seeps underground and which is not being put to beneficial use, and as such is subject to appropriation.

There appears to be an uncertainty in the minds of many of the property holders in Mirage Valley as to whether or not they would be injured by the proposed diversion. This was made evident at the hearing by Mr. Joseph L. Greene, Vice President of the El Mirage Valley Landowners, who made the following statement:

".....I believe that the majority of the property owners out there feel that the Sheep Creek development would not interfere with the supply of our water,....."
(Transcript page 298).

In view of the above discussion, the protest of the Mirage Valley Landowners may be dismissed.

The real controversy is between the users of water in Swartout Valley and the applicant, and is over the proposed underground flow appropriation. They are not concerned with the waters which flow past them as surface waters, and admit that there are seasons when there is considerable surface water which passes down stream which no one uses.

Sheep Creek, just below its junction with Swartout Creek, flows over a gravel filled basin confined between bedrock on either side. This basin varies in width from about one-quarter of a mile to about one mile and extends for a distance of about four miles northerly from the junction of the two streams to where Sheep Creek debouches on to the Mojave Desert.

In the spring of 1917, the Sheep Creek Water Company sunk a vertical shaft which for the sake of identification we will call "Shaft B", through the Sheep Creek wash to a depth of 177 feet below the surface of the canyon, at which level the surface of the ground water was encountered and in the

fall of the same year, the surface of the ground water lowered about 5 feet which enabled the shaft to be extended to a depth of 182 feet. The shaft is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9, T 3 N, R 7 W, S.B.M. about 1000 feet from the stream bed of Sheep Creek and about 1200 feet from the proposed point of surface diversion named in application No. 3883.

Fifteen feet above the bottom of this shaft, a tunnel was driven upstream in a general southwesterly direction for a distance of about 440 feet, but has since been temporarily abandoned, the Company having considered that in order to intercept the ground water flow at bedrock, another tunnel should be driven further south which would penetrate the gravels at a greater depth. A flow of 13 $\frac{1}{2}$ inches of water was intercepted by the abandoned tunnel.

Work on the new tunnel was commenced in the fall of 1923, starting with an open cut at a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, T 3 N, R 7 W, S.B.M. and extending in a general southerly direction toward "Shaft B". About 500 feet of open cut has been made and about 2000 feet of tunnel driven, it being the intention of the applicant to continue the tunnel until the underflow is intercepted, even extending it, if need be, about 1000 feet further to "Shaft B" at which point it will be 120 feet below the bottom of the present shaft, or a total depth of approximately 300 feet below the natural surface of the canyon. The Company appears to be satisfied, however, that bedrock will be encountered before the tunnel has been driven to this point.

The tunnel follows up the Creek as near as it was possible for it to be constructed through material consisting of boulders and cobbles interspersed with fines brought down by the wash from Swartout Creek on a grade of 3 feet in 1000.

A short distance to the north and west of the entrance to the cut or tunnel, another shaft had previously been sunk to a depth of 197 feet which had two feet of water in it. This shaft will be designated as "Shaft D".

The difference in elevation between the ground water surface as located by the sinking of Shafts B & D is approximately that of the difference in elevation of the canyon floor at their two points or about 200 feet, which would appear to indicate that the gradient of the surface of the underground flow between the two shafts is about 200 feet in 3800 feet. Mr. Hinckley estimated that the percentage of voids through which the underground water would travel was about 20%.

Although the exact amount of under flow is not determinable, there would appear to be an underground flow flowing down Sheep Creek Canyon which is pretty well defined between the walls of the canyon, the depth to bedrock being unknown, but approximately 200 feet in depth. Mr. Lippincott estimates that the top width of the underflow from wall to wall is about 660 feet and the depth 170 feet below the water level at a point apposite the present heading of the tunnel. This cross-sectional area would of course vary at different points along the canyon.

The interested parties, both applicant and protestants, all agree that at the lower end of Swartout Valley there is a closely packed formation, or debris cone, the voids of which are filled with fine materials acting as a binder or cement which forms a natural impervious barrier or dam across the Swartout Canyon just above the junction of Swartout and Sheep Creeks. That this natural barrier causes the ground water to rise to the surface is shown by the testimony presented at the hearing which indicated that between the pumping plant of the protestant S. B. Wright, which is located about a mile and a quarter above the junction of the two streams near the center of Section 8, T 3 N, R 7 W, S.B.M., and the intake to the upper Heath Ditch, about three quarters of a mile below the pumping plant, there is an increase in the flow of the creek and that at times the valley

fill above this impervious barrier becomes water logged during a wet season.

Below this debris cone the surface of the underground water appears to drop and is no longer in contact with the surface water at the intake of the lower Heath Ditch which is located near the junction of the two streams.

The shaft designated as "Shaft B" to which the tunnel will be driven, if occasion demands, is a little over a mile from the point of rising water and between these two points the exact surface of the underground water is not definitely known, but facts would indicate that the underflow of Swartout Creek flows over the debris cone through rather coarse material for some distance from the pumping plant and then plunges at a very steep slope into the gravels below the junction of the two streams.

The amount of water which the applicant would be able to develop from the underground source is indeterminable. The quantity, however, would probably be small and unless the impervious dike or debris cone near the junction of Swartout and Sheep Creeks is penetrated, the effect of the diversion would be negligible on the level of the underground waters in Swartout Valley, west of the point of increasing surface flow which lies somewhere between the Wright Pumping Plant and the junction of the two streams, depending upon the season of rainfall and runoff.

Below the point of maximum surface flow, the testimony presented at the hearing indicated a gradual lowering of the underground water plane below the creek bed and it may be that the applicant's underground diversion would have a tendency to lower the plane through this section still further but it would result in no appreciable injury to the protestants, the only

effect being that it might increase the seepage in the lower Heath Ditch.

It is not the intention of the applicant to penetrate the impervious dike at the mouth of the canyon, but if this should be done and the taking of the underground water would result in injury to the protestants, the protestants would have adequate recourse thru the courts. The burden of safeguarding the present legal rights of the protestants in this matter is upon the applicant.

The property of the County of Los Angeles lies at the upper end of Swartout Valley and is so far removed from the proposed underground diversion that in our opinion no injury would result to them.

The protestants claim that the underground waters which the applicant is seeking to appropriate are percolating waters over which the Division of Water Rights has no jurisdiction.

According to Section 42 of the Water Commission Act,

"..... Whenever the terms stream, stream system, lake or other body of water occurs in this act, such term shall be interpreted to refer only to surface water, and to subterranean streams flowing through known and definite channels....."

From the testimony presented at the hearing, it would appear that the underground flow passes through a known and definite channel and although the rate of the flow may be very slow and may be said to "percolate" through the gravels, it is nevertheless flowing toward the desert through a definite channel formed by the walls of the canyon on either side, the surface of this flow being located through a certain portion of the canyon by the sinking of the two shafts.

Percolating waters may or may not be subject to appropriation depending whether or not they are flowing through a known and definite channel.

Percolating water as defined in the case of Vineland Irrigation District vs. Azusa Irrigating Company, et al., (126 Cal. 486) at page 494, would not come within the jurisdiction of the Division of Water Rights. In the decision, Justice Henshaw makes the following statement:

"..... It is essential to the nature of percolating waters that they do not form part of the body or flow, surface or subterranean, of any stream. They may either be rain waters which are slowly infiltrating through the soil, or they may be waters seeping through the banks or beds of a stream, which have so far left the bed and the other waters as to have lost their character as part of the flow....."

Percolating waters which form a part of the subterranean flow of a stream, however, do come within the jurisdiction of the State Water Commission as defined in the case of Los Angeles vs. Pomeroy, 124 Cal. 597, decided in 1899. The character of the water in the case may best be described by the following headnotes as taken from this case:

Headnote 10

Percolating Water - Subterranean Flow of River - Value of Land - Percolating water which forms part of the subterranean flow of the Los Angeles River, and which is moving in the same direction with it, through the lands sought to be condemned, does not belong to the owner of the soil, and cannot be taken and conveyed away by him to other lands for sale: and where the supply of percolating water which might be so removed is of slight value, and might be wholly interfered with by drainage on adjoining lands, a verdict fixing the value of the land at its market value for agricultural purposes will not be disturbed upon appeal.

Headnote 11

Percolation not inconsistent with Stream - Defined Channel - The fact of percolation is not inconsistent with the idea of a stream, when it is caused by the waters of a subterranean stream passing through the voids of loose, permeable, matured filling, or partially obstructing the channel of the stream, and when the material through which the water forces itself, fills a well defined channel with impervious sides and bed.

Headnote 12

Diversion of Underflow or Percolating Water - The owners of

Headnote 12, con'd.

the soil cannot divert any part of the underflow of subterranean water forming part of the stream, whether such water would or would not reach the surface stream of the river; nor can he divert percolating water if the effect would be to cause the water of the stream to leave its bed to fill the void caused by such diversion.

Headnote 14

Rules of Surface Streams applicable - Subterranean streams flowing through known and definite channels are governed by the same rules that apply to surface streams.

Headnote 15

"Defined" and "known" Channels - Reasonable Inference - The channel of a subterranean stream is "defined" when it is contracted and bounded though the course of the stream may be undefined to human knowledge; and its course is sufficiently "known" when it is the subject of reasonable inference.

Headnote 16

Inference as to channel - Submission to Jury - Where the boundaries of the channel and the existence and course of a subterranean stream in the lands sought to be condemned are not defined or known, otherwise than by inference from the evidence, and it might reasonably be inferred therefrom that the channel was bounded and defined by the sloping sides of hills meeting underground, and that there was a subsurface flow in that channel through such lands, corresponding with the known surface flow of the river outward through the gap, the court was justified in submitting to the jury whether the subsurface flow in such lands was a part of the stream.

Quoting from page 631 of the report of said case:

"The difference between counsel and the superior court at this point seems to be that to them all, water passing through sand, gravel and boulders is percolating water, and the mere fact of percolation is inconsistent with the idea of a stream, while to the court there is no such inconsistency when the material through which the water forces itself fills a well defined channel with impervious sides and bed, through which a considerable body of water flows from its source to its resting place"

The underground waters of the Swartout Valley and Sheep Creek, in our opinion, are similar to the waters as described in the last named case

and therefore come within the jurisdiction of this office.

Owing to the inavailability of runoff records of Sheep Creek over an extended period of time, various attempts have been made by engineers to compute the probable runoff from the estimated rainfall and comparison with the runoff of similar streams. The results of these various estimates are set forth in the following table:

| Engineer | Drainage Area | Total Average Runoff in A. F. per annum | Runoff A. F. per annum | |
|-------------------|----------------|--|---------------------------|-------------|
| | | | Surface | Underground |
| E. Hyatt, Jr. : | 11.75 sq.mi. : | 11,000 | : 5,500 : | 5,500 : |
| J. G. Van Zandt : | 11.8 " : | 14,756 | : 6,324 : | 8,432 : |
| Mr. Gillelen : | : | 12,000 | : | : |
| E. A. Rowe : | 10.4 " : | : | : 4,848 : | : |
| Mr. Lippincott : | 10.4 " : | : | : 3,640 : | : |

Mr. Lippincott did not believe that more than 1,100 or 1,200 acre feet per annum could be developed by the tunnel.

It would appear that the use of water in Swartout Valley had been very small. Less than 100 acres of land have been irrigated and together with stock watering and domestic use the requirements of the valley are very small.

That there is considerable runoff during certain times of the year is admitted by all the interested parties. Most of the runoff occurs during the winter months when it is not utilized by the water users in Swartout Valley and during the summer months there are occasional cloudbursts which flood the valley. This winter flow and occasional summer floods can only be utilized by means of storage, there being little or no unappropriated water during the irrigation season.

It has been the practice of the Division of Water Rights to limit the amount of proposed diversion to the capacity of the applicants diversion works. As the capacity of the proposed reservoir is only 1300 acre feet, it would appear

reasonable to assume that a total diversion of 3000 acre feet per annum would be as much as could be put to beneficial use in any one year from a reservoir of that size. This amount would not only be sufficient to allow a 100% replenishment but would be sufficient to care for evaporation and other losses. Testimony presented at the hearing indicated that the average use of the applicant would be even less than 3,000 acre feet per annum (Transcript page 115).

Although the amount of proposed diversion should be limited to 3,000 acre feet per annum the season of diversion should be throughout the entire year as stated in the application in order that the applicant may avail itself of the opportunity of collecting the flood flows which may occur at any time.

The use to which the water is to be put is a highly beneficial one and is absolutely necessary to the production of crops on the lands of the Company, and as we have seen, there is undoubtedly unappropriated water during certain seasons of the year, which is subject to appropriation, and which the applicant can put to beneficial use. There is, therefore, no reason why the application should not be approved for 3,000 acre feet per annum.

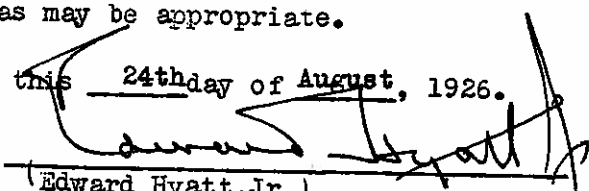
O R D E R

Application No. 3883 for a permit to appropriate water having been filed with the Division of Water Rights as above stated, protests having been filed, a public hearing having been held, and the Division of Water Rights now being fully informed in the premises:

IT IS HEREBY ORDERED that said application No. 3883 be approved for 3000 acre feet per annum only and a permit be granted to the applicant subject to such of the usual terms and conditions as may be appropriate.

Dated at Sacramento, California, this 24th day of August, 1926.

WES:CC


(Edward Hyatt, Jr.)
CHIEF OF DIVISION OF WATER RIGHTS

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

CERTIFICATE 851
APPLICATION 3883
PERMIT
LICENSE
DECISION 119

I, Josh Fernandez having custody of the files and records of the State Water Resources Control Board, State of California, do hereby certify that the attached

TITLE(S)

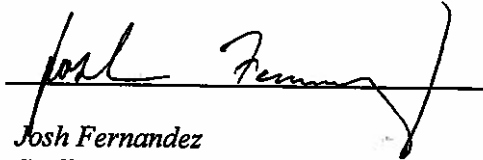
Decision No. 119 decided August 24, 1926 in the matter of Application No. 3883 of the Sheep Creek Water Company to Appropriate from surface and sub-surface flow of Sheep Creek.

Is a true correct copy of a public record on file in this office.

*WITNESS my hand and the seal of
The State of California on this day*

March 5, 2008

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in black ink, appearing to read "Josh Fernandez", is written over a horizontal line.

Josh Fernandez
Staff Services Analyst

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

+ + + + +

PACIFIC SOUTHWEST TRUST &
SAVINGS BANK, a corporation,
COUNTY OF LOS ANGELES, a
body politic and corporate,
ELIZABETH S. ADAIR, E. J.
ALGER, J. A. ALSHOUSE, GEORGE B.
CASE, O. P. DAVIS, FRANCES V.
DENTON, C. A. FAITHFULL, R. P.
FAITHFULL, J. L. GREENE, T. W.
KANE, KATHRYN MACDONALD, MAE
H. MACDONELL, W. T. MADDEX,
EARL E. PALMER, W. L. RICH,
DANIEL P. SHELLEN, L. L.
WHITLOCK, and S. E. WILSON,

Plaintiffs,

vs.

SHEEP CREEK WATER COMPANY,
a corporation,

Defendant.

No. 195605

COMPLAINT
(Injunction)

Come now the plaintiffs, and for cause of action allege:

I.

That the Pacific Southwest Trust & Savings Bank, a corporation, is a corporation duly organized and existing under the laws of the State of California, and having its principal place of business in the City of Los Angeles, County of Los Angeles, State of California; that said corporation has filed with the County Clerks of the County of Los Angeles and the County of San Bernardino, certified copies of its Articles of Incorporation filed in the office of the Secretary of State of the State of California.

II.

That the County of Los Angeles is a body politic and corporate and a political subdivision of the State of California.

III.

That the Sheep Creek Water Company, a corporation, is a corporation duly organized and existing under the laws of the State of California with its principal place of business in Victorville, County of San Bernardino, State of California.

IV.

That the plaintiff, County of Los Angeles, is now and at all times herein mentioned, has been the owner and entitled to the possession of the following described premises situated in the County of Los Angeles, State of California, to-wit:

The South one-half ($S\frac{1}{2}$), and the South one-half ($S\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$), and the North one-half ($N\frac{1}{2}$) of the Northeast Quarter ($NE\frac{1}{4}$) of Section 2, Township 3 North, Range 8 West, S.B.M., and the Northwest Quarter of Section 12, Township 3 North, Range 8 West, S. B. M., all of which is devoted to a public use, to-wit, public park and recreation camp.

V.

That the plaintiff, Pacific Southwest Trust & Savings Bank, a corporation, is now and at all times herein mentioned, has been the owner of and entitled to the possession of the following described property, to-wit:

The South one-half ($S\frac{1}{2}$) of the Southwest Quarter ($SW\frac{1}{4}$) and the Southwest Quarter ($SW\frac{1}{4}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section 1, Township 3 North, Range 8 West, S. B. B. M., and Lots 1, 2, 3, 4, 5, and 6 in Section 7, Township 3 North, Range 7 West, S. B. B. M., excepting those portions of the same included within a strip of land fifty feet wide which was conveyed to M. C. Rodgers by

deed recorded in Book 4877, page 116 of deeds.

The Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) and the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) and the North one-half (N $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter of Section 12.

The Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 1, in Township 3 North, Range 8 West, and Lot 9 of Section 6, Township 3 North, Range 7 West, S. B. B. M., all in the County of Los Angeles, State of California.

The south one-half of Section 8;

The South one-half (S $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 8; the South one-half (S $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 8, and the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 8.

The South one-half (S $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 7. The South one-half (S $\frac{1}{2}$) of the North one-half (N $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 7. The West one-half (W $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 7. The East one-half (E $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 7. The West one-half (W $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 16.

All in township 3 North, Range 7 West, San Bern-

ardino Base and Meridian, County of San Bernardino, ✓
State of California, save and excepting therefrom
all rights of way heretofore decided for road pur-
poses, commonly known and referred to as the
Wright Ranch.

Portions of Sections Nine (9), Ten (10),
Fifteen (15) and Sixteen (16), Township Three
(3) North, Range Seven (7) West, San Bernardino
Base and Meridian, in the County of San Bernardino, ✓
State of California, according to Government Sur-
vey, described as follows:

The East half (E $\frac{1}{2}$) of the East half (E $\frac{1}{2}$) of the
Southeast Quarter (SE $\frac{1}{4}$) of Section Nine (9),
Township Three (3) North, Range Seven (7) West,
San Bernardino Base and Meridian.

The Northwest quarter (NW $\frac{1}{4}$) of the Northwest
Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$); and
the West half (W $\frac{1}{2}$) of the Northeast quarter (NE $\frac{1}{4}$)
of the Northwest quarter (NW $\frac{1}{4}$) of the Southwest
quarter (SW $\frac{1}{4}$); and the Northwest quarter (NW $\frac{1}{4}$)
of the Southeast quarter (SE $\frac{1}{4}$) of the Northwest
quarter (NW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$);
and the north half (N $\frac{1}{2}$) of the Southwest
quarter (SW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of
the Southwest Quarter (SW $\frac{1}{4}$) of section Ten (10),
Township Three (3) North, Range Seven (7) West,
San Bernardino Base and Meridian.

The South Half (S $\frac{1}{2}$) of the Northwest quarter (NW $\frac{1}{4}$)
of the Northwest quarter (NW $\frac{1}{4}$); the Northwest
quarter (NW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of

1 the Northwest quarter (NW $\frac{1}{4}$); the Southwest quarter
2 (SW $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of the Northwest
3 quarter (NW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$); the
4 North half (N $\frac{1}{2}$) of the North half (N $\frac{1}{2}$) of the
5 Southwest quarter (SW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$);
6 The Southwest quarter (SW $\frac{1}{4}$) of the Northwest quarter
7 (NW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$) of the
8 Northwest quarter (NW $\frac{1}{4}$); the West half (W $\frac{1}{2}$)
9 of the Southwest quarter (SW $\frac{1}{4}$) of the Southwest
10 quarter (SW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$); the
11 Southwest quarter (SW $\frac{1}{4}$) of the Southwest quarter
12 (SW $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of the North-
13 west quarter (NW $\frac{1}{4}$); and the Northwest quarter (NW $\frac{1}{4}$)
14 of the Northwest quarter (NW $\frac{1}{4}$) of the Southeast
15 quarter (SE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of
16 Section Fifteen (15), Township Three (3) North,
17 Range Seven (7) West, San Bernardino Base and
18 Meridian.

19 The East half (E $\frac{1}{2}$) of the Northeast quarter (NE $\frac{1}{4}$)
20 of the Northeast quarter (NE $\frac{1}{4}$); the Southeast quarter
21 (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$); the North half
22 (N $\frac{1}{2}$) of the Southeast quarter (SE $\frac{1}{4}$); and the South-
23 west quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$)
24 of Section Sixteen (16), Township Three (3) North,
25 Range Seven (7) West, San Bernardino Base and Mer-
26 idian,

27 Saving and excepting that strip of land fifty (50)
28 feet wide across the East Half (E $\frac{1}{2}$) of Section Sixteen
29 (16), Township Three (3) North, Range Seven (7) West,
30 San Bernardino Base and Meridian, described as follows:
31 Being twenty-five (25) feet on each side of a center

beginning at a point in the North line of said Southeast Quarter (SE $\frac{1}{4}$) of Section Sixteen (16); eleven hundred ninety-five and three tenths (1195.3) feet East of the center of said Section Sixteen (16); thence South 54° 9' 30" East two hundred sixty-eight and five tenths (268.5) feet; thence South 69° 32' 30" East two hundred seventy-four and four tenths (274.4) feet; thence South 63° 17' 30" East nine hundred thirty-two and six tenths (932.6) feet; thence North 88° 28' 30" East one hundred forty-six and seven tenths (146.7) feet to a point in East line of Section Sixteen (16), being six hundred ninety-one and two tenths (691.2) feet South of East quarter corner of said Section Sixteen (16).

ALSO, piece of land one hundred (100) feet by one hundred (100) feet, described as:
COMMENCING at a point on the North line of Southeast quarter (SE $\frac{1}{4}$) of Section Sixteen (16), eleven hundred ninety-five and three tenths (1195.3) feet East of the center of said Section Sixteen (16), South 54° 9' 30" East two hundred sixty-eight and five tenths (268.5) feet; thence South 69° 32' 30" East two hundred seventy-four and four tenths (274.4) feet for a point of beginning; thence South 21° 16' 30" West one hundred twenty-five (125) feet; thence South 63° 17' 30" East one hundred (100) feet; thence North 21° 16' 30" East one hundred twenty-five (125) feet; thence North 63° 17' 30" West one hundred (100) feet to point of beginning, containing a tract of land one hundred (100) feet square exclusive of fifty (50) foot

2 strip of land above granted.

3 Commonly known as the Heath Ranch.

4 VI.

5 That at all times herein mentioned and for many years
6 last past, there has been situated entirely within the said
7 Pacific Southwest Trust & Savings Bank and County of Los Angeles
8 premises owned by the plaintiffs, numerous springs of water, lakes
9 and cienegas which unite and form a certain stream known as
10 Swartout Creek that flows in a natural channel and water course
11 adjacent and contiguous to and in the premises above described of
12 said plaintiffs; that said stream unites with and forms Sheep Creek
13 which flows in a natural channel and water course adjacent to and
14 past the premises of the plaintiff, Pacific Southwest Trust &
15 Savings Bank.

16 VII.

17 That all of said property is located in what is known as
18 Swartout Valley; that the main drainage channel or water course
19 carrying the surface waters is said Swartout Creek, which runs in a
20 southeasterly direction to its junction with Sheep Creek, which
21 Sheep Creek then extends in a northerly direction towards the Mojave
22 Desert; that because of the geological conditions existing in said
23 Swartout Valley, the water sinks in the washes of all canyons
24 tributary to said Swartout Creek and is impounded and restrained
25 within said Swartout Valley in two water basins, one lying southerly
26 of the San Andreas Rift and one lying northerly of said rift; that
27 said underground water so collected and retained in said water
28 basins is the source of supply for the said springs, cienegas and
29 lakes upon the premises of plaintiffs, as hereinabove set forth.

30 VIII.

31 That the said underground waters and said springs,
cienegas, lakes and the flow in said Swartout Creek and Sheep Creek
are necessary and indispensable in order that the lands of the

1 plaintiffs may be used in a beneficial manner.

2 That upon each of said tracts there are permanent tenants
3 and residents who need said water and use the same when available
4 for irrigation for watering stock and other animals, for culinary
5 and other household and domestic purposes and other purposes as
6 aforesaid.

7 That continuously since the year 1891, the plaintiffs
8 and their predecessors in interest, have diverted and beneficially
9 used for irrigation, stock, domestic and other purposes, all the
10 flow of said streams and all the flow from said springs, cienegas
11 and lakes except the excessive flood waters thereof.

12
13 II.

14 Plaintiffs further allege that the walls of said water
15 basins referred to in Paragraph VII herein are formed by said San
16 Andreas Rift and by deposits of sand, gravel, rocks, earth and
17 other materials cemented together by means of a silicious binder,
18 and that said walls are practically impervious to water, and hold
19 back and impound the said waters in Swartout Valley and thereby
20 create water basins or reservoirs; and that if said walls or any of
21 them are pierced by a tunnel or underground canal or otherwise,
22 the said underground basins or reservoirs of said water will be
23 drained and emptied, and the said springs, cienegas and lakes will
24 be diminished and destroyed.

25
26 I.

27 That defendant is now actively engaged in the construction
28 of a tunnel many feet below the surface of the ground which tunnel
29 extends towards the outlet of said Swartout Valley and towards the
30 walls of said basins; that defendant, by means of said tunnel, is
31 about to and will, unless restrained by this court, penetrate into said
water basins and each of them; that it will be impossible to plug
or close said tunnel and said tunnel will drain out and take away

1 the underground water in said Swartout Valley and thereby will
2 diminish and dry up the said springs, cienegas and lakes now
3 existing, and which have existed from time immemorial, and will
4 take away the subterranean water from under the lands of said
5 plaintiffs and will leave said lands without a supply of water
6 either for irrigation, stock, domestic or other purposes and will
7 also destroy and cause to die, many of the natural forest trees
8 and the orchards now growing thereon, thereby totally destroying
9 the value of said lands and rendering them uninhabitable.

10 That defendant, by means of said tunnel, intends to and
11 will, unless restrained by an order of this court, unlawfully
12 transport and carry said water to lands situate on a water shed
13 foreign to said Swartout Creek and said Sheep Creek.

14 XI.

15 That immediate and irreparable injury, loss and damage will
16 result before notice can be served, and a hearing had upon
17 plaintiffs' application for a temporary injunction as hereinafter
18 prayed, for the reasons hereinbefore stated, and for the further
19 reason that defendant is diligently prosecuting the work upon said
20 tunnel and plaintiffs are informed and believe that before said
21 hearing can be had, will pierce the walls of said water basins
22 and that once said walls are pierced, it will be impossible to
23 stop the flow of water.

24 XII.

25 Plaintiffs farther allege that the plaintiffs not men-
26 tioned in the foregoing paragraphs of the complaint are residents
27 of the County of Los Angeles, and that each is the owner of a piece
28 or parcel of land within that portion of the Mojave Desert known
29 as Mirage Valley; and that said Mirage Valley lies in a northerly
30 direction from Sheep Creek, and opposite Sheep Creek Canyon in the
31 trough of a wide valley, and is a continuation of Sheep Creek

1 Canyon and water shed and lies below the point of diversion of
2 water threatened by defendants herein as hereinabove alleged.
3 That the central portion of said Mirage Valley is occupied by a
4 depression known as Dry Lake. That in times of extreme floods
5 the excess surface flood waters of Sheep Creek run down into said
6 Dry Lake and form a shallow body of water, but that only one such
7 flood has occurred in the last twenty-five years.

8 That plaintiffs are informed and believe and therefore
9 allege the fact to be that the subterranean flow or percolation
10 of water which may seep past the northerly rim of Swartout Valley
11 from Swartout Creek into and down Sheep Creek Canyon, together
12 with whatever excess flood waters flow for a time on the surface
13 of Sheep Creek and sink into the sands and gravels of the northerly
14 end of Sheep Creek as it approaches the Mojave Valley, form, and
15 from time immemorial have formed, an underground water supply
16 tributary to and underlying the said Mirage Valley. That the said
17 underground water supply of Mirage Valley is to a very great
18 extent dependent upon the underground seepage of water through
19 Sheep Creek Canyon and if the water of Sheep Creek is diverted
20 such underground water supply will be substantially diminished and
21 practically destroyed. That if the defendants complete their
22 proposed works and divert from Sheep Creek, by means thereof, the
23 underground water and the excess flood water to a point outside
24 and beyond the channel and watershed of Sheep Creek and Mirage Val-
25 ley, the underground water supply of Mirage Valley will be cut off
26 and destroyed; that the said plaintiffs have been withdrawing and
27 are now withdrawing water by means of wells and pumps from the said
28 underground water supply of Mirage Valley and are making beneficial
29 use of the said water upon their lands, and that the said plaintiffs'
30 use of such lands is dependent upon the said water supply and if
31 such water supply is destroyed, said plaintiffs' land will be

1 rendered valueless and uninhabitable and the said plaintiffs will
2 be thereby irreparably injured.

3
4 XIII.

5 That the plaintiffs have no plain, speedy or adequate
6 remedy at law and can have relief only in a court of equity; and
7 that unless the defendant is restrained from the said actions
8 herein alleged, plaintiffs will be irreparably injured.

9 That all of the plaintiffs to this action are at the time
10 of this application and for ten (10) days prior hereto have been in
11 the possession of the flow of said water and that the defendant
12 threatens to divert the flow of such water.

13 WHEREFORE, plaintiffs pray that it be adjudged and decreed
14 as follows, to-wit:

15 1--That plaintiffs be granted a writ of injunction issuing
16 out of and over the seal of this court against defendant and against
17 all persons acting in aid of, by or under the authority of defendant
18 as officers, agents, servants, employees or otherwise, perpetually
19 enjoining and restraining them and each of them from further con-
20 structing, building or excavating said tunnel, and from interfering
21 with or taking away any of the subterranean or percolating waters
22 of said Swartout Creek.

23 2--that upon the filing of this complaint, this court make
24 its order directed to the said defendant, commanding it to be and
25 appear before this court, at a time and place therein to be
26 designated, then and there to show cause if any it has, why this
27 court should not enjoin it, its officers, agents, servants and
28 employees from the acts aforesaid, pending the final determination
29 of this cause.

30 3--that in and by said order to show cause, this court
31 make its further order restraining said defendant, its officers,
agents, servants and employees, and all other persons acting in

aid of same, from doing any of the acts aforesaid until the hearing
and determination of said order to show cause.

4--That upon the hearing of the order to show cause, this
court grant the plaintiffs a preliminary injunction, restraining
said defendant, its officers, agents, servants and employees, and
all other persons acting in aid of same, as herein prayed, pending
the final hearing and determination of this cause.

5--That if at any time hereafter and prior to the final
hearing hereof, any person shall attempt to do any of the acts
herein complained of, such person or persons be made parties
defendant herein, and each of them be enjoined and restrained as
hereinabove prayed for.

6--That plaintiffs be granted their costs of suit herein
and such further and other relief in the premises as to the court
shall seem meet and the nature of the case require.

James M. Oliver
Attorney for all plaintiffs except
County of Los Angeles

EVERETT W. MATTOON, County Counsel
and

Ernest P. ...
Deputy County Counsel
Attorney for County of Los Angeles



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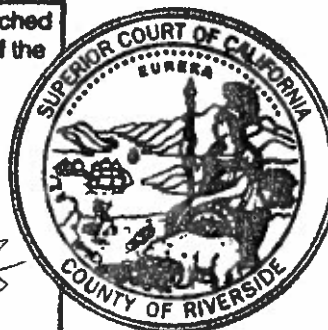
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original on file and of record in my office.

Superior Court of California
County of Riverside

By Amanda Wiley
DEPUTY

Dated: 11-25-08



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

3 Pacific Southwest Trust &
4 Savings Bank, et al,
5 vs Plaintiff,

6 Xheep Creek Water Company, etc
7 Defendant.

15583.
No. 15532

8 OPINION ON DEMURDER.

9 The plaintiff brings this action to enjoin the defendant
10 from the construction of a tunnel through a dyke in Swartout
11 Valley at a point where the Swartout Creek, Heath Creek and
12 Sheep creek unite.

13 The complaint I think fully sets forth that this water is
14 collected within the water shed at the head of what is known
15 as Sheep creek, which extends in a northerly direction from a
16 point near where said tunnel is supposed to penetrate said dyke,
17 and to extend in a northerly direction to what is described in
18 the complaint as the land of the other plaintiffs who own land
19 at or near Mirage Dry Lake. The complaint seems to be upon the
20 theory that the underground waters which supply Sheep creek, and
21 the lands described as that of the other plaintiffs, would be
22 affected by the construction of the tunnel, and then conveying of
23 waters ^{to} unriparian lands or lands without the water shed. Accord-
24 ing to the allegations of the complaint, Swartout creek and Sheep
25 creek and the water shed described in the ~~complaint~~ gather
26 water for the supplying of the main portion of Sheep creek
27 running north through the Mirage lands.

28 Under the rule laid down in Miller vs Bay City Water Company,
29 157 Cal, 256-279, the Supreme Court holds, in effect, that the
30 lands overlying a stratum of percolating or flowing water sup-
31 plied from a common source, have a correlative right, and are
32 interested, and the land-owner of land overlying the stratum

1 has a right to prevent the basin from which he gets his water
2 from being depleted, and the water used for commercial purposes
3 or from being taken without the water shed.

4 And as stated in 84 Cal.233, if several persons having separate
5 tracts of land through which a stream of water flows have a right
6 to join as plaintiffs to restrain the diversion of a stream
7 at a point above their land. This rule is based upon the
8 theory that several persons, owning separate tracts of land,
9 which are injured by the same act of the defendant, may join
10 as plaintiffs in restraining the defendant from committing that
11 act, and in this case the plaintiffs allege that they own sep-
12 arate tracts of land. In other words, there are two groups of
13 plaintiffs: The one group owning lands at the source of the ~~stream~~
14 stream, the other group owning lands in the Mirage Valley through
15 which sheep creek runs; and if the contention of the plaintiffs
16 is correct, if they are injured by the act of the defendant in
17 constructing the tunnel through this impervious dyke, the allega-
18 tions of the complaint are that both will be injured, one group
19 alleging that the construction of the tunnel as contemplated
20 will penetrate into the alleged water basin and will drain it and
21 take away the underground water in the Swartout valley, and will
22 diminish and dry up the springs, cienegas and lakes now existing
23 and will take away the subterranean waters from under the lands
24 of plaintiffs, and will leave the land without a supply of water,
25 etc, and the other group of plaintiffs alleging that their lands
26 lying below the diversion, that the subterranean flow or percola-
27 ting water which may seep past the northerly rim of Swartout Valley
28 from Swartout creek into and down Sheep creek canyon, together with
29 whatever excess flood waters flow on the surface of Sheep creek
30 and sink into the sands and gravels of the northerly end of
31 sheep creek as it approaches the Mirage Valley from, and from
32 time immemorial have formed an underground water supply tributary
to and underlying the Mirage Valley, and that the said under-
ground water supply of Mirage Valley is to a very great extent

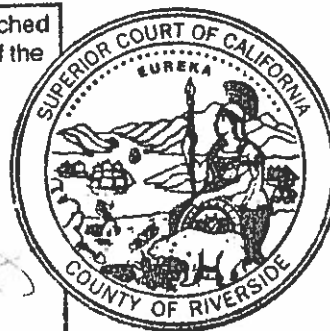
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original on file and of record in my office.

Superior Court of California
County of Riverside

By Amanda Liff
DEPUTY

Dated: 1/25/08



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1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA.

2 IN AND FOR THE COUNTY OF RIVERSIDE.

3
4 PACIFIC SOUTHWEST TRUST &
5 SAVINGS BANK, et al.

6 Plaintiffs,

7 -vs-

8 SHEEP CREEK WATER COMPANY, a
9 corporation,

10 Defendant.

ANSWER.

11 Comes now the defendant above named and in answer to
12 plaintiffs' complaint herein, denies and alleges as follows:

13 I.

14 Defendant has no knowledge, information or belief as to
15 any of the matters set out in paragraph IV of said complaint, and,
16 basing the denial upon that grounds, denies that the County of Los
17 Angeles now is or at any time mentioned in said complaint was the
18 owner and entitled to the possession, or the owner, or entitled to
19 the possession of, all or any of the real property set out and
20 described in said paragraph IV.

21 II.

22 Upon information and belief defendant alleges that the
23 plaintiff, Pacific Southwest Trust & Savings Bank, is not the
24 owner nor in possession of, nor entitled to the possession of, the
25 real property set out and described in paragraph V. of said
26 complaint, but that said plaintiff, Pacific Southwest Trust &
27 Savings Bank, holds said property as trustee only, for the use and
28 benefit of James M. Oliver, S. B. Fright and others, whose true
29 names are to defendant unknown, and said James M. Oliver, S. B.
30 Fright and said others are the real owners of such property and are
31 the beneficiaries under said trust.

2 Answering paragraph VI. of said complaint, defendant
3 denies that Swartout Creek, referred to therein, is formed entirely
4 by springs, lakes and cienegas referred to in said paragraph VI.;
5 admits that some of the water from the springs, lakes and cienegas
6 runs into said Swartout Creek and contributes to its flow, but that
7 a large portion of the water of said Swartout Creek is contributed
8 from other sources.

9 Denies that said Swartout Creek is entirely on, or
10 entirely adjacent, or entirely contiguous to the premises of the
11 plaintiffs referred to in said paragraph V.; alleges that said
12 Swartout Creek flows partly across government land.

13 IV.

14 Defendant has no knowledge, information or belief as to
15 whether there is any water basin or basins lying southerly or
16 northerly of what is known as the San Andreas rift, and has no
17 knowledge, information or belief as to whether the alleged water
18 basins are the sources of supply of the springs, cienegas and lakes
19 lakes referred to in said paragraph, and basing its denial upon
20 that ground, denies that there are any water basins lying either
21 northerly or southerly of said San Andreas rift, and denies that
22 such water basins are the sources of supply for the springs, cienegas
23 and lakes referred to in said paragraph, or any of them.

24 V.

25 Answering paragraph VIII. upon information and belief
26 defendant denies that the cienegas, lakes and flow of said Swartout
27 Creek and Sheep Creek, or either or any of them, are necessary and
28 indispensable, or necessary or indispensable, in order that the land
29 of plaintiffs be used in a beneficial manner, or at all.

30 VI.

31 Defendant has no knowledge, information or belief as to
32 the matters alleged in paragraph VIII. of said complaint, and basing

SWING & WILSON
ATTORNEYS
SUITE 100, 1000 N. 10TH ST.
DENVER, COLORADO

2 and residents, or permanent tenants or residents, who need all of
3 the water referred to in said paragraph VIII., or who now, or who
4 ever have, used all or any considerable portion of the water
5 referred to in said paragraph VIII. when available, or at all, for
6 irrigation, for watering stock and other animals, for culinary and
7 other household and domestic purposes and other purposes, or for
8 any of said purposes or uses, or at all, but alleges that there is
9 now and at all times has been a great surplus of water in said
10 springs, cienegas and streams over and above the reasonable,
11 necessary amount for the use of said plaintiffs, and that the
12 predecessors in interest of defendant in the year 1913 filed an and
13 appropriated all of the surplus water of Sheep Creek, and ever since
14 such appropriation, defendant and its predecessors in interest have
15 been the owners of the right to divert and use all of such surplus
16 water.

17 VII.

18 Denies that since the year 1891, or at all, the plaintiffs
19 and their predecessors in interest, or either or any of them, have
20 diverted and beneficially used, or diverted, or beneficially used,
21 for irrigation, for watering stock and other domestic purposes, or
22 at all, all of the flow of said streams referred to in said paragraph,
23 and all the flow of said springs, cienegas and lakes, except the
24 excessive flood waters thereof, or either or any of them; but on
25 the contrary alleges that there is now and at all times has been
26 a surplus of water in said streams, springs, cienegas and lakes,
27 over and above the amount reasonably necessary to supply all of the
28 reasonably necessary uses and purposes of said plaintiffs; that
29 defendant is the owner of the right to use and is entitled to the
30 possession of all such excess and surplus water.

31 VIII.

32 Upon information and belief defendant alleges that the

1 plaintiff, County of Los Angeles, has no right, title or interest
2 in or to any of the water referred to in said paragraph II.
3 adverse to this defendant, and that defendant's right to use
4 of said water, and the whole thereof, is prior and superior to any
5 and all claims of said plaintiff, County of Los Angeles.
6

7 IX.

8 Defendant denies that it is about to, and will, that
9 it is about to or will, penetrate into either or any of the water
10 basins described in plaintiff's complaint; denies that it is about
11 to, or that it will, or that it intends to, extend its tunnel into,
12 or through, the barriers or either or them alleged in said complaint
13 to exist; denies that it intends to, or that it will, project said
14 tunnel into or through the barrier caused by the San Andreas rift,
15 or into, or through, the barriers alleged in said complaint as
16 existing in the easterly end of Swartout Valley; denies that it
17 intends to, threatened to, or will, so extend its tunnel or
18 workings that it will drain off the waters in Swartout Valley so
19 as to diminish and dry up, or diminish or dry up, the springs,
20 siengas and lakes alleged to exist upon the lands of plaintiff's
21 or either or any of them;

22 Denies that said defendant intends to extend its tunnel
23 or any of its workings so as to take away the subterranean waters
24 from under the lands of plaintiff's, or any of them; denies that
25 said defendant will construct its tunnel and work in such a manner
26 that it or they or any of them will so affect the waters, that
27 plaintiff's lands will be without a supply of water for irrigation,
28 stock, domestic or other purposes or uses, or without a supply
29 for either or any of said uses or purposes; denies that defendant's
30 said tunnel and works will destroy and cause to die, or destroy
31 or cause to die, many or any of the natural forest, trees and
32 orchards, or either or any of them, growing on said plaintiff's
33 property; denies that said tunnel and works of said defendant, or

1 any of them, will destroy or in any wise affect the value of said
2 plaintiffs' lands or render the same, or any part thereof,
3 uninhabitable, or in any otherwise affect said lands, or any part
4 or portion thereof.

5 Denies that said defendant, by means of said tunnel
6 intends to and will, or intends or, or will, unless restrained by
7 an order of this Court, or at all, unlawfully transport and carry,
8 or unlawfully transport or carry, said water, or any of the water
9 therein referred to, to a watershed foreign to said Shartout Creek
10 and said Sheep Creek.

11 I.

12 Answering paragraph XI., defendant denies that immediate
13 and irreparable, or immediate, or irreparable, injury, loss and
14 damage, or injury, loss or damage, will result before notice can be
15 served and a hearing had upon plaintiffs' application for a temporary
16 injunction, for any of the reasons set out in the complaint, or
17 at all.

18 XI.

19 Answering paragraph XII. of said complaint, defendant
20 alleges that it has no knowledge, information or belief as to any
21 of the matters set out in said paragraph, and basing its denial upon
22 that ground, denies each and all of the allegations set out and
23 contained in said paragraph XII.

24 XIII.

25 Answering paragraph XIII. defendant denies plaintiffs have
26 no plain, speedy or adequate remedy at law, and that said plaintiffs
27 or either or any of them will be irreparably injured, or injured
28 at all by any of the acts of conduct of this defendant; denies that
29 said plaintiffs are, or that any of them is, or was in the possession
30 of the flow of water in Sheep Creek Canyon, or any part or portion
31 thereof, or ~~said~~ that said plaintiffs, or either or any of them, were
32 in possession of the flow of any of the waters which this defendant

1 is threatening to take and divert, or which this defendant will
2 take and divert from said Sheep Creek Canyon.

3
4 FOR A FURTHER AND FIRST SPECIAL DEFENSE and answer to
5 said complaint, defendant alleges:

Handwritten:
That defendant is a mutual water company, organized in
7 the year 1894, under and pursuant to the laws of the State of
8 California, for the purpose of developing the waters of Sheep Creek
9 Canyon by means of tunnels, shafts and other workings, for the use
10 and benefit of defendant's stockholders;

11 That the stockholders of said defendant are the owners and
12 in the possession of approximately 2000 acres of land situated upon
13 the Mojave Desert to the north of the mouth of said Sheep Creek, in
14 the County of San Bernardino;

15 That prior to the organization of said company, defendant's
16 predecessors in interest appropriated the waters of Sheep Creek,
17 and during the year 1913 commenced a ditch for the diversion of
18 such water, and ever since said time defendant and its said
19 predecessors in interest have openly, notoriously and under a claim
20 of right been engaged in the construction of ditches, shafts, tunnels
21 and workings, for the purpose of developing, diverting and trans-
22 porting all of the surface and subsurface flow of said Sheep Creek
23 to the lands of defendant's said stockholders, for use thereon;

24 That defendant caused to be constructed a system of ditches,
25 aqueducts, pipelines and reservoir for the taking, diverting, ^{and} storing
26 of the surface and subsurface flow of said Sheep Creek, for the use
27 and benefit of defendant's stockholders and for use upon their
28 respective lands.

29 That heretofore the defendant applied to the United States
30 Government for, and was granted, permission to run a tunnel from a
31 point at or near the easterly wall of Sheep Creek Canyon, in a
32 southerly direction, to bedrock, said bedrock being estimated to be

1 at a point not exceeding 5000 feet south of the portal of
2 said tunnel; that at the time of filing said application, defendant
3 filed with the United States Government maps and plats showing the
4 plan of diversion and the tunnel proposed to be constructed; that
5 ever since the year 1913 said defendant has openly, notoriously
6 and under a claim of right been constructing said shafts, ditches
7 and tunnels and other works in and along Sheep Creek Canyon; that
8 the said plaintiffs, and their predecessors in interest, and the
9 public generally, have had notice and knowledge of the fact that
10 said shaft, cuts and tunnel were being constructed and said work
11 progressing, and have had notice and knowledge that it was the
12 intention of said defendant to construct said tunnel in a southerly
13 direction along and in said Sheep Creek Canyon to bedrock, and that
14 defendant was expending large sums of money for that purpose.

15 That the permit of said defendant issued by said United
16 States Government does not authorize or permit this defendant to
17 construct said tunnel or any of its workings in what is known as
18 Swartout Valley, nor does it authorize or permit this defendant
19 to construct said tunnel or any of its workings so that any part
20 thereof will pierce the barrier caused and formed by the San
21 Andreas fault referred to in plaintiffs' complaint, or to pierce
22 or cut through the so-called barriers alleged by plaintiffs to
23 exist at the easterly end of Swartout Valley;

24 That defendant has expended in the construction of said
25 tunnel, shafts, etc., and the developing of water and in the
26 construction of reservoirs, pipelines and aqueducts for the taking
27 of such water to be so developed by said tunnel, to and upon the
28 lands of defendant's stockholders, upwards of \$51,000, and the
29 stockholders of defendant have expended upwards of \$38,000 in
30 preparing their lands and making improvements thereon, anticipating
31 the development of the underground flow of Sheep Creek and the
32 use thereof upon said lands.

1 That all of said work of said defendant has been carried
2 on without objection or protest by said plaintiffs, or any of them,
3 or by any of their predecessors in interest, except that the present
4 plaintiffs recently and after the doing of all said work and the
5 expenditure of said money, objected to the extension of said tunnel
6 to such a distance that it will pierce the barriers described in
7 said plaintiffs' complaint.

8 That said defendant's stockholders have no other source
9 of supply of water than that to be taken from Sheep Creek and
10 developed in said Sheep Creek Canyon, as planned and proposed by
11 this defendant;

12 That the surface flow of Sheep Creek is insufficient to
13 supply the needs and uses of defendant and its said stockholders,
14 and it is necessary to develop and divert the underground flow
15 thereof; that notwithstanding the knowledge and information of
16 these plaintiffs and their predecessors in interest that defendant
17 was prosecuting said work and expending its money as herein alleged,
18 the said plaintiffs and their predecessors in interest during all of
19 said time and up to and until recently made no protest against or
20 objection to, or in any manner disputed the right of defendant to
21 run said tunnel, sink shafts and develop and take the said under-
22 ground flow of said Sheep Creek, and during all of said time said
23 plaintiffs and their predecessors in interest have acquiesced in
24 and recognized the right of said defendant to run and construct
25 said tunnel and to develop and take said water in the manner herein-
26 before stated, and for the uses and purposes aforesaid; and defendant
27 has prosecuted said work and expended said money relying on said
28 silence and acquiescence of said plaintiffs and their predecessors
29 in interest.

30 That defendant has during all of said time asserted the
31 right to construct said tunnel and to develop and take said water
32 in the manner and for the purposes aforesaid; that it would be

WILSON & WILSON
ATTORNEYS
CARMEN GLOVE COR. COURT AND E ST.
SAN BERNARDINO, CALIFORNIA

1. unfair and inequitable to permit said plaintiffs to now contend
2. and claim that defendant has no such right; that if defendant is
3. enjoined from completing said tunnel and diverting and taking the
4. underground flow of said Sheep Creek, all of defendant's said work
5. will be lost and said lands of defendant's stockholders will become
6. worthless, and defendant and its said stockholders will suffer great
7. and irreparable damage and injury.

8. That all of the lands of defendant's stockholders and all
9. of the tunnels, shafts, workings and property of this defendant,
10. and all of the diversions of water claimed by defendant, are
11. situated within the County of San Bernardino, State of California.

12. FOR A SECOND SPECIAL DEFENSE AND ANSWER to plaintiffs'
13. complaint, defendant incorporates herein and makes a part hereof,
14. each and all of the matters set out in the first special defense
15. hereinbefore referred to.

16. That plaintiffs and each and all of them and their
17. predecessors in interest are estopped by their said silence,
18. acquiescence and conduct, and by their acquiescing in the construc-
19. tion of said tunnel and in the developing and taking of said sub-
20. surface flow of said Sheep Creek, and said plaintiffs are guilty of
21. laches for failing to object until all of said work had been done
22. and said money expended.

23. FOR A THIRD, SPECIAL DEFENSE AND ANSWER to said action,
24. defendant alleges:

25. Defendant alleges that two causes of action have been
26. improperly united herein, to-wit: a cause of action in favor of
27. the plaintiffs, County of Los Angeles and Pacific Southwest Trust
28. & Savings Bank, with a cause of action in favor of the other plain-
29. tiffs mentioned in said complaint, in that there is no community of
30. interest between the rights and claims of the first named plaintiffs
31.
32.

SWING & WILSON
ATTORNEYS

SINCE WHAT COURT ARE I AM
SAN BERNARDINO, CALIFORNIA

1 and the rights and claims of the last mentioned plaintiffs, and
2 the claims of the last mentioned plaintiffs constitute and are a
3 distinct and separate cause of action, independent of and separate
4 from the alleged cause of action in favor of said two first
5 named plaintiffs.

6
7 FOR A FOURTH SPECIAL DEFENSE and answer, defendant
8 alleges:

9 That the plaintiffs Elizabeth S. Adair, E. J. Alger,
10 J. A. Althouse, George B. Case, O. P. Davis, Frances V. Denton,
11 C. A. Waithfull, R. P. Waithfull, J. L. Greene, T. W. Kane,
12 Kathryn MacDonald, Mae E. McDonnell, W. T. Maddox, Earl E.
13 Palmer, W. L. Rich, Daniel F. Sheldon, E. L. Whitlock and S. E.
14 Wilson, are improperly united and joined in said complaint as
15 plaintiffs with the other two plaintiffs, to-wit: with the Pacific
16 Southwest Trust & Savings Bank and the County of Los Angeles, for
17 the reason that said first mentioned plaintiffs have no community
18 of interest with said last two mentioned plaintiffs, and the claims
19 of said respective groups of plaintiffs constitute separate and
20 distinct controversies.

21
22 WHEREFORE, defendant prays that plaintiffs take nothing
23 by their action; that defendant have judgment for its costs, and
24 for such other and further relief as the Court may see meet
25 and proper in the premises.



For Defendant
Swing & Wilson
Attorneys for Defendant.

CERTIFIED COPY

SWING & WILSON
ATTORNEYS
SUITE 3000 ONE COURT AND 4 ST.
SAN BERNARDINO, CALIFORNIA

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"CERTIFIED COPY"**

Each document to which this certificate is attached
is certified to be a full, true and correct copy of the
original on file and of record in my office.

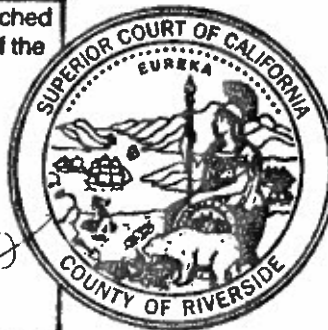
Superior Court of California
County of Riverside

By

Amanda Hickey
DEPUTY

Dated:

1/25/08



**Certification must be in red to be a
"CERTIFIED COPY"**

✓ In the Superior Court of the State of California
IN AND FOR THE
County of Riverside

Memorandum of Motion to Set Cause for Trial

PACIFIC SOUTHWEST TRUST &
SAVINGS BANK, et al.
vs. Plaintiffs

SHEEP CREEK WATER COMPANY,
a corporation,
Defendant

Number of Cause 15523

C. L. McFARLAND, one of the
attorneys for Plaintiffs the
in the above entitled action and parties moving to set said cause for trial, files
with the court this memorandum of motion to set, stating:

That said motion will be made in open court at 10 o'clock a. m. on Monday
June 3rd, 1929.

That the nature of the action is to determine rights in
certain waters

That the time estimated for the trial of said cause is 3 days.

That no negotiations are pending for the settlement thereof;

That a trial by jury is not demanded;

That the respective names, addresses and telephone numbers of the attor-
neys for all parties, are as follows:

C. L. McFarland - Telephone 40 - Riverside, California.
James M. Oliver - Telephone Vandike 8138 - 117 W. 9th St., Los Angeles.
Everett W. Mattoon, Telephone Mutual 9211 - County Counsel, Los
Angeles County, Court House, Los Angeles.
W. G. Irving - Telephone, 38, Riverside, California.
Swing & Wilson - Telephone 2179 - Garner Bldg., San Bernardino, Calif.

That a copy of this memorandum has been served on the attorneys for all
other parties, as shown by admission of service endorsed hereon or affidavit of
service attached hereto.

Dated this 29th day of May, 1929.

C. L. McFarland
Attorney for Plaintiffs
Address: Riverside, California.
Phone No.: 40.

EXHIBIT 6

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

3 000000000000

4 PACIFIC SOUTHWEST TRUST &
5 SAVINGS BANK, a corporation,
6 at al;

Plaintiffs

-vs-

7 SHEEP CREEK WATER COMPANY,
8 a corporation,

Defendant.

ORDER OF TEMPORARY INJUNCTION.

9
10 The above entitled matter coming on regularly to be heard
11 upon the order to show cause heretofore issued herein, ordering and
12 directing the defendant to be and appear before this Court and show
13 cause why a temporary injunction should not be issued against it,
14 as prayed for in the complaint; and the matter having been continued
15 until this time; and the parties hereto being present and represent-
16 ed by their respective counsel; and affidavits having been submitted
17 in support of the contention of the parties hereto; and it appear-
18 ing to the satisfaction of the Court that the restraining order
19 heretofore issued should be modified, and that said defendant should
20 be permitted to resume work upon the tunnel referred to in the
21 complaint herein, and that said main tunnel can be extended and driv-
22 en southerly as far as the old south shaft in said Sheep Creek (said
23 shaft being approximately 3000 feet southerly from the portal of
24 said tunnel), without penetrating any of the barriers and without
25 materially injuring or in any wise jeopardizing the rights of said
26 plaintiffs;

27 NOW THEREFORE, IT IS HEREBY ORDERED and this is the command
28 and order that, pending the final judgment herein, the said defendant,
29 its officers, agents and employees and all persons acting in aid of
30 them, or either, or any of them, be and they are hereby enjoined
31 and restrained from constructing or driving the tunnel referred to
32 and described in plaintiffs' complaint to a point south of a line

1 drawn east and west across Sheep Creek Canyon through the old shaft
2 constructed by defendant in Sheep Creek, which said shaft is
3 approximately 3800 feet south of the portal of said defendant's
4 tunnel, and from lowering said shaft and connecting same with said
5 tunnel, and said defendant is permitted to construct and drive
6 said tunnel along and in said Sheep Creek to a point as far south
7 as, but not beyond, a line drawn east and west across Sheep Creek
8 Canyon through said old shaft.

9 Done in open Court.

10
11 W. P. [Signature]
12 JUDGE
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Each document to which this certificate is attached
is certified to be a full, true and correct copy of the
original on file and of record in my office.

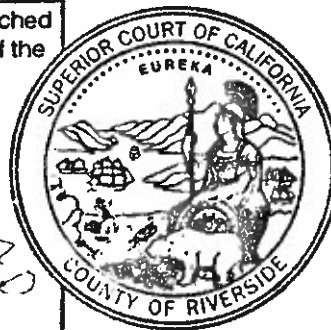
Superior Court of California
County of Riverside

By

Amanda Valdez
DEPUTY

Dated:

1/25/08



Certification must be in red to be a
"CERTIFIED COPY"

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

PACIFIC SOUTHWEST TRUST &
SAVINGS BANK, a corporation,
et al

Plaintiffs

vs.

SHEEP CREEK WATER COMPANY,
a corporation,

Defendant

No. 15598

AGREEMENT OF PARTIES IN
CONNECTION WITH STIPULATION
FOR JUDGMENT.

This agreement made and entered into in duplicate this 24th day of September, 1931, by and between the Security-First National Bank of Los Angeles, a national banking association, successor to Pacific-Southwest Trust & Savings Bank, a corporation, and the County of Los Angeles, a body politic and corporate, plaintiffs in the above entitled action, and parties of the first part herein, and Sheep Creek Water Company, a corporation, defendant in said action and party of the second part herein witnesseth:

That Whereas, the above entitled action is pending in the Superior Court of the State of California in and for the County of Riverside and there is in force a temporary injunction issued in the above entitled proceedings wherein and whereby defendant herein, its officers, agents and employees, and all persons acting in aid of them or any of them are enjoined and restrained from constructing or driving the tunnel referred to and described in the complaint in said action, to a point south of a line drawn east and west across Sheep Creek Canyon through the old shaft constructed by defendant in Sheep Creek, which said shaft is approximately 5800 feet south of the portal of said defendant's tunnel, and from lowering said shaft and connecting same with said tunnel, and whereby said defendant is permitted to construct and drive said tunnel along and in said Sheep Creek to a point as far south as, but not beyond a line drawn east and west across Sheep Creek

1 Canyon through said old shaft; and

2 Whereas, it is desired by all the parties hereto that said
3 litigation shall be now and forever terminated; and

4 Whereas, it is desired by all the parties hereto that
5 the water rights and water interests of the parties hereto shall
6 be for all time settled and determined for themselves and for their
7 successors as far as such water rights and interests of the first
8 parties as against the second parties and the second parties against
9 the first parties are concerned;

10 NOW THEREFORE it is agreed between the parties hereto that
11 in order to accomplish the aforesaid settlement ~~and~~ the final decree
12 of the above court in this action may be entered in accordance with
13 the attached stipulation and that in pursuance of said decree of
14 the court the second party herein may erect such works, drive and
15 construct such shafts, drifts, tunnels, ditches, and dams and do
16 such things as it may deem convenient, necessary or expedient in
17 the premises, to take any and all water it may desire from the lands
18 lying and being in San Bernardino County, State of California, and
19 lying generally within that portion of the area of Sheep Creek Valley
20 lying below the point on Sheep Creek designated in the temporary
21 injunction.

22 The Security-First National Bank of Los Angeles aforesaid,
23 agrees that it will not bore any wells nor sink any shafts, tunnels
24 drifts or other excavations within the area embraced within and
25 more particularly described as follows: The northwest quarter ($\frac{1}{4}$)
26 of the southwest quarter ($\frac{1}{4}$), of Section Ten (10), the east one-half
27 ($\frac{1}{2}$) of the northeast one quarter ($\frac{1}{4}$), of the southeast one fourth
28 ($\frac{1}{4}$) of Section Nine (9), the south one - half ($\frac{1}{2}$), of the
29 south one - half ($\frac{1}{2}$) of section Nine (9), excepting there-
30 from the west one - half ($\frac{1}{2}$), of the south-west one quarter ($\frac{1}{4}$)
31 of the southwest one quarter ($\frac{1}{4}$) of section nine (9), the north
32

one-half ($\frac{1}{2}$) of the northeast one quarter ($\frac{1}{4}$) of section sixteen (16) and the east one-half ($\frac{1}{2}$) of the northeast one quarter ($\frac{1}{4}$) of the northwest one quarter ($\frac{1}{4}$) of section sixteen (16), Township Three (3), North Range Seven (7) West, San Bernardino S. & N., for the purpose of obtaining or interfering with or that interfere with the flow of any underground waters and the said bank does hereby grant and convey to the Sheep Creek Water Company, a corporation, an easement and right-of-way to construct, operate and maintain a submerged dam and bulkhead with drain or tunnel across the channel of Sheep Creek and Sheep Creek Valley at Station 36 / 75 in the present tunnel of the said Sheep Creek Water Company, said point being approximately 175.65 feet north of the center of the shaft referred to in said injunction, together with the necessary right of ingress or egress along, underneath, or across the channel of Sheep Creek for the purposes of construction, operation and maintenance of said works, all as set forth in the accompanying statement entitled "Outline of Development Plan of Sheep Creek Water Company" and the drawing thereto attached headed "Approximate Cross-Section of Underground Channel of Sheep Creek At Station 36 / 75, Showing Proposed Plan of Development by the Sheep Creek Water Company, February 1931," hereto attached.

TO HAVE AND TO HOLD unto the said Sheep Creek Water Company, a corporation, its successors or assigns forever.

In consideration of the premises and the payment to it of the sum of Ten Dollars (\$10.00) in hand paid, the receipt whereof is hereby admitted and other valuable considerations, the said party of the second part hereby waives any and all claims which it may or might hereafter have against the party of the first part and each of them for any and all use of water of the said parcel or either of them in the Sanout Valley and within its watershed lying above the point designated in the temporary injunction and the point beyond which the party of the second part shall

perform any work or continue its tunnel. The said party of the second part hereby recognizes the full ownership, title and right of the said parties of the first part and each of them to their respective water rights within the Swartout Valley and its watersheds whether acquired by riparian ownership, user or otherwise, and except as otherwise herein above provided, agrees that the parties of the first part or either of them may erect such works, drive and construct such shafts, drifts, tunnels, ditches and dams and do such things as they may deem necessary, convenient or expedient in the premises to take for use only within the watershed of Swartout Valley any and all water they may desire from the lands in either San Bernardino or Los Angeles Counties lying within Swartout Valley or its watershed, located southerly and westerly of the line designated in the temporary restraining order entered in the above entitled action, said line extending east and west across Sheep Creek Canyon through the old shaft constructed by the party of the second part in Sheep Creek, said shaft being approximately 3800 feet south of the portal of the tunnel constructed by the party of the second part.

The said party of the second part hereby further waives any and all claim that it may now have or which may hereafter accrue to it by reason of the development of water by the parties of the first part, or either of them, in any portion of Swartout Valley lying westerly of the easterly line of Section 2, T3N. R3W S.B.M., and hereby consents to the conveyance, diversion or use of all of the water so developed or produced westerly of said line outside of and beyond the watershed of said Swartout Valley.

Provided, however, and not withstanding anything to the contrary hereinabove contained, the second party shall have the perpetual right to take, divert and use all surface water flowing in

1 Sheep Creek below the confluence of said Sheep Creek with Swartout
2 Creek and may construct such diversion dams and barriers as shall
3 be necessary to divert the same into a ditch or conduit, and may
4 maintain such ditches and conduits as shall be necessary to divert
5 and carry away such water for use by said second party;

6
7 Provided further, however, that the right of second party
8 to take said surface water in Sheep Creek shall be subsequent and
9 subordinate to the rights of first parties or either or both of same
10 to and the use of the waters hereinabove set forth and said right of
11 second party shall not be construed as in any way minimizing or res-
12 tricting the rights to and the use of the waters flowing in Sheep
13 Creek and Swartout Creek as hereinabove set forth by first parties
14 or either or both of same.

15 IT IS UNDERSTOOD AND AGREED that the foregoing Agreement is
16 binding upon the heirs, successors and assigns of the respective
17 parties and that the covenants herein contained shall be construed
18 as covenants running with the land of the respective parties.

19 IN WITNESS WHEREOF the said parties have caused these premises

STATE OF CALIFORNIA, }
County of Los Angeles. } ss.

ON THIS 7th day of December A. D. 1931, before me,
L. E. LAMPTON, County Clerk and Clerk of the Superior Court in and for the County
of Los Angeles, State of California, holding therein duly commissioned and sworn.

STATE OF CALIFORNIA,
County of San Bernardino } ss.

On this 8th day of January, in the year nineteen hundred and thirty-two A. D.
before me, Grace E. Garrett, a Notary Public in and for the said County of
San Bernardino

State of California, residing therein, duly commissioned and sworn, personally
appeared A. E. Johnson

known to me to be the
president and A. A. Johnson, known to me to be the
secretary of Sheep Creek Water Company
the Corporation which executed the within and annexed instrument, and acknowledged
to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
in said county the day and year in this certificate first above written.

Grace E. Garrett
Notary Public in and for San Bernardino County, State of California.

1 Sheep Creek below the confluence of said Sheep Creek with Swartout
2 Creek and may construct such diversion dams and barriers as shall
3 be necessary to divert the same into a ditch or conduit, and may
4 maintain such ditches and conduits as shall be necessary to divert
5 and carry away such water for use by said second party;

6
7 Provided further, however, that the right of second party
8 to take said surface water in Sheep Creek shall be subsequent and
9 subordinate to the rights of first parties or either or both of same
10 to and the use of the waters hereinabove set forth and said right of
11 second party shall not be construed as in any way minimizing or res-
12 tricting the rights to and the use of the waters flowing in Sheep
13 Creek and Swartout Creek as hereinabove set forth by first parties
14 or either or both of same.

15 IT IS UNDERSTOOD AND AGREED that the foregoing Agreement is
16 binding upon the heirs, successors and assigns of the respective
17 parties and that the covenants herein contained shall be construed
18 as covenants running with the land of the respective parties.

19 IN WITNESS WHEREOF the said parties have caused these premises

CORP. 2

STATE OF CALIFORNIA, } ss.
County of Los Angeles.

ON THIS 7th day of December A. D. 1931, before me,
L. E. LAMPTON, County Clerk and Clerk of the Superior Court in and for the County
of Los Angeles, State of California, residing therein, duly commissioned and sworn,
personally appeared Henry D. Knight, Chairman Board
of Supervisors and Anne B. Bently, Deputy

known to me to be the person whose name I are subscribed to the within
instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
the day and year in this Certificate first above written.

L. E. LAMPTON, County Clerk.

By Alice Banks Deputy.

30 Deputy

31 Attest: G. A. Johnson
Secretary

SHEEP CREEK WATER COMPANY,
BY A. G. Johnson
President

1 Sheep Creek below the confluence of said Sheep Creek with Swartout
2 Creek and may construct such diversion dams and barriers as shall
3 be necessary to divert the same into a ditch or conduit, and may
4 maintain such ditches and conduits as shall be necessary to divert
5 and carry away such water for use by said second party;

6 Provided further, however, that the right of second party
7 to take said surface water in Sheep Creek shall be subsequent and
8 subordinate to the rights of first parties or either or both of same
9 to and the use of the waters hereinabove set forth and said right of
10 second party shall not be construed as in any way minimizing or res-
11 tricting the rights to and the use of the waters flowing in Sheep
12 Creek and Swartout Creek as hereinabove set forth by first parties
13 or either or both of same.

14 IT IS UNDERSTOOD AND AGREED that the foregoing Agreement is
15 binding upon the heirs, successors and assigns of the respective
16 parties and that the covenants herein contained shall be construed
17 as covenants running with the land of the respective parties.

18 TO BE EXECUTED BY THE SAID PARTIES WHEREON the said parties have caused these premises
19 to be executed by their respective officers thereunto duly authorized
20 to be executed by their respective officers thereunto duly authorized
21 to be executed by their respective officers thereunto duly authorized

Each document to which this certificate is attached
is certified to be a full, true and correct copy
original on file and on record in my office.

23 Superior Court of California
24 County of Riverside
25 By 780m-74
26 Dated: 5/30/07
27 Attest: "CERTIFIED COPY"

28 SUPERIOR NATIONAL BANK OF LOS ANGELES
29 By [Signature]
30 Vice-President
31 [Signature]
Asst. Secretary

32 L.E. LAMPTON, County Clerk and
33 ex-officio Clerk of the Board
34 of Supervisors.
35 By [Signature]
36 Deputy
37 Attest: [Signature]
38 Secretary

39 COUNTY OF LOS ANGELES
40 By [Signature]
41 Chairman of its Board of
42 Supervisors

43 SHEEP CREEK WATER COMPANY,
44 BY [Signature]
45 President

1005

Phone 201-50

Asst. Mgr. Amer.

Engineering Office
W. F. Rowe
736 "G" Street

San Bernardino, Calif.

OUTLINE OF DEVELOPMENT PLAN OF SHEEP CREEK WATER COMP.

The present tunnel of the Sheep Creek Water Company is to Station 36 / 50.63 as shown on the map of the survey made by the County Surveyor's office of Los Angeles County in February 1926, entitled "Map of Survey Showing Improvements of Sheep Creek Water Company -- F.B. 98 pages 28 to 40", which map shall be referred to whenever any station numbers are mentioned hereafter. At station 36 / 75 on this map, the bedrock west wall of the underground channel of Sheep Creek was encountered by the tunnel. It is now proposed to follow the bedrock easterly by means of a tunnel at right angles to the channel of Sheep Creek, until the bottom of the trough is reached and then to continue the tunnel up to the easterly bedrock wall of the underground channel of Sheep Creek, until an elevation equal to the tunnel is reached. It is then proposed to stop out the material overlying this tunnel and construct an impervious dam in its place, so that on completion of the work there will be a submerged dam cutting off the escape of the underground waters of Sheep Creek which are below the present level of the tunnel at Station 36 / 75. If conditions warrant, it is proposed to extend this submerged dam upward as far as economically possible and cause it to act as a bulkhead.

In order to carry out this plan, it may require that the land of the Wrightwood Corporation be entered by the underground tunnel and dam referred to before and by means of shafts or other works. The Sheep Creek Water Company would like a right-of-way from the Wrightwood Company, or any company legally empowered to grant this right-of-way for the construction of this tunnel, bulkhead dam and appurtenant works. The accompanying sketch shows

the proposed plan of development.

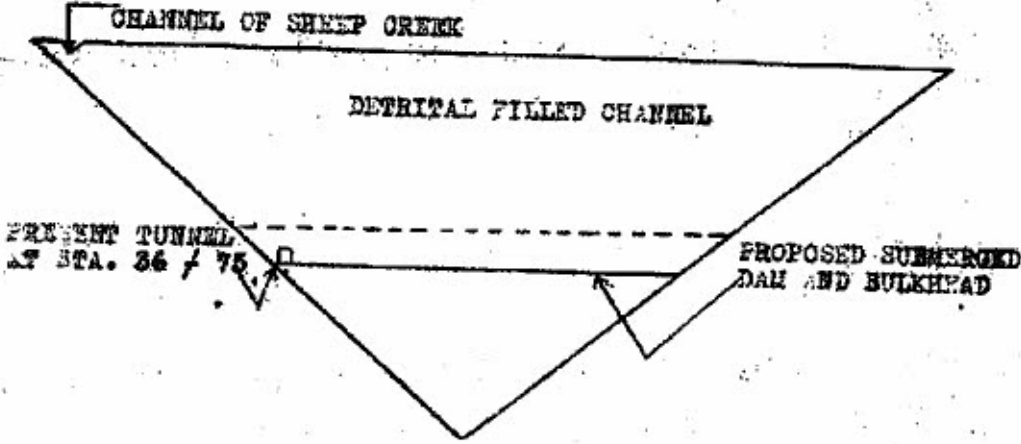
APPROXIMATE CROSS-SECTION
OF
UNDERGROUND CHANNEL OF SHEEP CREEK
AT
STATION 36+75
SHOWING PROPOSED PLAN OF DEVELOPMENT BY
SHEEP CREEK WATER CO.
FEB. 1951.

SCALE 1" = 200'

WEST

LOOKING DOWNSTREAM

EAST



IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF RIVERSIDE

PACIFIC SOUTHWEST TRUST &
SAVINGS BANK, a corporation,
et al.

Plaintiffs,

vs.

SHEEP CREEK WATER COMPANY,
a corporation,

Defendant,

No. 15583

STIPULATION

It is hereby stipulated and agreed by and between the Security-First National Bank of Los Angeles, a national banking association, successor to the Pacific-Southwest Trust & Savings Bank, a corporation, and the County of Los Angeles, a body politic and corporate, plaintiffs herein; and Sheep Creek Water Company, a corporation, defendant herein, through their respective counsel;

That whereas, the said parties have entered into an agreement respecting the subject matter of this action, such agreement being attached hereto and made a part of this stipulation by reference, and whereas, such agreement has disposed of all matters of dispute between the parties as to their respective rights other than those matters contained in the temporary injunction herein,

Now it is hereby stipulated that the temporary injunction issued in this action may be made permanent by the decree of this court, and that the temporary injunction may be entered herein upon this stipulation without findings of fact or conclusions of law, and shall consist only in making the said temporary injunction permanent, except as modified by the attached agreement.



Everett H. McMillan
Attorney for Plaintiffs named

[Signature]
Attorneys for Defendant

This must be in red to be a
"CERTIFIED COPY"

Each document to which this certificate is attached
is certified to be a full, true and correct copy of the
original on file and of record in my office.

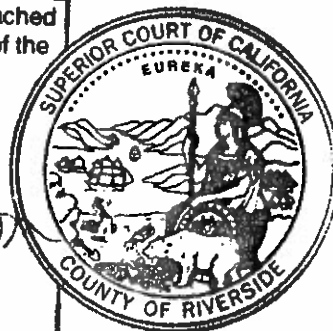
Superior Court of California
County of Riverside

By

Ashtyn P. Ferguson
DEPUTY

Dated:

2/16/08



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1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF RIVERSIDE
3 -----

4 PACIFIC SOUTHWEST TRUST & SAVINGS
5 BANK, a corporation, et al,

6 Plaintiffs,

No. 15583

7 -vs-

8 SHERP CREEK WATER COMPANY,
9 a corporation,
10 Defendants

J U D G M E N T

11 This matter coming on regularly to be heard before the
12 Court without a jury, the respective parties named in the attached
13 stipulation being present or represented by counsel; and said
14 stipulation having been presented to the Court, and findings of
15 fact and conclusions of law having been waived;

16 NOW THEREFORE, in accordance with said stipulation, --

17 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the contract
18 attached to said stipulation and said stipulation be and the same
19 are hereby approved and the same are hereby made a part of this
20 judgment; and,

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the tempor-
22 ary injunction herein be and the same is hereby made final, except
23 as modified by the said agreement, and said defendant be and it is
24 hereby permitted to resume work upon the tunnel referred to in the
25 complaint and to carry on said work in the manner herein and in
26 said contract provided, and may extend said tunnel to a point
27 approximately 3800 feet south of the portals of such tunnel, and
28 may do each and all of the other things authorized to be done in
29 said contract and said defendant is the owner of the right to take,
30 divert and use all of the water developed by it in and by said
31 tunnel and in or by any and all works done, performed or con-
32 structed by it under said contract, and is also the owner of the
right to take, divert and use any and all surface water flowing

G. L. MCGARLAND
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RIVERSIDE, CALIFORNIA

C. L. McFARLAND
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RIVERSIDE, CALIFORNIA

1 or that may hereafter flow in Sheep Creek below thefluence
2 of said Sheep Creek with Swartout Creek and may construct such
3 diversion dams and barriers as shall be necessary to divert
4 the same into a ditch or conduit, and may maintain switches
5 and conduits as shall be necessary to divert and carry away
6 such water for use by said second party;

7 Provided further however, that the right of second party
8 to take said surface water in Sheep Creek shall be subsequent
9 and subordinate to the rights of first parties or either of both
10 of same to and the use of the waters hereinabove set forth and
11 said right of second party shall not be construed as in anyway
12 minimizing or restricting the rights to and the use of the
13 waters flowing in Sheep Creek and Swartout Creek as hereinabove
14 set forth by first parties or either or both of same.

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
16 defendant is the owner of the right to extend its tunnel in the
17 manner provided in said contract to a point approximately 3800
18 feet south of the portals thereof and do the work and make the
19 excavations and improvements authorized to be made by defendant
20 in said contract; and plaintiffs, their officers, agents, em-
21 ployees, successors and assigns are enjoined from interfering
22 with defendant performing any of said work or from doing or
23 performing any of the acts or things authorized to be done
24 in and by said contract, and from interfering in any manner with
25 the doing and/or performing of any of the things authorized to
26 be done in and by this judgment.

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant,
28 its officers, agents, employees, successors and assigns be and
29 they are hereby enjoined and restrained from doing or performing
30 any act or thing not herein authorized to be done or performed
31 which may interfere with any of the rights or privileges herein
32

1 adjudicated to the plaintiffs.
2

3 The bond of plaintiffs given in re temporary restraining
4 order is exonerated.
5

6 Each of the parties hereto shall pay its own costs.
7 Done in open Court this 27th day of January, 1961

8 W. H. Reardon
9 Judge

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U. L. McFARLAND
ATTORNEY AT LAW
RIVERSIDE, CALIFORNIA

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Each document to which this certificate is attached
is certified to be a full, true and correct copy of the
original on file and of record in my office.

Superior Court of California
County of Riverside

By: [Signature]
DEPUTY

Dated: 5/30/61



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