

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

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In the matter of Applications 4985 and 4987 of Gregory M. Creutz to appropriate from Little Sycamore Canyon in Ventura County for domestic and irrigation purposes.

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DECISION A 4985-4987 D 205-

Decided *September 1, 1928*

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APPEARANCES AT HEARING HELD August 22, 1928 at Los Angeles, California

For Applicant

Gregory M. Creutz

in propria persona

For Protestants

A. F. Gilmore Company

G. R. Knudson, Atty.  
840 Roosevelt Bldg.,  
Los Angeles, Calif.

Wm. S. Herndon

John C. Miles  
823 Washington Bldg.  
Los Angeles, Calif.

Marblehead Land Company

Marc F. Mitchell  
1049 Petroleum Securities Bldg.  
Los Angeles, Calif.

Chas. Lantz, an interested party

in propria persona  
Wilcox Bldg., Los Angeles

EXAMINER: Everett N. Bryan, Deputy Chief of Division of Water Rights

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O P I N I O N

These applications were filed April 1, 1926 and propose the appropriation of a total of 5.5 cubic feet per second and 400 acre feet per annum from Little Sycamore Canyon for the agricultural and domestic benefit of 480 acres of land which was at one time controlled by applicant under contractual relation

with the owners. Protests were filed by the A. F. Gilmore Company, Wm. S. Herndon and Marblehead Land Company.

Both applications were 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 were set for a public hearing at 9:30 o'clock a.m. on Wednesday, August 22, 1928 in Room 1026 Associated Realty Building, Los Angeles, California. Of this hearing applicant and protestants were duly notified and appearances thereat were made by or on behalf of each party of record interest. For reasons hereinafter indicated action on each of the applications is predicated on the status of the project as developed at the hearing rather than on the allegations of the protests concerning the effect of the proposed use of water on rights claimed by protestants.

In March 1926 applicant entered into certain escrow agreements whereunder he would secure from Wm. S. Herndon and Charles S. Lantz a total of 480 acres of land upon payment of certain sums to the owners of the land. The total purchase price for Lantz's property was \$88,000 and title to the land was to have passed to Creutz upon payment by him of \$18,000 within sixty days from date of escrow and delivery of \$70,000 in notes. The record does not disclose the nature or details of applicant's contract to purchase from Herndon, but this is not significant as the contract was never consummated. It is, however, especially significant that all points of diversion, reservoir sites and land to be served are within the boundaries of the land specified in these agreements.

In spite of extensions allowed by the sellers Creutz has never completed his part of the escrow agreements and the agreement with Herndon was terminated in August 1926. It is therefore manifest that applicant does not control the land the purchase of which from Herndon was contemplated.

Although the circumstances which resulted in abandonment of the purchase of Lantz's property are not indicated in the record it was definitely stated by Lantz at the hearing and tacitly agreed to by Creutz that this agreement had been rescinded, that Lantz owns the land and Creutz has no interest in it. That Lantz is not a participant in the application is definitely shown by his statement at the hearing as follows:

"I object to any appropriation of water, as made upon my holdings of land, for any diversion to any other lands, and in view of this rescission, I feel there is no longer any necessity for any appropriation of water upon my land other than one I might prepare and file myself."

It is therefore manifest that applicant has no right of access to the several points of diversion and that he has established no relationship with the land to be served and cannot either construct his diversion works or distribute water on the land specified for benefit. The applications have been before the Division of Water Rights since April 1, 1926 and for over two years of this period applicant has exhibited little if any diligence in securing control of the land without which the project is impossible of consummation. Furthermore his only stated intention to proceed in this phase of the matter is to file suit at some future date to determine if he can take anything under the contract terminated by Herndon when the payments agreed upon were not made by Creutz.

It is therefore the attitude of the Division of Water Rights that further consideration of these applications would be an idle gesture and that rejection thereof in conformance with the provisions of regulations 14 and 16 of the Rules and Regulations is in order. Nothing herein contained is in derogation of the right of any party now or hereafter controlling the land in question to re-file on the project at such future date as there may be prospect of consummating the project.

O R D E R

Applications 4985 and 4987 for permits 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 applications 4985 and 4987 be rejected and cancelled on the records of the Division of Water Rights.

Dated at Sacramento this *1st* day of *Sept*, 1928.

*Harold Conkling*  
(Harold Conkling)  
CHIEF OF DIVISION OF WATER RIGHTS

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