

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

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In the Matter of Revocation of Permit 3086 Heretofore
Issued in Approval of Application 3953 of Little
Rock Power and Water Company to appropriate
From Little Rock Creek in Los Angeles
County for Power Purposes.

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DECISION 3953 - D-351

Decided *December 29, 1933*

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APPEARANCES AT HEARING HELD AT LOS ANGELES, NOVEMBER 9, 1933.

For Permittee

Little Rock Power and Water Company

S. P. Jewett

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EXAMINER: Harold Conkling, Deputy in Charge of Water Rights, Division of
Water Resources, Department of Public Works, State of California.

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O P I N I O N

GENERAL DESCRIPTION OF PROJECT

Application 3953 was filed by Little Rock Power and Water Company
on April 12, 1924, and was approved after hearing on August 20, 1928, for an
amount of water to be appropriated from Littlerock Creek not to exceed 50
cubic feet per second from January 1st to December 31st of each season for
direct diversion and 7,547 acre feet per annum for storage to be collected
from about November 1st to about July 1st of each season, and to be utilized
for the generation of power to be "sold to the Southern Sierras Power Com-
pany and used for commercial purposes."

PERMIT TERMS

According to the terms of the permit, actual construction work was to be commenced on or before May 1, 1929, to be completed on or before December 1, 1932, and the water to be applied to complete beneficial use on or before December 1, 1933. The letter of transmittal accompanying the permit expressly stated that due to the length of time Application 3953 had been pending before this office, the Company would be held to strict accountability in promptly beginning construction work and diligently prosecuting the same to completion and that the Division would not be disposed to consider requests for extensions of time within which to actively begin construction work on account of lack of license from the Federal Power Commission or other necessary rights of way, lack of finances, etc., and that actual progress in the way of physical construction would be the only basis upon which the Division would be disposed to allow further continuance in the matter.

PROGRESS

On July 25, 1929, permittee informed this office that prior to July 1, 1929, \$1058.95 had been expended on preliminary construction work such as construction of permanent roads and trails for the transportation of materials for construction work.

The 1929 progress report indicated that $2\frac{1}{2}$ miles of road had been constructed at a cost of \$2413.22 and that it would require 2 years longer to complete the construction work at a cost of \$625,000.

The 1930 progress report indicated little or no progress; the cause for delay being the fact that negotiations were pending with the City of Los Angeles for the use of power.

The 1931 progress report indicated no change except that some borings had been made at the dam site. Negotiations were said to be pending between City of Los Angeles, the Metropolitan Water District and the City of Pasadena for use of power.

Apparently nothing has been done in the way of either preliminary or actual construction work since the 1931 progress report was submitted. The Company admits its inability to finance the project and has been compelled to stop all work.

The permittee has endeavored to negotiate with different parties in connection with the power project with apparently little success. Among those which have been approached in the matter are the Palmdale Irrigation District, Littlerock Irrigation District and Littlerock-Midland Irrigation District and the City of Los Angeles. During the past year Mr. Richard Lacy of the Lacy Mfg. Co., who is the owner of 21,000 acres of land in the vicinity of Victorville, and the permittee have been endeavoring to interest a Russian Colony through the Colonization Department of the Santa Fe R.R. and the Union Pacific R.R. Permittee advises this matter has been taken up with the Reconstruction Finance Corporation which has signified approval of the project provided it can be shown that its aid would be used for development and not for initial purchase. Permittee intends to comply with this provision by taking an interest in the organization which it states is entirely mutual, the power to be used for lighting and pumping and not for sale to outsiders.

HEARING SET IN ACCORDANCE WITH
SECTION 20 OF THE WATER COMMISSION ACT

It appearing to the Division that permittee had failed to comply with the terms and conditions of the permit, the matter was set for a public

hearing in accordance with Section 20 of the Water Commission Act on November 9, 1933, at 10:00 o'clock A.M. in Room 303 California State Building, Los Angeles, California. Of this hearing permittee was duly notified.

The testimony presented at the hearing indicated that permittee was financially unable to proceed with the project and could do so only by interesting an outside party who could finance it. Mr. E. N. Johnson who has apparently worked with the Colonization Department of Santa Fe and Union Pacific Railroads but who is not employed by either company, has endeavored to interest some foreigners in a tract of land owned by Mr. Lacy and to connect up a so-called Hesperia project with the Littlerock project. The testimony was vague and uncertain and no assurance was given that the proposition would be accepted either by the railroads or by the colonists.

CONCLUSION

This project has been before this office for nearly nine years. The estimated cost as indicated in the application was approximately \$600,000 of which only about \$2400 or four-tenths of 1 per cent has been expended for preliminary construction work only.

Apparently the only reason for failure to complete the project is lack of finances, an excuse which is not recognized by the courts as an adequate one for failure to proceed with due diligence toward the consummation of an appropriative right and at the time permit was issued, permittee was informed that the Division would not be disposed to consider this an adequate reason for delay.

In view of the above it appears appropriate to revoke Permit 3086 on the grounds of failure to comply with the terms and conditions thereof.

O R D E R

Permit 3086 having been heretofore issued in approval of Application 3953 and it appearing to the Division that permittee had failed to comply with the terms and conditions thereof, and permittee after due notice and a hearing thereon having failed to show cause why said permit should not be revoked,

IT IS HEREBY ORDERED THAT Permit 3086 heretofore issued in approval of Application 3953 be revoked and cancelled upon the records of the Division of Water Resources.

WITNESS my hand and the seal of the Department of Public Works of the State of California this *29th* day of *December*, 1933.

EDWARD HYATT, State Engineer

BY

Harold Conkling
Deputy

