

MINUTE ITEM

11. APPLICATION FOR EASEMENT FOR LOW-LEVEL BRIDGE CROSSING THE TUOLUMNE RIVER APPROXIMATELY 1½ MILES SOUTHWEST OF WATERFORD IN STANISLAUS COUNTY, CHAS. D. WARNER & SON, INC. - W.O. 3371, P.R.C. 2547.1.

Following presentation of Calendar Item 20 attached, Mr. Warren F. Gant, Attorney, appearing on behalf of Mr. J. M. Short, protested issuance of the bridge easement on the basis that an application had been filed by Mr. and Mrs. Short for removal of gravel from the area, and that the matter should be held in abeyance until after action is taken on that application.

The Executive Officer pointed out that the bridge had been in operation for some time, and was not necessarily or exclusively tied to removal of sand and gravel from State lands on which there may be a bid, as the applicants are presently conducting sand and gravel operations from their own privately owned uplands, even as lessees of Mr. Short do.

Next Mr. Gant raised an objection based on the written request for removal of the structure which was made by the State Lands Division on October 27, 1959. The Executive Officer explained that this request was a normal formality which is followed when purprestures are discovered, for the purpose of obtaining an application.

Mr. Gant also referred to an earlier instance when the Commission had denied the application of Mr. Ruddy of the Santa Fe Rock and Sand Company for a bridge already in place farther downstream. The Executive Officer explained that in that instance, a study made by the U. S. Army Engineers, the technical staff of the State Lands Commission and the Reclamation Board of the State of California, the bridge had been found to be a potential flood hazard, whereas this was not true in the case of the Warner bridge as the same agencies had determined that the bridge was not a potential flood hazard and as a matter of further insurance could be removed in the event of flood danger, that ample notice for such removal could be given, and that Mr. Warner had agreed to make such removal if necessary.

Upon being questioned as to who would give the necessary notice for removal, the Executive Officer stated that it would come from the operators of the reservoirs upstream. He read a letter which had been written by the Turlock Irrigation District to Chas. D. Warner & Son, Inc., indicating that about three days' advance notice of any flood danger could be given.

Commissioner Cranston raised several questions about and possible ways of preventing damage or loss to Mr. Short. It was determined that these were not within the purview of the State Lands Commission, but were matters for civil action, inasmuch as the various agencies responsible for checking potential flood damage had given necessary clearances.

Mr. J. M. Short then appeared personally and protested issuance of the easement, on the grounds that none of the agencies which reviewed the problem were concerned with his land, and had not given consideration to possible damage to his land when giving their clearances.

Next Mr. Francis W. Halley, Attorney, appeared with Mr. Chas. D. Warner, and pleaded for issuance of the permit, pointing out that Mr. Short was protected in that he had recourse to the Courts if damage should ever occur.

Mr. Short then asked that approval of the bridge be based on the stipulation that Mr. Warner would add another span to the bridge. Mr. Warner objected on the grounds of unnecessary expense which would not be justified in view of the engineering information which had been given. After careful consideration of all facts presented, it was the consensus that the Commission did not have the right to deny the application on the basis of Mr. Short's protest, or to make any special stipulations which would require additional expenditures by the applicant for another span.

UPON MOTION MADE BY COMMISSIONER CARR, SECONDED BY COMMISSIONER CRANSTON, AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE EXECUTIVE OFFICER IS AUTHORIZED TO ISSUE A 15-YEAR EASEMENT, AT AN ANNUAL RENTAL OF \$250, TO CHAS. D. WARNER & SON, INC., EFFECTIVE AS OF THE DATE OF THE APPLICATION, NOVEMBER 16, 1959, FOR THE MAINTENANCE AND USE OF A LOW-LEVEL BRIDGE CROSSING THE TUOLUMNE RIVER IN THE SOUTH HALF OF SECTION 32, T. 3 S., R. 11 E., M.D.B. & M., STANISLAUS COUNTY, THE EASEMENT TO CONTAIN PROVISION FOR:

1. EARLIER TERMINATION IN THE EVENT THE ADJACENT ROCK, GRAVEL AND SAND EXTRACTION OPERATION BY THE LESSEE IS ABANDONED OR DISCONTINUED.
2. RENEWAL FOR TWO PERIODS OF 10 YEARS EACH UPON SUCH REASONABLE TERMS AS THE STATE MAY THEN IMPOSE.
3. TEMPORARY REMOVAL OF THE TOP PORTION OF THE BRIDGE PRIOR TO THE CONTROLLED RELEASE OF MORE THAN 9,000 SECOND-FEET OF WATER FROM THE UPSTREAM DAM.
4. A REQUIREMENT THAT THE LESSEE OBTAIN AND KEEP IN FORCE LIABILITY INSURANCE WITH MINIMUM LIMITS OF \$50,000 PROPERTY DAMAGE AND \$100,000/\$200,000 BODILY INJURY AND DEATH, AND PROVIDE THE STATE WITH CERTIFIED COPIES OF THE POLICIES.

SAID EASEMENT IS TO BE ISSUED WITH THE UNDERSTANDING THAT THE IMMEDIATE DOWNSTREAM GRAVEL BAR WILL BE LOWERED BEFORE THE END OF THE SUMMER OF 1960 BY THE APPLICANT, AND THAT NOTICE OF COMPLETION OF SUCH LOWERING WILL BE GIVEN IN WRITING TO THE STATE LANDS COMMISSION VIA THE EXECUTIVE OFFICER.

Attachment

Calendar Item 20 (4 pages)

CALENDAR ITEM

20.

APPLICATION FOR EASEMENT FOR LOW-LEVEL BRIDGE CROSSING THE TUOLUMNE RIVER APPROXIMATELY 1½ MILES SOUTHWEST OF WATERFORD IN STANISLAUS COUNTY, CHARLES D. WARNER & SON, INC. - W.O. 3371.

Mr. Jim Short appeared before the Commission at the meeting of January 21, 1960 to request that action be delayed on the matter of the issuance of an easement to Charles D. Warner until such time as the Superior Court in Modesto had decided a pending action for damages against Mr. Warner. Mr. Short could not at that time confirm to the Commission whether the low-level bridge in question or other operations of Charles D. Warner & Son, Inc., were the cause of the damage being litigated.

Charles D. Warner, also present, concurred in the Commission's decision to defer action on his application until the next regular meeting in Sacramento.

The calendar item, as presented at the January 21 meeting, is attached hereto for consideration by the Commission.

Attachment

Calendar Item (3 pages)

CALENDAR ITEM

20.

APPLICATION FOR EASEMENT FOR LOW-LEVEL BRIDGE CROSSING THE TUOLUMNE RIVER APPROXIMATELY 1½ MILES SOUTHWEST OF WATERFORD IN STANISLAUS COUNTY, CHARLES D. WARNER & SON, INC. - W.O. 3371.

Mr. Jim Short appeared before the Commission at the October 5, 1959 meeting to protest the unauthorized placement of a low-level bridge and causeway crossing the Tuolumne River about 600 feet upstream from his ranch property, located along the left or south river bank. Mr. Short's protest was based on the contention that, as a result of confinement and diversion of the river flow by the bridge abutments, damage would occur to downstream property adjoining the river.

As the result of a request to Mr. Short for additional factual data to support the objections which he had presented verbally to the Commission, a letter was received which reiterated the statements previously made to the Commission. Mr. Short also submitted a letter of objection to the State Reclamation Board, enclosing a series of photographs. His principal reasons for objecting to the bridge, as presented to this Division, are as follows:

1. It is contended that fills at either end of the bridge will increase the rate of flow under the bridge because of the narrowing of the channel at that point, and that the 8-foot-diameter supporting pier is a formidable impediment to the flow of the river.
2. The bridge was placed in its present location without prior authorization and is therefore illegal.
3. Santa Fe Sand and Gravel Company was denied an easement for a bridge further downstream, even though that bridge was perhaps ten feet higher than the Warner bridge and required no concrete pier in the center and less fill at the ends.
4. Removal of the Warner bridge during times of high water is neither practical nor feasible in the event of flash floods or prolonged rainfall, and the pier itself could not be speedily removed.

Mr. Short further states that there is a pending court action brought by him against Warner for damages to Mr. Short's property resulting from prior activities of Warner in the vicinity of the bridge.

When requested to remove the bridge structure, the owner, Mr. Charles D. Warner, President of Charles D. Warner & Son, Inc., a sand and gravel company operating in the area, immediately appeared in the Los Angeles office of this Division and requested information relating to the procedure for obtaining an easement; he further requested a staff inspection of the bridge site.

A visit to the bridge site revealed that the Tuolumne River on that day consisted of a stream varying in width from 65 feet in the deeper channel to approximately 200 feet in the more shallow channel. The channel meanders

CALENDAR ITEM 20. (CONTD.)

through the river valley, which varies in width from about one-quarter to one-half mile. The river valley is enclosed by banks which rise an estimated 20 to 50 feet above the rocky valley floor.

The bridge spanning the stream flow consists of the structural framework of two railroad flat cars laid end to end, secured to the banks at either end and to an eight-foot-diameter concrete support in the center. This support in the present location, together with half the existing bridge, is reported to have withstood the pressure resulting from the severe December 1955 flood, at which time the river overflowed the river valley banks and inundated adjoining farm and orchard lands.

Engineering reports indicate that the maximum authorized controlled release of waters from upstream dams is 9,000 second-feet, and that the maximum estimated stream flow increment from runoff entering the river between the dam and the bridge is 2,000 second-feet. This would represent a total of controlled release and runoff of 11,000 second-feet passing the bridge site. 12,000 second-feet may pass the bridge site before the water reaches the bottom of the bridge. As a safeguard, any controlled release from the upstream dams which would be greater than 9,000 second-feet is preceded by a four-day notice. The applicant has agreed, in the event of such notice, to remove the flatcar portion of the bridge within this time limit, using heavy equipment employed on his adjacent gravel-extraction operation.

Comparison of a 1916 U.S.G.S. map and pictorial evidence in the possession of the applicant discloses little change in the location of the river channel over the past 45 years. The principal channel follows closely the right side of the river valley in a northeasterly to southwesterly direction from Waterford to just above the bridge site where the valley runs in a due East-West direction; the river channel then crosses the valley and appears to be deflected along the left bank at about the site of Mr. Short's ranch. No appreciable change in the downstream channel or the velocity of the river flow resulting from the bridge placement is anticipated.

The Chief Engineer of the Turlock Irrigation District has expressed approval of the bridge, the State Reclamation Board has authorized the bridge placement from a standpoint of flood control, and the owners of the upland property at either end of the bridge have submitted letters expressing satisfaction with the bridge placement.

In his objections to the Warner bridge, Mr. Short mentions that Santa Fe Sand and Gravel was denied an easement for a bridge further downstream. The actual situation was that Santa Fe Sand and Gravel withdrew its application prior to presentation to the Commission after being advised that the staff recommendation would be unfavorable because (1) the bridge would clear a stream flow of only 7,000 second-feet, (2) the high superstructure would trap brush and debris during high water, and (3) the diagonal placement of the bridge across the stream would divert water directly into the bank, which in turn could wash away valuable orchard land. The applicant did not wish to follow the staff suggestion that the structure be placed in another less restricted location where the objectionable features would be overcome.

CALENDAR ITEM 20. (CONTD.)

It is the opinion of the staff that the Warner bridge, as presently located, will not adversely affect any of the downstream property owners. Further, it would be an advantage for the applicant to be able to use this bridge for transporting maximum loads of rock, gravel and sand, instead of having to use existing weight-restricted, high-level county bridges.

A bridge easement, issued for a 15-year term or until the operation in the vicinity is abandoned, whichever occurs first, at an annual rental of \$250 with provision for renewal for two periods of ten years each at such reasonable terms as the State may then impose, appears reasonable. The agreement should also contain requirements that the lessee remove the structure prior to any controlled water release greater than 9,000 second-feet from the upstream dams, and keep the bridge operation covered with liability insurance in the minimum amounts of \$50,000 property damage and \$100,000/\$200,000 bodily injury and death.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO ISSUE A 15-YEAR EASEMENT AT AN ANNUAL RENTAL OF \$250 TO CHARLES D. WARNER & SON, INC., FOR THE MAINTENANCE AND USE OF A LOW-LEVEL BRIDGE CROSSING THE TUOLUMNE RIVER IN THE SOUTH HALF OF SECTION 32, T. 3 S., R. 11 E., M.D.B. & M., STANISLAUS COUNTY, THE EASEMENT TO CONTAIN PROVISION FOR:

1. EARLIER TERMINATION IN THE EVENT THE ADJACENT ROCK, GRAVEL AND SAND EXTRACTION OPERATION BY THE LESSEE IS ABANDONED OR DISCONTINUED.
2. RENEWAL FOR TWO PERIODS OF 10 YEARS EACH UPON SUCH REASONABLE TERMS AS THE STATE MAY THEN IMPOSE.
3. TEMPORARY REMOVAL OF THE TOP PORTION OF THE BRIDGE PRIOR TO THE CONTROLLED RELEASE OF MORE THAN 9,000 SECOND-FEET OF WATER FROM THE UPSTREAM DAM.
4. A REQUIREMENT THAT THE LESSEE OBTAIN AND KEEP IN FORCE LIABILITY INSURANCE WITH MINIMUM LIMITS OF \$50,000 PROPERTY DAMAGE AND \$100,000/\$200,000 BODILY INJURY AND DEATH, AND PROVIDE THE STATE WITH CERTIFIED COPIES OF THE POLICIES.