

JAMES E. O'KEEFE
LAWYER
SOUTHERN TITLE BUILDING
SAN DIEGO, CALIFORNIA

November 21, 1922.

Col. Ed Fletcher,
8th Street,
San Diego, Cal.

Dear Sir:

This is to advise you that the offer of the Murray Estate to sell to the City of La Mesa certain portion of parcel A Murray acres was by the Board of Trustees of said City duly accepted.

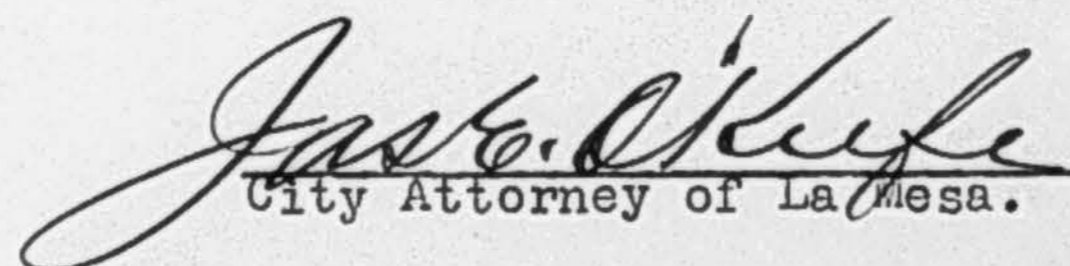
The property in question has been surveyed by the City and the description is as follows:

That portion of Parcel "A" Murray Acres, according to Licensed Survey Map No. 184, filed in the office of the Recorder, San Diego County, California June 17th, 1916, described as follows:

Beginning at corner No. 37, of said Parcel "A" thence S. 0° 39' W. along the west line of said Parcel "A", 200 feet; thence S. 89° 21' E. 750 feet, thence North 0° 39' E. to the northwesterly line of said Parcel "A" thence S 43° 12' W along said line to corner 36 of said Parcel "A", thence S 66° 55' W. along said northerly line of said Parcel "A" 395.1 feet to place of beginning, containing 7.50 acres more or less.

The resolution provides for a rental of this property at the rate of \$50.00 per year until title can be delivered to the City.

Yours very truly,


City Attorney of La Mesa.

JEO'K-MS

December 26, 1922.

File 220-4

Mr. James E. O'Keefe,
City Attorney,
La Mesa, Calif.

My dear Mr. O'Keefe:

Inclosed herewith find letter from our attorney, Mr. Crouch, which is explanatory and which meets my approval. We will have all the property distributed in the next few months to Mrs. James A. Murray. What is the next step?

Yours very truly,

EF:AH

JAMES E. O'KEEFE
LAWYER
SOUTHERN TITLE BUILDING
SAN DIEGO, CALIFORNIA

August 20th, 1925.

Mr. Ed Fletcher,
920 Eighth Street,
San Diego, Calif.

Dear Mr. Fletcher:

In Re: Property on which Septic Tank is
Located, La Mesa, California.

Mr. Rumsey, the City Engineer of La Mesa has furnished us with a description of the property to be conveyed by the Murray estate interest to the City of La Mesa, which description I herewith inclose.

In accordance with correspondence had between yourself, the City of La Mesa, and especially letter of W. S. K. Brown, dated September 5th, 1922, and which letter is addressed to you, in which he states "we will be willing to sell the seven acres in La Mesa Acres, which you mention, at \$75.00 an acre on the terms you state."

If you will kindly have this matter attended to and a deed delivered to yourself, the City will promptly carry out its agreement. The City of La Mesa cannot take any further proceedings as to the paving of Chollas Valley road until this property has been acquired as the proposed route crosses the same.

Yours very truly,

James E. O'Keefe

JEO'K:LH

cc - Mr. Brown

2
with City of La Mesa, Calif

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See Rumsey description

JAMES E. O'KEEFE
LAWYER
411-414 SOUTHERN TITLE BUILDING
SAN DIEGO, CALIFORNIA

September 25th, 1925.

Mr. Ed Fletcher
920 Eighth Street,
San Diego, Calif.

My dear Fletcher:-

Your letter of September 11th, inclosing a copy of a letter from R. M. Horton of Mr. W.S.K. Brown's office, attorney at law, San Francisco, relative to the purchasing of property for septic tank by the City of La Mesa, duly received.

On checking over the correspondence had with you and Mr. Brown in 1922, and especially Mr. Brown's letter of September 15th, 1922, it clearly appears that the price agreed upon was \$75.00 an acre for the property, as stated in Mr. Horton's letter of September 4th. As to the other requirements of his letter, relating to keeping the property sanitary and living up to the restrictions of the State Board of Health, and allowing Mrs. Murray to tap into the property for sewerage purposes, I do not find any correspondence relating thereto. Of course the city would be required, under the law, to keep the property in a sanitary condition and in accordance with the requirements of the State Board of Health. Would suggest that this Deed be executed and forwarded to you so as to save delay and I am very certain that the Board of Trustees of La Mesa will agree to such restrictions as you may suggest, and which are fair and reasonable. It is most necessary that this Deed be secured as no proceedings can be had as to paving of the Chollas Road until the title to the property in question has been secured by the City of La Mesa, as I stated in my previous letter.

As to allowing the grantor to tap into the property for sewerage purposes I will take the matter up with the Board of Trustees at their next meeting and will also see Mr. Porter who was Chairman of the Board during the time that the septic tank was constructed; but in the meantime have the Deed forwarded to you to be held subject to the delivery of agreement relative to restrictions required.

Yours very truly,

JEO'K:LH

*James E. O'Keefe
City Attorney La Mesa*

copy - Mr. Brown

Form 1206 A

CLASS OF SERVICE DESIRED	
TELEGRAM	<input checked="" type="checkbox"/>
DAY LETTER	<input type="checkbox"/>
NIGHT MESSAGE	<input type="checkbox"/>
NIGHT LETTER	<input type="checkbox"/>

Patrons should mark an X opposite the class of service desired; OTHERWISE THE MESSAGE WILL BE TRANSMITTED AS A FULL RATE TELEGRAM

WESTERN UNION TELEGRAM

NEWCOMB CARLTON, PRESIDENT GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

NO.	CASH OR CHG.
CHECK	
TIME FILED	

Send the following message, subject to the terms on back hereof, which are hereby agreed to

January 28 1926

James E. O'Keefe,
Attorney at Law,
Southern Title Building,
San Diego, California.

EASEMENT AND DEED MAILED FLETCHER TODAY.

W.S.K. Brown

(Charge W.S.K. Brown,
Room 606 - 315 Montgomery Bldg.)

POSTAL TELEGRAPH - COMMERCIAL CABLES

CLARENCE H. MACKAY, PRESIDENT

TELEGRAM

TELEGRAMS TO ALL AMERICA
CABLEGRAMS TO ALL THE WORLD



CLASS OF SERVICE DESIRED

FAST TELEGRAM

DAY LETTER

NIGHT TELEGRAM

NIGHT LETTER

XXX

The sender must mark an X opposite the class of service desired; otherwise the telegram will be transmitted as a fast telegram.

RECEIVER'S NUMBER

CHECK

TIME FILED

STANDARD TIME

Send the following Telegram, subject to the terms on back hereof, which are hereby agreed to.

Form 2L-43283

February 11 1926

James E. O'Keefe,
Attorney at Law,
Southern Title Building,
San Diego, California.

PREPAID NIGHT LETTER DONT UNDERSTAND YOUR WIRE IF YOU REFER TO SEPTIC TANK WE ARE ENTITLED UNDER THE CORRESPONDENCE TO MAKE RESERVATIONS TO TAP IS FOR THE BENEFIT OF OUR LAND AND WE WOULD NOT SEND A SMALL PART OF THIS PARCELS EXCEPT TO OBLIGE LA MESA AND ONLY ON CONDICTION THAT IT BE USED AS A TANK STOP IF YOU REFER TO EASEMENT FOR HIGHWAY PURPOSES HOW CAN THE RESERVATIONS HARM LA MESA IF YOU FAIL TO CONSTRUCT OR ACTUALLY ABANDON THE ROAD STOP AM WILLING TO AID IN EVERY WAY DONT THINK ME UNREASONABLE BUT HAVE HAD UNPLEASANT EXPERIENCES ALONG SEMILAR LINES IN THE PAST. STOP MRS MURRAY LEAVING FOR EAST HENT TUESDAY MORNING.

W.S.K. Brown

(Charge W.S.K. Brown,
Room 606 - 315 Montgomery)

February 23, 1926.

Mr. Jas. O'Keefe,
Southern Title Building,
San Diego, Calif.

City Attorney for City of La Mesa

My dear Mr. O'Keefe:

Enclosed herewith find easement signed by
Mary H. Murray covering the right of way asked for in
Chollas Valley.

Yours very truly,

EF:KLM

cc: -City Clerk of La Mesa

THE POSTAL TELEGRAPH-CABLE COMPANY (INCORPORATED)

TRANSMITS AND DELIVERS THE WITHIN TELEGRAM SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

To guard against mistakes or delays, the sender of a telegram should order it REPEATED: that is, telegraphed back to the originating office for comparison. For this, one-half the unrepeatable telegram rate is charged in addition. Unless otherwise indicated on its face, THIS IS AN UN-REPEATED TELEGRAM AND PAID FOR AS SUCH, in consideration whereof it is agreed between the sender of the telegram and this Company as follows:

1. The Company shall not be liable for mistakes or delays in the transmission or delivery, or for non-delivery, of any telegram received for transmission at the UNREPEATED-MESSAGE rate, whether caused by the negligence of its servants or otherwise, beyond the sum of FIVE HUNDRED DOLLARS; nor for mistakes or delays in the transmission or delivery, or for non-delivery, of any message received for transmission at the REPEATED-MESSAGE rate, beyond the sum of FIVE THOUSAND DOLLARS; nor for mistakes or delays in the transmission or delivery, or for non-delivery, of any message received for transmission at the SPECIALLY VALUED MESSAGE rate, beyond the sum at which such message shall be valued, in writing, by the sender thereof when tendered for transmission and for which payment is made or agreed to be made of the amount of the repeated-message rate and an additional charge equal to one-tenth of one per cent of the amount by which such written valuation shall exceed five thousand dollars; nor in any case for delays arising from unavoidable interruption in the working of its lines, or for errors in cipher or obscure messages.
 2. The Company is hereby made the agent of the sender, without liability, to forward this telegram over the lines of any other company when necessary to reach its destination.
 3. Messages will be delivered free within one-half mile of the Company's office in towns of 5,000 population or less, and within one mile of such office in other cities or towns. Beyond these limits the Company does not undertake to make delivery, but will, without liability, at the sender's request, as his agent and at his expense, endeavor to contract for him for such delivery at a reasonable price.
 4. No responsibility attaches to this Company concerning messages until the same are accepted at one of its transmitting offices; and if a message is sent to such office by one of the Company's messengers, he acts for that purpose as the agent of the sender.
 5. The Company shall not be liable for damages or statutory penalties in any case where the claim is not presented in writing within sixty days after the telegram is filed with the Company for transmission.
 6. It is agreed that prompt and correct transmission and delivery of this message shall be presumed in any action for recovery of tolls therefor, subject however, to rebuttal by competent evidence.
 7. Special terms governing the transmission of messages under the classes of messages enumerated below shall apply to messages in each of such respective classes in addition to all foregoing terms.
 8. NO EMPLOYEE OF THIS COMPANY IS AUTHORIZED TO VARY THE FOREGOING.
- EDWARD REYNOLDS, Vice-Prest. and General Manager.

OPERATOR'S NOTATIONS,
TIME SENT, Etc.

CLASSES OF SERVICE

FAST TELEGRAMS. A full-rate expedited service.

NIGHT TELEGRAMS. Accepted up to 2.00 a. m. at reduced rates to be sent during the night and delivered not earlier than the morning of the ensuing business day. Night telegrams may at the option of the Telegraph Company be mailed at destination to the addressee, and the Company shall be deemed to have discharged its obligation in such cases with respect to delivery by mailing such Night Telegrams at destination, postage prepaid.

DAY LETTERS. A deferred day service at rates lower than the standard fast telegram rate. One and one-half times the standard Night Letter rate for the transmission of 50 words or less, and one-fifth of the initial rate for each additional 10 words or less.

SPECIAL TERMS APPLYING TO DAY LETTERS. In further consideration of the reduced rate for this special "Day Letter" service, the following special terms in addition to those enumerated above are hereby agreed to:

- (a) Day Letters may be forwarded by the Telegraph Company as a deferred service and the transmission and delivery of such Day Letter is, in all respects, subordinate to the priority of transmission and delivery of regular telegrams.
- (b) Day Letters shall be written in plain English. Code language is not permissible.
- (c) This Day Letter is received subject to the express understanding and agreement that the Company does not undertake that a Day Letter shall be delivered on

the day of its date absolutely and at all events; but that the Company's obligation in this respect is subject to the condition that there shall remain sufficient time for the transmission and delivery of such Day Letter on the day of its date during regular office hours, subject to the priority of the transmission of regular telegrams under the conditions named above.

No employee of the Company is authorized to vary the foregoing.

NIGHT LETTERS. Accepted up to 2.00 a. m. for delivery on the morning of the ensuing business day, at rates still lower than standard night telegram rates, as follows: The standard telegram rate for 10 words shall be charged for the transmission of 50 words or less, and one-fifth of such standard telegram rate for 10 words shall be charged for each additional 10 words or less.

SPECIAL TERMS APPLYING TO NIGHT LETTERS. In further consideration of the reduced rate for this special "Night Letter" service, the following special terms in addition to those enumerated above are hereby agreed to:

- (a) Night Letters may at the option of the Telegraph Company be mailed at destination to the addressee, and the Company shall be deemed to have discharged its obligation in such cases with respect to delivery by mailing such Night Letters at destination, postage prepaid.
 - (b) Night Letters shall be written in plain English. Code language is not permissible.
- No employee of the Company is authorized to vary the foregoing.

THE FASTEST TELEGRAPH SERVICE IN THE WORLD

4
210.2

January 7, 1928

Mr. James O'Keefe,
City Attorney,
City Hall,
San Diego, Calif.

Dear Mr. O'Keefe:

I want to thank you for the friendly calls made last week and your desire to get both sides of the question. I am certain that you will make every effort possible to bring about a compromise in the water question.

Referring pacifically to your inquiry as to my point of view regarding the right to build the El Capitan Dam No. 3 will say, there is no argument that if in case the supreme court confirms the decision of the lower court in the paramount case, the city will be wholly within its rights.

Judge J. Perry Wood, did, as you know, give a decision adverse to the City in this matter and the opinions of Senator Frank P. Flint, Mr. Mathews, City attorney of Los Angeles, O'Mellvane and Millikan, F. W. Stearns, Crouch & Saunders, Judge W. A. Sloane and many others as I understand it, believe the City will lose in the Supreme court, the city claims of the paramount rights. If the City loses this right, it is in a devil of a fix.

Immediately below El Capitan Dam site is the La Mesa Irrigation District, a public utility having, in court, equal rights with the City with a dam site at El Capitan, also fifteen or more miles of riparian rights on the river through purchase and acquired through the Cuyamaca Water Company, also El Monte pumping rights of fifteen years standing. The Cuyamaca Water Company, a public utility now owns Mission Gorge Dam site No. 3 which is now under option to the District, and the Cuyamaca Water Company and the La Mesa Irrigation District have the first rights to the water of the San Diego river under the laws of the State of California from the State Water Commission with the right to build dams, with five years in which to build

-2-

them and with a written permit from the State that time does not run against us during this litigation. With the paramount rights decided in our favor, the City will have no rights on the river except the pumping rights in Mission Valley. Not alone that, and coming directly to the point, from all the information I can gather, the City will be enjoined from building this dam, if you start it now, and for the following reasons:

The City will be flooding the property of the La Mesa District, together with a hundred foot easement or right of way at Sand Creek and South Fork siphons.

A dam built 40 feet high at El Capitan No. 3 will flood the lands and siphons at South Fork and a dam 100 feet high will flood the District's property at Sand Creek.

Not alone that, but the San Diego Flume Company and the Cuyamaca Water Company secured permission from the U. S. Government on El Capitan Indian Reservation, which permit the District now has, to pump and did pump large quantities of the water from the El Capitan Indian Reservation. The City has acquired these lands, or will acquire them subject to these rights.

It is a well settled point of law, as I understand it, that the City has no legal right to condemn or destroy without the consent of a public utility or irrigation district, any property owned by a going concern rendering a public service, and on that ground along I am of the opinion that the court will enjoin you from going ahead with your building of El Capitan No. 3 without the district's consent in advance.

Cosgrove and Higgins know full well how near we came to winning on that point from Judge Conklin on the El Capitan Condemnation suit, when we got a judgment of \$600,000. Judge Conklin debated a long time as to whether or not that property was used and useful.

In this case, there can be no question but what the La Mesa District will win out, for both of these rights-of-way and siphons now owned by the District, which will be destroyed, have been in use for fifteen or twenty years, also the pumping rights from the El Capitan Reservation during dry years, which rights you will destroy. In other words, the City will have to get the district's consent before you will be allowed to build this dam at El Capitan No. 3, in my opinion.

I again repeat, my suggestion of compromise is as follows:

I am of the opinion that for somewhere between a million and a quarter and a million and a half dollars you can, today, get control of the entire river including Mission Gorge No. 3, all the water rights which the Cuyamaca Water Company or Ed Fletcher or Charles F. Stern own, the water rights from the 400 acres owned by the La Mesa District, riparian rights on the river owned by the La Mesa Irrigation District, the El Monte pumping plant, the El Capitan Dam site, and the lands that will be flooded which either the District or Fletcher and Stern control, all pumping rights on the river, at any point, the diverting dam, Fletcher Dam site and lands that will be flooded, Cuyamaca Lake dam and 1100 acres that are flooded, the entire flume line from the diverting dam to Murray Dam, including Murray Dam and pipe line to the City limits.

The District to reserve only its distribution lines and taking water from you at different points at agreed prices for irrigation and domestic. You could limit the use of water to the present lands within the district, and to the present lands out of the district and which have been furnished with water for thirty or forty years, or, you could agree on a definite maximum amount of water with the district.

You can get an immediate adjustment with the District by leasing the property for thirty or forty years getting immediate possession under an agreement similar to the acquisition by the City of the Normal Heights distribution lines or the Torrey Pines-La Jolla pipe line, between Mr. Henshaw and myself, whereby, at the end of the lease you would own the property, paying as a lease rental sufficient money to take care of the interest and sinking fund, so that the entire property will be paid for at the end of the lease.

The district, in my opinion, will as a condition precedent demand the early completion of a dam on the river by the City that will furnish it with an adequate water supply, as we are bound soon to have another spell of dry years and storage is absolutely necessary or much larger pumping facilities installed to take care of the growing demands of the district.

After the City has entered into this agreement, with the District, if it does, I would certainly advise and urge the City to immediately investigate the following program of construction.

First examine Fletcher Dam Site and the diverting dam site just below the diverting dam from which point water will flow by gravity through the flume right to Murray Dam. You will find you can build as cheaply or probably more so, than at El Capitan No. 1, 2, or 3 a dam at the diverting dam or the Fletcher Dam Site, that will better serve the City Requirements.

It is only fifteen miles from Sutherland. The pipe line can be built for less than \$500,000 from Sutherland to the diverting dam including the acquisition of all rights of way.

There is a power drop of 1,000 feet, approximately, right at the dam site, which will develop enough power to operate all of the pumping plants of the City at El Monte and Riverview or light the Streets of the City of San Diego, saving a hundred to a hundred and fifty thousand dollars a year in electric current alone.

It will cost approximately \$500,000 to construct the wooden flume into a concrete flume sufficient in size to carry all the water from Sutherland and the San Diego River.

Eventually, Mission Gorge No. 3 should and can be built for one and a half million dollars including the dam and a pipe line connecting with the lower levels of the city. You will then have a larger net save-field at half the expense you are going to if you build San Vincente and El Capitan. It will save putting an additional couple of million into San Vincente at the present time and that should be the last dam on the river built, if at all.

There is no doubt but what the El Capitan should be built but I have outlined to you a program that saves the City millions in investment at the present time, gives a 25% larger save-field and settles the water question on the San Diego River for all time.

The Bell-Lloyd Investment Company, who have acquired 7500 acres of land around Murray Dam plan immediate development. This land should go into the irrigation district or the City Limits of San Diego and Mission Gorge Dam No. 3 should be built immediately by the City or the District to furnish them with water for irrigation purposes until it is built up and is turned to domestic use.

If the City Council had, ten years ago, recognized the necessity of a reasonable rate for irrigation and the higher domestic rate for water and placing irrigating water on our raw lands within the city limits, we would have today one hundred thousand additional people in San Diego City as over our present population, for it is

a recognized fact that irrigation water used in suburban sections within five years becomes domestic water in Southern California and then can stand a much higher rate.

I will be very glad to cooperate with you in any way to bring about an early adjustment of this matter between the City and the District.

With kindest personal regards,

Sincerely yours,

(signed) ED FLETCHER

January 7, 1928

Mr. James O'Keefe,
City Attorney,
City Hall,
San Diego, Calif.

Dear Mr. O'Keefe:

I want to thank you for the friendly calls made last week and your desire to get both sides of the question. I am certain that you will make every effort possible to bring about a compromise in the water question.

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them and with a written permit from the State that time does not run against us during this litigation. With the paramount rights decided in our favor, the City will have no rights on the river except the pumping rights in Mission Valley. Not alone that, and coming directly to the point, from all the information I can gather, the City will be enjoined from building this dam, if you start it now, and for the following reasons:

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It is a well settled point of law, as I understand it, that the City has no legal right to condemn or destroy without the consent of a public utility or irrigation district, any property owned by a going concern rendering a public service, and on that ground alone I am of the opinion that the court will enjoin you from going ahead with your building of El Capitan No. 3 without the district's consent in advance.

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I again repeat, my suggestion of compromise is as follows:

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After the City has entered into this agreement, with the District, if it does, I would certainly advise and urge the City to immediately investigate the following program of construction.

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It is only fifteen miles from Sutherland. The pipe line can be built for less than \$500,000 from Sutherland to the diverting dam including the acquisition of all rights of way.

There is a power drop of 1,000 feet, approximately, right at the dam site, which will develop enough power to operate all of the pumping plants of the City at El Monte and Riverview or light the Streets of the City of San Diego, saving a hundred to a hundred and fifty thousand dollars a year in electric current alone.

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There is no doubt but what the El Capitan should be built but I have outlined to you a program that saves the City Millions in investment at the present time, gives a 35% larger save-field and settles the water question on the San Diego River for all time.

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water

a recognized fact that irrigation/used in suburban sections within five years becomes domestic water in Southern California and then can stand a much higher rate.

I will be very glad to cooperate with you in any way to bring about an early adjustment of this matter between the City and the District.

With kindest personal regards,

Sincerely yours,

(signed) ED FLETCHER

Miss May

History

H I S T O R Y

On December 23^d Mr. O'Keefe, City Attorney, asked Mr. Fletcher for his cooperation in settling the water troubles of the city. On Tuesday, Dec. 27th, he asked dismissal of the El Capitan condemnation suit, the first step of the city. The suit No. was 41756 filed by the city of San Diego on *April 16, 1924*, condemning Mission G. Dam site No. 3 and water rights, also all of lots B C E and F owned by Ed Fletcher or the Cuyamaca Water Co.

CONVERSATION BETWEEN JAMES O'KEEFE
AND ED FLETCHER, 12 o'clock, Wednesday, Jan. 11th, 1928

Mr. O'Keefe: "This is O'Keefe, down at the city attorney's office".

Mr. Fletcher: Yes, Hello, O'Keefe. Wait until I get to another phone."

Mr. O'Keefe: "Here's the point, the people over here in the city hall are thinking a whole lot more of you lately. Change of heart!

Mr. Fletcher: "I have never had a bit of feeling."

Mr. O'Keefe: "Of course not. You could do more for this city, if you helped to boost it and get these dam controversies straightened out than lots of men I have heard about who are supposed to be big fellows. You are bigger than anybody here."

Mr. Fletcher: "Haven't I tried to help?"

Mr. O'Keefe: "Here's what I am getting at. I have talked to some of the councilmen and the sentiment is strong for a compromise. Of course there are some details to be worked out. I just had a conference this morning with this water committee that consists of Mayor Clark and Louie Maire, and we went over your suggestions as contained in your letter to me, and we finally agreed if it could be arranged, to have a conference with you and the engineers of the District, Louie Maire, Harry Clark and myself tomorrow at two o'clock, or any time that we could arrange. Any other hour would be all right."

Mr. Fletcher: "Don't have it made public."

Mr. O'Keefe: If it is made public it is going to kill us. I even sent word to the editor of the Sun to keep his "mitts" out of this water question and to give us a little breathing spell. They won't spill anything, or make anything public, but of course we have got to meet and talk these things over, but I assure you the press will not make anything public."

Mr. Fletcher: "Where can we meet?"

Mr. O'Keefe: "I think we better meet right here in the city hall. It is private and we are more apt to have publicity if we go over to your place than if we meet here. Of course, if we meet here and I tell these reporters not to say anything about the meeting, they will not"

Mr. Fletcher: "I think we better meet in the middle of Balboa Park".

Mr. O'Keefe: "Yes. Might be worse. Might run into some of those policewomen"

Fletcher: "And take a shot at us."

O'Keefe: "We would like to have Harritt and King."

Mr. Fletcher: "They are out to the Rotary Club at La Mesa now. I will get in touch with them and make arrangements."

O'Keefe: "Let's do it while the iron is hot, because the temper is all right right now for a settlement. That opinion I wrote there about building up at No. 3, was for political effect."

Fletcher: "That has made them mad. They do not believe your opinion is good.. We think it is propaganda."

O'Keefe: "All right. I did it for propaganda. We have got to the point where we have got to stir something up. It is too darn bad for San Diego and all of our suburbs for these things to hang fire."

Fletcher: "I will arrange for a meeting for tomorrow or the next day, if possible."

O'Keefe: "Make it tomorrow if you can and give me a ring."

The above is a transcript of the conversation between Mr. Fletcher and Mr. O'Keefe, taken down by me in shorthand over the telephone on Jan. 11th.

Katherine L. May

File
January 12th, 1928.

Mr. James O'Keefe, City Attorney
San Diego, California.

Dear Mr. O'Keefe:

You have asked me to make a suggestion as to a possible solution of the controversy between the City and the District to the waters of the San Diego River. I assume both parties will insist no matter what compromise is made that the paramount right case goes to the Supreme Court. This should be satisfactory to all parties, and is to us.

The next problem to tackle is the amount of water that should go to the District and its present cost as well as the cost of any future development. This should not be decided by common laymen. I suggest that the District appoint an engineer, preferably Mr. King, and the City an engineer, preferably Mr. Hill, and let those men call in the third unbiased member (we should not forget that the La Mesa Irrigation District is subject to control of the State Authorities and it might be advisable to invite the chief engineer of the State Water Commission of California to be the third party), and let those three determine:

FIRST: The actual needs of water for the complete development of the present lands in the La Mesa Irrigation District.

SECOND: The total cost per 1000 gallons of the present supply of water which the District is diverting and pumping.

THIRD: The cost of the additional amount of water to make up the necessary requirements of the District. We can all agree probably that the amount of water to be delivered to the District is reduced in proportion as the lands within the present District are annexed to the City; to illustrate, after half of the lands within the present boundaries of the Irrigation District go into the City, the District will only have the right to demand one half of its actual needs, as agreed upon.

January 12th, 1928.

Mr. James O'Keefe, City Attorney, -2-

FOURTH: The District and the Cuyamaca Water Company, Ed Fletcher and Stern to get off the River entirely, turn everything over to the City, and the City take over the flume line, Murray Dam and the pipe line to the City limits. The District to only reserve its distribution lines within the boundaries of the District, taking water at convenient points along the flume line and the pipe lines to supply its consumers. The water to be metered at points of diversion above mentioned and the City to take over the obligation of furnishing the outside water demands as prescribed by the Railroad Commission of California as a condition to their approval of the sale of the Cuyamaca System to the District. This only applies to the use of water that has heretofore been put to beneficial use for many years and is limited to a definite amount.

FIFTH: The City to reimburse the Cuyamaca Water Company and the La Mesa Irrigation District for their actual expenses in the El Capitan Condemnation Suit.

SIXTH: Before delivery of the Murray Dam, either a dam should be built on the River by the City to take care of the demands of the District for water or the Sutherland water brought over to the diverting dam and brought through the Cuyamaca System to the City.

It is going to be an easy matter to agree on the price of the properties to go to the City. Unquestionably they can be acquired by lease with an option of the City to buy at any time and pay cash. If the City Council does not care to take the responsibility it is an easy matter to call an election for the people to ratify or reject the best compromise that the City and District can agree upon.

January 12th, 1928.

Mr. James O'Keefe, City Attorney -3-

It is a crime to let the water run to the ocean as it has the last ten or fifteen years.

It will be the happiest moment of my life when a compromise is effected fair to all parties and interests.

I appreciate your invitation to join in the negotiations and will be glad to render any service possible.

Sincerely yours,

EF:GMF

January 19, 1928.

Mr. James O'Keefe,
City Attorney,
San Diego, California.

My dear Mr. O'Keefe:

I acknowledge receipt of a draft of suggestions made by Mayor Clark and Councilman Maire, re the proposed settlement of the differences between the District and the City to the waters of the San Diego River, and in line with our recent conference at the city hall.

I presented the tentative draft to Mr. King and Mr. Harritt, and enclosed find draft of their suggested changes for your consideration. I have the following suggestions for both sides.

The bonds of the Irrigation District, as I understand it, cannot be called in or redeemed at any time. It would cost at least 105 to purchase these bonds today. It would mean a terrific loss to the district if the city should pay cash, and the equitable way under the circumstances would be to enter into a lease to pay a certain amount each year, interest and sinking fund, the lease to expire 37 or 38 years hence at which time the last of the bonds would be paid off, and the property would be fully paid for and revert to the city

Page 2

without further consideration. I understand that the bonds, when issued, called for the payment of only interest for the first twenty years. Under these conditions, if this compromise were entered into the city would only have a nominal payment of interest to make for the next 17 years. Thereafter a sinking fund would be necessary to take care of the principal, as well as the interest. In other words, for the first 17 years, the interest payments would only be roughly \$90,000 annually.

Paragraph 4. It is my recollection that at our recent meeting it was mutually agreed between the two committees, that the permanent price of the present developed water was 4 cents a thousand gallons, up to 6 million gallons daily, which is approximately what is at present developed; that the maximum was to be 10 million gallons daily, all water being measured at the master meters along the flume line, and for the additional 4 million gallons to be developed by the city the price was to be arbitrated, or left to the Railroad Commission.

I notice in this proposed memorandum of suggestions, that the city committee has proposed that the 4 cent rate stand for 3 years, and that thereafter it be arbitrated, while the district committee has increased the amount from 10 to 11 million gallons. As the decision of Judge Conklin gives the district over 12 million gallons of water daily at its intake, and as for very many years the Cuyamaca

System has been yielding over 6 million gallons daily, the present cost, including interest and depreciation, operating expenses and all, being only 3.72 cents per thousand gallons, it was tentatively agreed at the conference, that including the rebuilding of the flume in concrete the total cost would not exceed 4 cents. My recollection is that that figure was agreed on permanently as the cost to the district of the present water developed. It is very easy to verify these figures if the city desires to do. 4 cents is the Santa Fe District's price in perpetuity.

On the other hand, my recollection is that 10 million gallons daily, delivered at the master meters along the flume line, fully protects the lands within the district, and was mutually agreed on, and I hope the permanent rate of 4 cents, and a maximum of 10 million gallons of water will be mutually agreed upon by all parties.

That the State of California has jurisdiction over irrigation districts must not be lost sight of, and I would much prefer that no maximum amount be agreed on, simply the actual needs of the district. I am sure this would meet with the approval of the voters of the city and the district, for after all is said and done, all the lands within the irrigation district are so close to, and eventually will be a part of the city, that we are all one, or will be some day and possibly in the near future.

My understanding is that the lands outside of the district are only using a small amount of water, and the maximum amount will never exceed three-quarters of a million gallons daily.

For this water delivered outside the district, the price will be regulated, as I understand it, by the city and can undoubtedly be sold at a profit.

Paragraph 6. There is no question but what the Sutherland water, in my opinion, should be brought into the city thru the Cuyamaca flume, as the most economical method. It will be impounded there in the winter and brought down in the summer after Murray dam has been filled with the flood waters of the winter, thereby relieving the necessity of making any enlargement to speak of in the capacity of the present flume. There will be many years when Lower Otay dam will be very low and the flood waters of the San Diego River and the surplus of the Sutherland will flow by gravity into Lower Otay. One year we put 600 million gallons thru the Cuyamaca System into Lower Otay.

The Sutherland water brought down during the summer months will furnish enough electric power to operate pumping plants in the El Capitan Indian Reservation, El Monte Ranch, the El Monte pumping plants which the district owns at Lakeside and the city's plants below at Riverview and Mission Valley. There is nearly a thousand foot power drop of the Sutherland water into the San Diego River watershed.

I am still of the opinion that a small dam holding 15 or 20 thousand acre feet, built at the Fletcher site or at the diverting dam, at a cost of not to exceed a million dollars, and another dam at Mission Gorge No. 3 not to exceed a cost of \$1,500,000, including everything, will take

care of the city's needs for the next 10 years. The greatest amount of water for the least cost per thousand gallons is in the underground reservoirs of El Capitan Indian reservation, the El Monte Ranch, the Lakeside contraction where the district now is pumping, as well as the present city pumping plants. The water bearing gravels at Riverview are shallow. The last year the city was pumping a great deal of air there on that account. While the Lakeside gravels of the El Monte pumping plant are 125 feet deep, we have never pumped below a 60 foot level, and have developed 6 million gallons of water daily at that point and the best basin to pump from, with the deepest gravels, is the El Monte Ranch, a mile or two above the El Monte pumping plant. In other words, you will have the right to pump water from the gravels of the El Capitan Indian Reservation, which the district now has, and by the acquisition of these other underground gravels, you will be able to pump 8 or 9 months of the year easily 15 million gallons of water daily from the different sources, with the construction of the dams above mentioned, as there is enough winter waters to re-charge the gravels from the watersheds that will not be impounded by the construction of the two dams at the head of the flume and Mission Gorge No. 3.

This water can be pumped for not to exceed 4 cents a thousand gallons as a total cost into the Cuyamaca flume, which is adjacent to these water bearing gravels. The

water bearing gravels that I have just mentioned will furnish a net safe yield for 8 or 9 months of the year, almost equal to the net safe yield of the entire Spreckels System, so-called, as now built, and without the necessity of putting up \$6,000,000 or \$8,000,000 of the people's month as a capital expense.

I do not think it is the intention of Messrs. King and Harritt to make it a condition precedent that Sutherland water should be brought over to the diverting dam. Personally I am of the opinion that if the city agreed to build a 15 or 20 thousand acre foot dam at Fletcher site, or the diverting dam, or a 50,000 or 60,000 acre foot dam at El Capitan No. 2 or No. 3, either one of these last mentioned suggestions would protect the district, but at the present time Murray dam is the salvation of the La Mesa District. I can readily understand why they do not want to lose control of Murray dam until some storage above is built, because the temptation would be great to draw the water out of Murray dam for city use to eliminate the cost of pumping.

The water from Murray dam flows by gravity to La Mesa Heights, Lemon Grove and Spring Valley. In addition thereto four times the last ten years Murray dam has been the saving grace in supplying water as far back as Grossmont and La Mesa by a 100 ft. pumping lift, otherwise La Mesa would have gone dry.

My suggestion is that the city either let the district

keep control of, or agree to draw no water out of Murray dam in excess of the amount they are now taking, until such time as the Sutherland water is brought over, or one or the other of the dams is built at the Fletcher site, the diverting dam or El Capitan.

Paragraph 9: If the city committee has any objection to refunding what we consider a legal claim, the estimated amount of costs of the El Capitan suit and the cost of carrying the paramount right suit to a decision in the Supreme Court could be agreed on and added to the cost price of the properties to be agreed upon under the terms of the lease.

If the district makes a lease agreement with the city, I will recommend to my associate, Mr. Stern, that we, if the district desires, accept payment for Mission Gorge No. 3 on the same lease basis.

I appreciate the compliment paid me by Mayor Clark and Councilman Maire in asking me to be a go-between in this matter. I am happy to see how well you are progressing. There should be no trouble in getting together, and I will be glad to be of assistance in any way I can if either side wants my services, but I would much prefer that you all get together and settle your own problems without me. I have made no suggestions to Messrs King and Harritt in relation to this answer. They have made their own recommendations and are fully able to represent the district without

any assistance from me.

Under no condition do I wish either of the committees to think I am trying to dictate. I am only offering a suggestion as a possible solution, on which the committees can agree. It goes without saying that this letter is not for publication under any circumstances I know the committees will respect my desires in the matter.

Yours very truly,

(signed) ED FLETCHER

EF:KLM

11 210.2
SUGGESTIONS AS TO SETTLEMENT OF CONTROVERSY
BETWEEN THE CITY OF SAN DIEGO AND THE LA
MESA, LEMON GROVE & SPRING VALLEY IRRIGATION
DISTRICT, AND THE ACQUIRING OF CERTAIN
PROPERTIES FROM SAID DISTRICT.

(1) That the City acquire the holdings of said Irrigation District, including the Cuyamaca Lake, El Monte Pumping Plant, flume, Murray Lake, and other small reservoirs in the vicinity of Murray Lake, together with all other holdings of said district, excepting its distributing plant.

(2) That the City acquire from said district control of the San Diego River, including Mission Gorge No. 3 site, all the water rights which the Cuyamaca Water Company or Ed Fletcher or Charles F. Stern own, or in which they, or any of them, have any interest; all the water rights from the 400 acres owned by the Irrigation District; all riparian rights on the river owned by the La Mesa Irrigation District, which shall include the El Capitan Dam Site, and the lands that will be flooded, which said district or Fletcher or Stern control; all pumping rights on the river at any point, the diverting dam, Fletcher dam site, and the lands that will be flooded, Cuyamaca Lake, the dam and 1100 acres, approximately, that are flooded; the entire flume line from the diverting dam to Murray Dam, which shall include Murray Dam, as above stated, and the pipe line to the city limits.

(3) The district shall reserve its distributing lines, and shall take water from the city at different points, as may be agreed upon by the Engineers, and which are convenient to said parties.

(4) The City shall pay to said district the cost price of

the system so taken over, which is estimated at \$1,250,000.00; this payment to be made extending over a period of from twenty to forty years; the City and the district to enter into a lease which will provide for such terms and the City to guarantee to pay to the district a rate of interest not to exceed six per cent (6%) on the price agreed upon for the purchase thereof, together with an amount to create a sinking fund which will be sufficient to retire the indebtedness at the end of the period of said lease. Provided, that at the termination of said lease, if the city complies with the conditions thereof, it shall become the owner of said system; provided, further that the city reserves the right to pay to said district at any time the entire amount of the cost price of said system so taken over, which shall be definitely agreed upon, and thereupon the interest at six (6) percent as hereinbefore provided for shall cease.

(5) The City agrees to furnish to the district for the first year after the agreement is finally consummated, an average not to exceed 4,000,000 gallons of water per day; for the second year not to exceed 5,000,000 gallons of water per day; for the third year not to exceed 6,000,000 gallons of water per day. The price to said district shall be four (4) cents per thousand gallons, delivered as aforesaid at convenient places through master meters.

After the expiration of said three years, the amount of water and its cost, to be delivered to said district shall be mutually determined between said district and the City of San Diego, and if said district and the city cannot reach an

understanding in that particular, then the matter shall be determined by the Railroad Commission of the State of California, or by a board of engineers, one to be selected by said district, one to be selected by the City of San Diego, and those two shall select to choose a third; provided, however, that the said district and said city shall have the option to demand that the Railroad Commission of the State of California, or any other body of said state having jurisdiction at that time shall determine the question as to the cost and amount of water to be furnished said district by said city. It is agreed that the maximum amount shall not exceed 10,000,000 gallons daily, in any event, delivered at master meters along the said flume line. In determining the cost of the water, it will be understood that there shall be taken into consideration the overhead expense, the amount invested, interest, the amount required each year to create a sinking fund to retire the bonds or indebtedness. Said cost to be figured in accordance with and in the same manner and the same system used as is now being used by said Irrigation District in determining the cost price of water furnished by it.

(6) It is further understood that said City will, on the consummation of any compromise or settlement entered into with said district, immediately commence operations for the construction of a storage dam with a minimum capacity of _____ gallons on said San Diego River, and will diligently carry on such operations to completion within three (3) years from date of entering into an agreement.

(7) It will be a further condition that the directors of the said Irrigation District and their engineer or engineers will serve in consultation with said City of San Diego and its engineers at any time without charge in the matter of the development of water on said San Diego River, and the construction of a dam thereon; provided, however, that should said engineer or engineers be called upon to do field work, they will be compensated at the usual rate for such service.

(8) That nothing in this proposal contained shall prevent The City of San Diego from furnishing more than the maximum amount of water to said district at any time should the needs of said district require the same.

Provided, further that should any portion of said district become annexed to The City of San Diego, the maximum amount of water agreed to be furnished shall be reduced in proportion as the needs of that section so annexing bears to the needs of the remaining portion of the district, and if the City and the district cannot agree upon such question, then it shall be determined by a Board of Engineers or Railroad Commission and in the same manner as hereinbefore provided for determining the cost of water after three years after entering into the agreement of compromise.

(9) The compromise agreement to further provide that the Act of God, elements, or public enemy will relieve the said City of San Diego from performing the conditions of said contract as to furnishing the maximum amount of water, but nevertheless it will be required to furnish so much as conditions will permit.

This proposal is a tentative outline of compromise coming

MEMORANDA OF CERTAIN SUGGESTIONS TO BE INCORPORATED IN
THE PROPOSED SETTLEMENT BETWEEN THE CITY OF SAN DIEGO
AND THE LA MESA, LEMON GROVE & SPRING VALLEY IRRIGATION
DISTRICT AS SAME HAVE BEEN SUBMITTED BY THE HONORABLE
MAYOR HARRY C. CLARK AND HONORABLE LOUIS C. MAIRE.

from the Water Commission of San Diego, which was appointed by the Common Council, and composed of Mayor Harry C. Clark, and Councilman Louis C. Maire.

If the same is acceptable with the Board of Directors of said district, the details are to be worked out. The matter will then be recommended to the Honorable Common Council of said City of San Diego for its approval.

The suit which is now pending in the Supreme Court of the State of California between The City of San Diego and the Guyamaca Water Company, et al., for the condemnation of a certain dam site at El Capitan shall be dismissed without costs taxes against either side.

The suit now pending to quiet title to the waters of the San Diego River, between said City and Ed Fletcher, et al., shall be continued so that the question may be determined as to the right of the riparian owners, which will be beneficial to the district, as well as to the City.

Paragraph 1. Is acceptable.

Paragraph 2. Is acceptable.

Paragraph 3. Is acceptable.

Paragraph 4. The suggestion that we have on paragraph four (4)

is that the District has certain obligations to meet in the payment of interest and retirement of bonds already issued. These bonds are not subject to call and even if picked up on the market would command a price considerably in excess of the amount realized by the District from their sale. Therefore, the payments by the City should be so arranged that the said payments would meet the interest and sinking fund so that the District can pay off their bonds as they fall due. Of course, the amount quoted of \$1,250,000.00 is approximate only and is subject to an actual audit of the books of the District.

The matter of the City paying off the entire amount of the cost price of the system seems to us to be difficult of accomplishment without subjecting the District to serious loss which, of course, must be avoided in some way. It appears to us on the face of it that such an arrangement would be difficult to accomplish in a manner fair to both parties.

Paragraph 5. The first part of paragraph five (5) is acceptable.

The second part - In our conversation a few days ago it was our understanding that after the expiration of the said three (3) years and after the City had developed additional

water on the river that the rate for the additional water delivered to the City in excess of six million (6,000,000) gallons a day would be the water upon which the rates were to be determined by the Railroad Commission or a Board of Engineers. But since the District is already diverting this amount of water at a low rate, the District should receive up to the six million (6,000,000) gallons per day at the rate of four (4¢) cents per thousand (1,000) gallons and the price for additional water be determined by the said Board of Engineers or Railroad Commission. It was further stated at the conference that the method of arriving at the cost of such additional water would take into consideration the cost at which the District could develop said water and also the fact that the water would be used for irrigation purposes and not altogether for domestic purposes.

We feel that this paragraph requires a little clarification, also as to the maximum amount of water. As you know, the minimum amount of water required by the District under a maximum development is eleven million (11,000,000) gallons a day. This had been worked out and checked by State Officials and does not include the deliveries outside of the District area but contemplates the 18,000 acres now in the District only. This amount of water to lands now being served outside of the District will probably aggregate ultimately about three-quarters (3/4) of a million gallons daily.

Paragraph 6. In lieu of paragraph six (6), we suggest the following: That the City will agree to carry the water from the Sutherland reservoir, now being constructed, through the flume into Murray Dam as a condition precedent to the turning over of Murray Dam to the City.

NOTE: Our reason for suggesting this change to the City is that we feel certain that such a procedure will be to the everlasting benefit of the City of San Diego for the following reasons: A pipe line connecting Sutherland reservoir with the flume is only 14½ miles in length, almost entirely of low pressure pipe. If the City takes over the system the flume must be rebuilt and maintained in any event and by utilizing this construction the water can be delivered from Sutherland into Murray which is at such an elevation that it will serve all parts of the City by gravity and will, therefore, materially reduce the pumping charges which the City will have to pay by bringing in the water from Sutherland through any other route and that the cost of the transportation of the Sutherland water will be materially reduced over any other route. In connection with this we wish to call your attention to the fact that by this means water from Sutherland can be passed through Murray reservoir and transferred from Murray by gravity to Lower Otay through existing facilities.

Paragraph 7. Is acceptable.

Paragraph 8. Change last portion as follows: Provided further, that should any portion of said District become annexed to the City of San Diego that the maximum amount of water agreed to be furnished shall be reduced in direct ratio that the area so annexed bears to the total area of the District.

Paragraph 9. We suggest adding to the end of the first paragraph of Section 9, the following: The City, however, will use due diligence in the installation of additional pumping plants, if necessary, during period of excessive drought and that the curtailment of the water to the District will not be made unless a similar curtailment be made to the City of San Diego.

The second from the last paragraph pertaining to the dismissal of the El Capitan suit. You gentlemen will understand that this suit was forced upon the District and we understand that the procedure is, when such a suit is dismissed the party bringing such suit is responsible for the costs of the suit and we feel this should be the case in connection with the El Capitan suit, this being a legal claim.

The last paragraph: The people in the District are only anxious to compromise in order to end their cost of litigation and we feel sure that if they are forced to carry a part of the burden of the litigation further that it will react against the adoption of any compromise with the City. The City should, therefore, bear the entire cost of the Paramount Right litigation.

The above suggestions are simply thoughts which have occurred to us in reading over the tentative outline as submitted. We feel that we should meet with you gentlemen immediately and discuss these various points which have occurred to us and by so doing, frame up tentative proposition to be submitted to the Board of Directors of the District and the City Council.

January 19, 1928.

Mr. James O'Keefe,
City Attorney,
San Diego, California.

My dear Mr. O'Keefe:

I acknowledge receipt of a draft of suggestions made by Mayor Clark and Councilman Maire, re the proposed settlement of the differences between the District and the City to the waters of the San Diego River, and in line with our recent conference at the city hall.

I presented the tentative draft to Mr. King and Mr. Harritt, and enclosed find draft of their suggested changes for your consideration. I have the following suggestions for both sides.

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without further consideration. I understand that the bonds, when issued, called for the payment of only interest for the first twenty years. Under these conditions, if this compromise were entered into, the city would only have a nominal payment of interest to make for the next 17 years. Thereafter a sinking fund would be necessary to take care of the principal, as well as the interest. In other words, for the first 17 years, the interest payments would only be roughly \$90,000 annually.

Paragraph 4. It is my recollection that at our recent meeting it was mutually agreed between the two committees, that the permanent price of the present developed water was 4 cents a thousand gallons, up to 6 million gallons daily, which is approximately what is at present developed; that the maximum was to be 10 million gallons daily, all water being measured at the master meters along the flume line, and for the additional 4 million gallons to be developed by the city the price was to be arbitrated, or left to the Railroad Commission.

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System has been yielding over 6 million gallons daily, the present cost, including interest and depreciation, operating expenses and all, being only 3.72 cents per thousand gallons, it was tentatively agreed at the conference, that including the rebuilding of the flume in concrete the total cost would not exceed 4 cents. My recollection is that that figure was agreed on permanently as the cost to the district of the present water developed. It is very easy to verify these figures if the city desires to do so. 4 cents is the Santa Fe District's price in perpetuity.

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For this water delivered outside the district, the price will be regulated, as I understand it, by the city and can undoubtedly be sold at a profit.

Paragraph 6. There is no question but what the Sutherland water, in my opinion, should be brought into the city thru the Cuyamaca flume, as the most economical method. It will be impounded there in the winter and brought down in the summer after Murray dam has been filled with the flood waters of the winter, thereby relieving the necessity of making any enlargement to speak of in the capacity of the present flume. There will be many years when Lower Otay dam will be very low and the flood waters of the San Diego River and the surplus of the Sutherland will flow by gravity into Lower Otay. One year we put 600 million gallons thru the Cuyamaca System into Lower Otay.

The Sutherland water brought down during the summer months will furnish enough electric power to operate pumping plants in the El Capitan Indian Reservation, El Monte Ranch, the El Monte pumping plants which the district owns at Lakeside and the city's plants below at Riverview and Mission Valley. There is nearly a thousand foot power drop of the Sutherland water into the San Diego River watershed.

I am still of the opinion that a small dam holding 15 or 20 thousand acre feet, built at the Fletcher site or at the diverting dam, at a cost of not to exceed a million dollars, and another dam at Mission Gorge No. 3 not to exceed a cost of \$1,500,000, including everything, will take

care of the city's needs for the next 10 years. The greatest amount of water for the least cost per thousand gallons is in the underground reservoirs of El Capitan Indian reservation, the El Monte Ranch, the Lakeside contraction where the district now is pumping, as well as the present city pumping plants. The water bearing gravels at Riverview are shallow. The last year the city was pumping a great deal of air there on that account. While the Lakeside gravels of the El Monte pumping plant are 125 feet deep, we have never pumped below a 60 foot level, and have developed 6 million gallons of water daily at that point and the best basin to pump from, with the deepest gravels, is the El Monte Ranch, a mile or two above the El Monte pumping plant. In other words, you will have the right to pump water from the gravels of the El Capitan Indian Reservation, which the district now has, and by the acquisition of these other underground gravels, you will be able to pump 8 or 9 months of the year easily 15 million gallons of water daily from the different sources, with the construction of the dams above mentioned, as there is enough winter waters to re-charge the gravels from the watersheds that will not be impounded by the construction of the two dams at the head of the flume and Mission Gorge No. 3.

This water can be pumped for not to exceed 4 cents a thousand gallons as a total cost into the Cuyamaca flume, which is adjacent to these water bearing gravels. The

water bearing gravels that I have just mentioned will furnish a net safe yield for 8 or 9 months of the year, almost equal to the net safe yield of the entire Spreckels System, so-called, as now built, and without the necessity of putting up \$6,000,000 or \$8,000,000 of the people's money as a capital expense.

I do not think it is the intention of Messrs. King and Harritt to make it a condition precedent that Sutherland water should be brought over to the diverting dam. Personally I am of the opinion that if the city agreed to build a 15 or 20 thousand acre foot dam at Fletcher's site, or the diverting dam, or a 50,000 or 60,000 acre foot dam at El Capitan No. 2 or No. 3, either one of these last mentioned suggestions would protect the district, but at the present time Murray dam is the salvation of the La Mesa District. I can readily understand why they do not want to lose control of Murray dam until some storage above is built, because the temptation would be great to draw the water out of Murray dam for city use to eliminate the cost of pumping.

The water from Murray dam flows by gravity to La Mesa Heights, Lemon Grove and Spring Valley. In addition thereto four times the last ten years Murray dam has been the saving grace in supplying water as far back as Grossmont and La Mesa by a 100 ft. pumping lift, otherwise La Mesa would have gone dry.

My suggestion is that the city either let the district

keep control of, or agree to draw no water out of Murray dam in excess of the amount they are now taking, until such time as the Sutherland water is brought over, or one or the other of the dams is built at the Fletcher site, the diverting dam or El Capitan.

Paragraph 9: If the city committee has any objection to refunding what we consider a legal claim, the estimated amount of costs of the El Capitan suit and the cost of carrying the paramount right suit to a decision in the Supreme Court could be agreed on and added to the cost price of the properties to be agreed upon under the terms of the lease.

If the district makes a lease agreement with the city, I will recommend to my associate, Mr. Stern, that we, if the district desires, accept payment for Mission Gorge No. 3 on the same lease basis.

I appreciate the compliment paid me by Mayor Clark and Councilman Maire in asking me to be a go-between in this matter. I am happy to see how well you are progressing. There should be no trouble in getting together, and I will be glad to be of assistance in any way I can if either side wants my services, but I would much prefer that you all get together and settle your own problems without me. I have made no suggestions to Messrs King and Harritt in relation to this answer. They have made their own recommendations and are fully able to represent the district without

any assistance from me.

Under no condition do I wish either of the committees to think I am trying to dictate. I am only offering a suggestion as a possible solution, on which the committees can agree. It goes without saying that this letter is not for publication under any circumstances I know the committees will respect my desires in the matter.

Yours very truly,

(signed) **BD FLETCHER**

BF:KIM

February 9, 1928.

Mr. J. H. O'Keefe,
City Attorney,
San Diego, California.

My dear Mr. O'Keefe:

Confirming our recent conferences and the conference yesterday with the two committees, at the city hall, will say

In Paragraph No. 1 you should include Mission Gorge No. 3 with the other properties. Also, if you are going to insist upon getting Murray Dam under your control immediately, in my opinion, there must be a clause with teeth in it, satisfactory to the Board of Directors of the District, that this lease is cancelled at the option of the District for failure to live up to the conditions and if there is a failure, all water rights and properties revert to the District in statu quo as at present.

In Paragraph 2 you state that the District is not to have in excess of 4 Million Gallons of water for any one day for the first year, 5 Million Gallons for the second year, Six Million Gallons for the third year. This is entirely out of the question and I am sure was a mistake. It should be an average daily use during the first year of 4 million gallons, 5 million gallons the second year and 6 million gallons the third year, without limitation as to the amount in any one day.

I would suggest that all bills are to be settled monthly by both parties.

Mention should be made that you will serve to the flume users outside of the boundaries of the district, who have valid rights perfected by 5 years or more use, the rates to be established by the city; and mention should be made that the irrigation district is to be released from any obligation to serve the city with any

part of the water being furnished the district. In other words, the city will furnish water to consumers outside of the district who have perfected rights, between Murray Dam and the city. You will establish these rates whether they are inside the city or not. There is only a matter of several hundred acres involved, and it only affects those who have already put the water to beneficial use covering a period of years, and you can limit them to the use that they have heretofore received.

I do not think Paragraph 5 amounts to anything one way or the other, because it is wholly at the pleasure of the city, and I suggest it be cut out.

Paragraph 6 is all right, I should say.

Paragraph 7 should include that the cities in the irrigation district should get their proportion of water in case of drought on the same ratio as the City of San Diego and some protective clause should be included in regard to curtailment of irrigation and domestic use in case of drought, both for the city's and the district's protection.

It is agreed that Paragraph 8 should read that the city agrees to abandon its litigation and the courts will determine the cost of the El Capitan litigation.

Paragraph 9 should particularly specify that the city is not to take any more out than the average of the last three years, except when Murray Dam is full and there is a surplus of water.

The above are just suggestions to be considered in making the next draft of the compromise, which I believe is going to be approved by all parties in interest.

Yours for success,

ED FLETCHER

EF:KLM

February 10th, 1928.

Mr. James O'Keefe, City Attorney,
San Diego, California.

My dear Mr. O'Keefe:

I have gone over with Mr. Harritt and Mr. King the suggested letter from Mayor Clark and Councilman Maire to Messrs. King and Harritt as submitted by you, and in general we find it according to our verbal understanding at the meeting in the City Hall last Wednesday.

We have made certain suggested small corrections which you will find written on the copy of the proposed letter.

On Page 1, sixth from last line, you undoubtedly made an error as it should read "diverting dam to Murray Dam" and not "to the south portal of Murray Dam". On the last line, Page 1, have been added the words "which the District owns", as it cannot furnish anything excepting what it does own.

On Page 3, third line, should be added "at its meters along the flume ~~and~~ main pipe line, which will be controlled by the City". On Page 3, fifth line, should be added "the District's needs not to exceed 4,000,000 gallons per day", as the District does not want to contract to take a definite amount and 4,000,000 is the maximum. This may be taken care of later on in a separate clause where the District may take less or more, but we want it understood that the District does not have to take its maximum.

On Page 3, line 13, should be included the words "or flume line", as some of the meters will be on the flume line and within the boundaries of the District.

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February 10th, 1928.

Mr. James O'Keefe, City Attorney --2--

On page 5, marked "X", it is satisfactory that that clause be included suggested by you as follows:
"It is agreed that either party may bring suit to enforce the provisions of this lease".

On the bottom of Page 5 should be ~~excluded~~ that part marked "circle B". Under this clause the question of the amount of water in excess of 6,000,000 gallons per day can be arbitrated, while it is as a matter of fact provided for on Page 3 as to the maximum amount of water, and one contradicts the other. Our understanding is that any water in excess of 6,000,000 gallons per day, the cost is to be arbitrated, but not the amount.

On page 6 at the point marked "Circle C", there should be a clause inserted that in case of drought the domestic water supply would be pro rated the same with the City as the District, in other words, all treated alike.

Page 6, Circle "D", should be inserted the words "cost to the City".

A clause should be added whereby the City agrees to the abandonment of the El Capitan condemnation suits, which you yourself omitted and have noted as necessary in this agreement.

It is understood, of course, that you are acquiring the main pipe line from Murray Dam to the City.

With these slight corrections, I believe it puts it in shape for both parties to go ahead with the program as tentatively agreed on, subject, of course, to a final contract being drawn up that protects all parties and interests, if and when approved by the directors of the District and the City Officials.

I personally believe that this compromise can be put over and it is fair to all parties and interests.

I am returning your original draft.

Yours very truly,

EF:GMF
Encl.

Mr. T. H. King, and
Mr. C. Harrit, Civil Engineers,
c/o La Mesa, Lemon Grove & Spring Valley Irr. District.

Gentlemen:

In accordance with our conference of yesterday and the verbal agreements reached, we herewith submit the following as a compromise between said District and the City of San Diego, which the Water Commission will approve and recommend to the Council for its approval, and if approved by said Council the same will be carried out legally and proper instruments drawn and executed by both the District and The City of San Diego. These proposals are made with the understanding that the engineers of said District will approve of the same and submit a copy with your approval to the Board of Directors of said District simultaneously with the submission by the undersigned, said Water Commission, to the Common Council of said City:

1. That The City of San Diego acquire by lease from said District all of its rights, title, interest and holdings in and to its properties and system, including all of its rights, properties and interests on the San Diego River, together with its water rights; also, Cuyamaca Lake, Cuyamaca Dam, diverting dam on the San Diego River, Fletcher Dam site, El Capitan Dam site, Monte Pumping Plant, main flume, diverting dam to Murray Dam, South Fork Feeder, telephone lines, Mission Gorge Damsite No. 3, together with lands in connection therewith which may be flooded in case of the construction of a dam at that site, Cuyamaca Reservoir lands, diverting dam easement, Fletcher Reservoir lands, El Capitan Reservoir lands, which the District owns, main flume rights of way,

Monte Basin lands, El Monte Pumping Plant lands; together with all the rights, title or interest of Ed Fletcher, Charles F. Stern and their associates, if any, to all of the properties rights and interests hereinbefore in this paragraph mentioned.

2. The City of San Diego and said District to enter into a lease which lease will contain in substance the following provisions: Said District will turn over and surrender to said City the properties hereinbefore mentioned, together with any and all other properties, if any, owned by said District, not including its distributing plant, giving the City the right to immediate possession, the right to go upon said lands or the interest so conveyed for the purpose of making repairs, reconstructions, improvements or building dams or other structures or doing anything necessary or convenient for the developing of water thereon. The lease shall cover a period of _____ years. The rental which shall be paid semi-annually, as shall be agreed upon, shall be a sum of money which will in the aggregate total the entire cost price to said District, with future interest, of said system and the lands and interests so acquired, and shall be paid in equal annual installments.

The District will execute or cause to be executed the necessary instruments of conveyance conveying to said City the aforesaid properties and interests, which instruments of conveyance will be pleased in escrow to be delivered to said City of San Diego upon the expiration of the lease and the performance upon the part of said City of the terms and conditions thereof. In other words, The City of San Diego will become the absolute owner of all said system, properties and interest on the termination of the lease.

and payment of the rentals as provided in said lease.

The lease will further provide that said District will be furnished at its meters along the flume and main pipe line controlled by the City, with a certain amount of water by the City from said system as follows:

For the first year the District's needs not to exceed an average of 4,000,000 gals. per day,

For the second year an average of 5,000,000 gals. per day
" " third " " " " 6,000,000 " " "

thereafter the City will furnish such additional water as the needs of the District may require, but not to exceed, however, an average of 10,000,000 gallons per day. The cost of the water to the District for the first three years shall be at the rate of four cents (4¢) per 1,000 gallons delivered at convenient places to said District at its main pipe lines or flume line and at such points that said District will be able to distribute said water to all portions within its boundaries. At the expiration of three years water delivered to the District up to 6,000,000 gallons per day shall be at the rate of five cents (5¢) per 1,000 gallons. In this connection, however, it is understood that the District now represents that the cost price of the water now and for some time past delivered to its main pipe lines has not exceeded the sum of four cents (4¢) per 1,000 gallons, which cost price included the overhead, maintenance and all expenses inconnection with the production of said water, together with interest on the reasonable value of said system and properties and also the charge of creating a sinking fund for the purpose of paying off the indebtedness of said District for said system and lands. That in this connection it is under-

stood that The City of San Diego and said District will hereafter have their representatives and officials check the books and properties of said District for the purpose of arriving at the cost price of the properties and interests of said District, hereinbefore mentioned, and to determine that the cost price of the water as aforesaid will not exceed the sum of four cents (4¢) per 1,000 gallons.

The City of San Diego shall have the right to withdraw from Murray Dam an amount of water as heretofore during the past year was drawn or which might have been withdrawn, but not to exceed 1,000,000 gallons per day, for the purpose of furnishing certain sections and suburbs in the eastern part of the City of San Diego. It will be a further condition of said lease that the said City will not withdraw water from Murray Dam, except as to the 1,000,000 gallons per day, when the withdrawal thereof would jeopardize the rights and interests of the District and make it improbable that the City could fulfill the terms and conditions of its lease in the matter of furnishing water to the District; provided, however that the City will at all times have the right to withdraw water from said Murray Dam when there is an excess or when the said City has connected said dam with some other adequate source of supply and may deliver such water so withdrawn to the said City or any other day or storage basin owned by said City, having in mind, however, at all times, the rights of said District to the first demands on the waters of said Murray Reservoir to the extent of the terms of said lease

Should the said District or the City of San Diego fail to keep and perform each and every condition of the lease, then

the same may on thirty (30) days' written notice be terminated by the aggrieved party at its option, provided that if during said thirty (30) day period either of said parties shall remedy the alleged breach by complying with the conditions of the lease, then the breach shall be of no force or effect and the lease fully reinstated thereby. Should the said lease be terminated because of breach on the part of the District, the City shall thereupon be relieved from all further obligations thereunder and shall surrender back all said properties and interests to the District. Should the lease be terminated because of breach on the part of the City to perform the terms and conditions thereof, then the said District may repossess and retake the properties and interests described in said lease and in case of breach as aforesaid the aggrieved party may in addition thereto call upon the other for any damages provided for by law in such cases.

It is agreed that either party may bring suit to enforce the provisions of this lease.

On the performance of the conditions of said lease by the said City and on the expiration thereof, the instruments or conveyance deposited in trust, as aforesaid, shall be delivered to The City of San Diego and thereby it shall become the sole and exclusive owner of all of the properties and interests hereinbefore mentioned.

If the District and the City are unable to arrive at the cost price of water furnished to the District in excess of 6,000,000 gallons per day after the three year period, such question shall be determined by said Railroad Commission.

It will be understood that the said District is not required to take the maximum amount of water herein provided for nor is the City limited in furnishing the maximum amount as herein required,

providing the needs of the District require more water and the City is able and willing to furnish the same. The price of water so furnished for such excess would be the same as water furnished in excess of 6,000,000 gallons per day.

The lease will further provide that either the District or said City may be relieved from the performance of the conditions, or any one thereof, when it is impossible because of conditions beyond the power and control of said parties or either of them to remedy, the Act of God, the public enemy or droughts; and provided further, that in case of a shortage of water because of any such condition the City undertakes to furnish to said District such amount as it can reasonably supply and to that end will make equitable division of water which it is able to supply from said system and the increased storage and facilities which may be added, between said District, other communities and the City of San Diego.

And further, that the engineers of said District will serve in consultation with the engineers of the City of San Diego, without cost to the City, in matters relating to water and the development thereof on the San Diego River or matters pertaining to the System taken over from said District. Should they be called upon to do field work or render service other than consultation, they shall be compensated at the usual and reasonable rate.

That in the event that any portion or portions of said District should annex to the City of San Diego and said City thereupon undertake to furnish such District so annexing with water, the amount guaranteed by said City to be furnished shall be reduced in the proportion the area of the section so annexing bears to the entire area of said District.

Other provisions may be incorporated in said lease which are customary and usually incorporated in such leases.

pro rate
with
city

Clause as to abandonment of suit

Pipe line on El Cajon Ave to City insert Top P a

Ed Fletcher Papers

1870-1955

MSS.81

Box: 20 Folder: 25

General Correspondence - O'Keefe, James



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