

BEFORE THE RAILROAD COMMISSION
OF THE
STATE OF CALIFORNIA.

In the Matter of the Application)
of James A. Murray and Ed Fletcher) Application No. 1130.
for Authority to Transfer Property.)

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REPORTER'S TRANSCRIPT.

APPEARANCES:

Ed Fletcher, for Applicant.

D.G.Gordon, for certain water users.

T. B. Cosgrove, City Attorney of San Diego, for the City
of San Diego.

Haines & Haines, for the Pacific Building Company and
Fairmont Development Company.

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ED FLETCHER, for Applicant.

D. G. GORDON, for certain water users.

T. B. COSGROVE, City Attorney of San Diego, for the City
of San Diego.

HAINES & HAINES, for the Pacific Building Company and
Fairmont Development Company.

San Diego, Cal., March 23rd, 1914, 3 o'clock P. M.

COMMISSIONER WHELAN: The Commission will come to order
Application 1130. Is anyone appearing in formal opposition to
this application?

MR GORDON: I appear temporarily in opposition to it.

COMMISSIONER WHELAN: D. G. GORDON appears in opposi-
tion. Do you appear, Mr Cosgrove?

MR COSGROVE: Why, if the Commission please, I don't
believe there is any necessity of entering a formal appearance.

COMMISSIONER WHELAN: Well, you may appear out of courtesy.

MR FLETCHER: Mr Great, our attorney, is not here, and I

will appear.

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1 COMMISSIONER ESHLEMAN: Well, we will proceed as far as
2 we can today. There is a protest on the part of La Mesa
3 Development Company in writing. Is anyone representing that
4 company?

5 MR GORDON: I would like to say at this point that it was
6 day before yesterday that I saw a copy of the application,
7 and I have had no opportunity to see the exhibits that are
8 referred to. The general committee was called together as
9 speedily as possible, but there was no possibility of having
10 an understanding as to what would be done. We didn't know what
11 was proposed, except the general statement.

12 COMMISSIONER ESHLEMAN: Judge Haines, do you desire to
13 appear in this case?

14 MR HAINES: Yes, I think so, with Mr Gordon, and for the
15 Pacific Building Company and the Fairmont Development Company.

16 COMMISSIONER ESHLEMAN: Do you gentlemen appear in op-
17 position to the transfer or in opposition to the terms of the
18 transfer, or both?

19 MR GORDON: I appear in opposition to the transfer, en-
20 tirely regardless of the conditions of the transfer, within
21 reason. Of course I can conceive of there being a corporation
22 formed that would be so strong as to make it to our interest
23 to have the transfer, but I submit that after a control of
24 this system for four years, with such an extremely small show-
25 ing of improvement, even since the order of the Commission,
26 that the personal responsibility of these applicants ought not
27 to be surrendered.

28 COMMISSIONER ESHLEMAN: Well, we will receive the showing
29 they have to make at this time, and the latter part of the

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1 showing will be deferred to a subsequent date. You may go
2 ahead.

3 MR FLETCHER: Mr Murray and myself signed this application
4 as owners of the system. I just wanted to give notice that
5 there is a contract of purchase out between William G. Henshaw
6 of San Francisco, and myself, for an undivided one-half of my
7 interest in the Gayamaa system. We had intended, your Honor,
8 at this time to present testimony showing the value of our water
9 rights, riparian rights, intangible values, and so forth, but we
10 will not do that at this time if our understanding of the sit-
11 uation is correct, that we will not be waiving any of our right
12 at a later date to make an application for the valuation of these
13 properties just mentioned. Our object is simply not to lose
14 any rights we might have, at a later date, and simply leave it,
15 and what is before you will be simply a physical valuation of
16 the properties alone.

17 COMMISSIONER ESHLEMAN: As I told your engineer, Mr Harroun,
18 and also yourself, since the Supreme Court of the United States
19 has held very recently that water rights, under the control of a
20 public utility have a value, I have been of the opinion that
21 these companies under the mandate of the Supreme Court are to be
22 divided into two classes, first, those that have not sold any
23 water, that is, water rights; and, second, those who have sold
24 water as water rights. It is inconceivable to me, under the
25 decision of the Supreme Court, that if these companies owned
26 water rights, that after they have sold these water rights they
27 should still retain them. In other words, if a company has sold
28 water to its owners, it certainly has parted with those
29 rights. I want this to go into the record so that Mr. Sweet and

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1 the others may apply themselves to it. My position is, after
 2 being forced by the Supreme Court against my ideas on the sub-
 3 ject, that in the hands of a public utility corporation water
 4 rights have a value independent of the value they have as
 5 applied to the uses of their consumers. Certainly where that
 6 agency has said those rights under those water right contracts
 7 it does not still have them; but I want authorities on that
 8 subject, and the matter is not foreclosed at all, but it is my
 9 present intention to take that position.

10 MR FLETCHER: At the time we made this application, we did
 11 intend to value our water rights, riparian rights, intangible
 12 values, and so forth, and we placed a net value of \$1,500,000 on
 13 them. Since then we have decided to put in a claim for a
 14 physical valuation with the understanding that we are not waiv-
 15 ing any of our rights and we may come in when we so desire and
 16 show them. I will call Mr. Harroun.

17 COMMISSIONER ESHELMAN: I would say that it seems to me
 18 that in an application like this the principles involved are quite
 19 simple. You and Mr Murray own all the property. You own all
 20 the stock of the corporation to which the property is to be
 21 transferred. The terms of the transfer, so far as you are con-
 22 cerned, would not seem to me to make very much difference, but
 23 of course that is for you to say; but the Commission would not
 24 be disposed to allow a transfer to a corporation so that that
 25 corporation would begin its active corporate life so overburdened
 26 with stock and bond issues that it could not struggle along,
 27 regardless of the desires of the parties. All right, Mr Harroun,
 28 you may be wanted.

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1 PHILLIP R. HARRISON, a witness called in
2 behalf of the Applicant, being first duly sworn, testified as
3 follows:

4 DIRECT EXAMINATION

5 COMMISSIONER ESHLEMAN: You gentlemen understand that Mr
6 Harrison, in common with a lot of our men, have been taken away
7 from us by people who pay more money. Mr Harrison now represents
8 the water company.

9 MR GORDON: It would help us a little to understand what is
10 going on if we could see the schedules.

11 COMMISSIONER ESHLEMAN: I have not seen them. Mr Harrison
12 will present them.

13 MR FLETCHER: Mr Harrison, will you please state your exper-
14 ience as an engineer.

15 COMMISSIONER ESHLEMAN: We will waive that. Go ahead, Mr
16 Harrison.

17 MR FLETCHER: Go ahead and make a statement of the work
18 that we have outlined for you to present to the Commission.

19 A I have prepared here a valuation of the property, of
20 the physical items entering into the property. The basis of
21 that valuation is the value found by the Commission in decision --

22 COMMISSIONER ESHLEMAN: In Case number 118.

23 A Yes, in the decision on Application number 118. The
24 valuation has been divided into two portions, the first por-
25 tion being covered by that decision which has been accepted,
26 but modified by being brought down to June 1st, 1914, to the
27 application of accrued depreciation. In addition to that
28 there have been excluded from that value, from that portion
29 of the property, all the value of structures which have been

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1 abandoned within the last two years, leaving in the first
 2 section of this only such values of existing properties as were
 3 considered by the Commission in its decision on Application
 4 number 118. No change has been made in that valuation, in the
 5 detail, whatever, except in so far as the lands were concerned,
 6 and the values given to the land are those values which were
 7 given by the Commission in its decision. The original applica-
 8 tion was as of date June 1st, 1912, and since that time there
 9 has been considerable change in the system. The second section
 10 of this represents the values of the properties which have been
 11 acquired, either constructed or acquired, otherwise, since that
 12 time, so as to bring the entire property down to June 1st, 1914.
 13 I don't know that there is anything more to say in explanation
 14 of that, except with reference to the final summary sheet, the
 15 last sheet.

16 COMMISSIONER ESHLEMAN: How many extra copies have you?

17 A There are four copies here.

18 COMMISSIONER ESHLEMAN: Will you give Mr Haines one of
 19 them?

20
 21 A Yes sir. Referring to the last sheet, final summary,
 22 the last sheet, the last items on that page represent the pro-
 23 perties owned by the Coyamoc Water Company on June 1st, 1912,
 24 as shown by the Railroad Commission valuation, but corrected to
 25 show accrued depreciation, and also corrected to wipe out the
 26 structures which have been abandoned. That property shows a
 27 reproduction cost of \$746,519, and a present value of \$522,743.
 28 Now, the other properties are properties which were purchased
 29 or constructed by the Coyamoc Water Company since June 1st,
 1912. These properties have a value of \$247,596 -- a reproduction

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1 cost, I should say, and a present value of \$239,578. In ad-
 2 dition to these properties which were either purchased or con-
 3 structed, there are properties donated to the Cayama Water
 4 Company since July 1st, 1912. I don't use that word "donated"
 5 in the ordinary acceptance of the term, but rather to indicate
 6 properties for which no vouchers or no cost appears upon the
 7 books. That is really the use of the term rather than the
 8 ordinary acceptance. These properties have a reproduction cost
 9 of \$58,016, and a present value of \$46,701. The total value of
 10 the physical items entering into this system as of June 1st,
 11 1914, is, therefore, the sum of these three. The reproduction
 12 cost is \$1,252,150 and the present value of the property,
 13 \$809,022.

14 MR FLETCHER: Mr Harroun, since that statement has been
 15 tabulated and completed, is it not a fact that you have found
 16 many thousands of dollars that we have expended that is not
 17 included and should have been included in this statement? If
 18 so, if you have found out any of those items, please make the
 19 statement to the Commission.

20 A This matter has been under investigation by myself
 21 ever since February. It has been an extremely complicated pro-
 22 blem to secure the full information because of the many and
 23 detached properties. Now, this case I only learned last Monday
 24 was set for today, and, as a consequence, I have had to close
 25 the matter up and present this report at this time. I am cer-
 26 tain that there have been some omissions. In fact, since I began
 27 to close it, I received information from the city in regard to
 28 certain expense matters that are properly included. The conse-
 29 quence is that I am certain that this property has a greater

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1 value than is here indicated, but to what extent I can't say.

2 Q In this estimate of physical valuation, as they call
3 it, you have not included any value for water rights, riparian
4 rights, or intangible values, have you?

5 A No. That has been impossible. It is only within the
6 last few days that this Supreme Court decision which Mr Eshleman
7 has just referred to --

8 COMMISSIONER ESHLEMAN: You are acquainted with that
9 decision, of course, Judge.

10 MR HAINES: I have not seen the text of it yet.

11 A And those matters, the intangible values, have not
12 been touched on by me at the present time and are not included
13 in this report.

14 MR FLETCHER: That is all.

15 COMMISSIONER ESHLEMAN: Judge Haines, have you any cross
16 examination?

17 MR HAINES: I think I will have.

18 COMMISSIONER ESHLEMAN: I will say that Judge Sweet has
19 asked for a continuance, and I would have put it over but I
20 thought we could get this before us and then we would have it to
21 study and then you could make such cross examination as you
22 desire later. Mr Gordon, would you prefer to delay the cross
23 examination until a later date?

24 MR GORDON: Certainly. I infer from what I have heard that
25 in arriving at this present value he takes no note whatever of
26 the question of the adequacy of the system. In the finding of
27 value in decision on Application 118, the finding of the Commis-
28 sion as to the value was not an absolute finding; it was if the
29 system were in adequate condition it would be that.

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1 COMMISSIONER ESHLEMAN: Well, we will defer the cross
2 examination.

3 MR FLETCHER: Your Honor, if the question of the adequacy
4 of this system, 100 per cent efficiency is required at this hear-
5 ing, we are in a position to present our facts now.

6 COMMISSIONER ESHLEMAN: You might present them to save time.

7 MR FLETCHER: But we understood that that did not enter into
8 this case.

9 COMMISSIONER ESHLEMAN: Well, I don't know where you derived
10 your understanding.

11 MR FLETCHER: I say among ourselves we thought that ques-
12 tion should not be taken up.

13 COMMISSIONER ESHLEMAN: I will say that in a transfer such
14 as this we do not make as careful a valuation as in rate-fixing
15 inquiries, and we always conclude that the values on which a
16 transfer are made shall not be conclusive upon this Commission,
17 such as if it were a rate-fixing inquiry; but what we desire is
18 to have a relation between outstanding debts and physical pro-
19 perty. We are not so careful in a case such as this as in a
20 rate-fixing inquiry.

21 MR HAINES: That is our understanding.

22 COMMISSIONER ESHLEMAN: It is because of the fact that we
23 don't want to delay transfers, if transfers are justified, and
24 still don't want to tie ourselves up; but we do look generally
25 into the property to ascertain some of the facts. Now, I would
26 like to have the position of yourself and Mr Gordon as to your
27 opposition to the transfer. I will say offhand that the transfer
28 has not appeared to me to be objectionable at all, and I would
29 like your position in the matter. You urge your opposition not as

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1 to the terms of the transfer, but as to the fact of the trans-
2 fer?

3 MR GORDON: As to the fact of the transfer, assuming that
4 the corporation is not a corporation which will have a bona
5 fide capitalization that bears some relation to what we have
6 supposed to be the moneyed worth of these applicants. I have
7 supposed that that was not contemplated. Now, as I stated
8 before, these parties have for four years disregarded their
9 obligations to the consumers under this system; and I will
10 remind the Commissioner that when the decision of the Commission
11 was issued on that application 118, the decision was to be
12 taken as a whole. The consumers acquiesced. I think there can
13 have been no complaint come to the Commission of any failure
14 on the part of the consumers to abide in good faith by all the
15 orders of the Commission. Now, that order was to be taken as a
16 whole. These parties have taken such parts of the decision as
17 were favorable to them and have rigidly enforced rules under
18 that. So far as we have been able to learn, they have done
19 very, very little towards compliance with the order of the Com-
20 mission -- so little that it seems to me that most any time
21 during the past six months the consumers would have been jus-
22 tified in asking the Commission to suspend that decision in
23 so far as it changed the rates that were in force previous to
24 July 1st last year. Now, as I say, these parties have neglected
25 their public duty, it seems to me.

26 COMMISSIONER EHELEMAN: Now, Mr Gordon, specify with a
27 little more particularity just wherein that neglect lies.

28 MR GORDON: Well, in the first place, there was a specific
29 direction to proceed to renew the plans. In place of that we

1 have a temporary lining of paper. I presume that the Commis-
 2 sion had good reasons for possibly assenting to that as a
 3 temporary modification. But the fact remains that in place
 4 of the renewal of that flume, which was one of the definite
 5 provisions in that decision, and which was one reason why even
 6 those who were most hit by that decision acquiesced in it, that
 7 that flume was to be immediately renewed. Then there was a
 8 succession of little encroachments, gradually encroaching and
 9 encroaching until that order relating to renewals seems to have
 10 been virtually shoved to one side altogether, but all the pre-
 11 visions relating to the changes in rates, the increases in
 12 rates are rigidly enforced. And then, besides that, in the
 13 decision, "It is further ordered that said applicants take
 14 immediate steps to increase the available supply of water so
 15 that the same may be increased over the present available sup-
 16 ply at least 33-1/3 per cent. x x x In the event that these
 17 applicants do not within a reasonable time, in the opinion
 18 of the Commission, begin the construction of other facilities
 19 than the ones specifically ordered herein, this particular
 20 matter being held open for decision and for the further sub-
 21 mission of evidence, will again be considered by this Commission
 22 after due notice to the applicants and the parties hereto as
 23 required by law."

24
 25 Now, if they have increased their facilities since then,
 26 it has escaped my knowledge; or if they have proceeded in good
 27 faith to take the first steps towards doing it, I have yet to
 28 learn of it. A few days ago when I saw in the papers that this
 29 matter was being brought up, I wrote to the water company, and
 one of the questions I asked was whether anything was being done.

1 I have not heard from them. I presume that the Commission
 2 may have information on it which has escaped me. Now, I think
 3 that the personal responsibility of these men ought to count
 4 for a good deal in this matter. If there is a corporation
 5 formed, no matter if the stock does all of it temporarily pass
 6 into the hands of these men, who knows where, it will be a few
 7 days hence? Personally I would very much rather look to in-
 8 dividuals such as these than to a corporation, which at most
 9 would have -- unless there is a cash capital back of this --
 10 would have at most only this system. I don't know that Murray
 11 and Fletcher are men of large means, but it is generally
 12 reputed they are. Certainly the corporation would have nothing
 13 that Murray and Fletcher don't have now in this transfer. It
 14 would seem for the system, even if they were capitalized for a
 15 million dollars, they would appear to have far less resources
 16 than has been freely claimed. The Commission will probably
 17 remember that at the first hearing on that Application 118 --
 18 I think it was in July, two years ago -- the statement was freely
 19 made that if the Commission acted fairly towards them, two
 20 million dollars would be expended. We have heard a great deal
 21 about dam sites and new reservoirs. Either we ought to have
 22 had some little showing by them, or else all the powers that
 23 the state has given the Commission ought to be invoked to com-
 24 pel these men to do their duty, and until they have done their
 25 duty they should have no favors at all.

26 COMMISSIONER BOHANNAN: Judge Haines.

27 MR HAINES: I don't know that I have anything to say at
 28 this time. I concede, of course, that the ownership of a system
 29 like this by a good partnership might be very much enhanced

1 if one of the parties should die. I suppose one of the reasons
 2 for corporate ownership is that the system would not be sub-
 3 ject to the difficulties which would ensue if one of the
 4 parties died. Of course, the people are interested in seeing
 5 that it is a solid corporation, able to perform its obliga-
 6 tions, but I don't know that it is competent for these indivi-
 7 duals, who are now under express covenants for the benefit of
 8 the consumers to furnish water which the flume company originally
 9 agreed to furnish -- I don't think it would help to release them
 10 at all. In fact, I think they remain under the same obligations
 11 to the consumers that they entered into when they received the
 12 transfer. For my part, I think the Commission would look with
 13 favor upon an organization which would take title to this
 14 system and be permanent, and therefore I imagine that unless
 15 there is very specific cause not to grant the right, that the
 16 Commission will not deny it, of course, provided it is condition-
 17 ed fully to protect the consumers. That is a matter that will
 18 be taken care of by the Commission. Now, these are very gen-
 19 eral observations, and as I understand it, everything is reserv-
 20 ed to all parties concerned.

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 21 COMMISSIONER KSHLEMAN: You may have the right to cross
 22 examine at any future time.

23 MR HAINES: I don't feel that anything I could say now
 24 would add much, but the general attitude will be when the final
 25 hearing is had that we will seek to protect ourselves in every
 26 way without unduly handicapping the development of this system
 27 in the hands of the corporation. As to the matter of bonds, I
 28 know it is possible that the Commission will look upon any
 29 suggestion as to the bonded indebtedness instead of stock --

1 that matter I would like to reserve for future consideration.
2 I think that is about all I can say now.

3 COMMISSIONER ESHLEMAN: Mr Gordon, is it not a fact that
4 they are giving very much better service to the consumers
5 since the order of the Commission than existed before?

6 MR GORDON: I have been entitled to water under this system
7 for twenty years. Last year was the worst year for service that
8 I have ever known.

9 COMMISSIONER ESHLEMAN: Of course, last year was a year
10 where there was an impossibility of getting anything. The tem-
11 perary change in the flume was due to the desire on the part of
12 the Commission to see to it that there should be as little loss
13 this year as could be, and I understand that the flume is prac-
14 tically water tight at the present time -- I understand that
15 from our engineers.

16 MR GORDON: It is, I believe.

17 MR HAINES: It is true that the conservation of water this
18 year has helped wonderfully.

19 COMMISSIONER ESHLEMAN: And it appeared to us that it would
20 be practically impossible to do everything the Commission had
21 in mind in one year, and we had the condition of the consumers
22 before us when we allowed the temporary repairs, and I believe
23 it has conserved water.

24 MR GORDON: There is no doubt that there is an immediate
25 benefit from the papering of that flume. I think that probably
26 there is less loss in the flume at the present time than ever
27 before in the history of the flume, but it is a mere temporary
28 thing, and what the consumers have felt especially aggrieved
29 about was the apparent failure to do anything towards increasing

1 the storage capacity at the head of the system. I think it is
 2 perfectly fair to call the Commission's attention to this fact.
 3 I know it is proposed to claim that there is 100 per cent
 4 efficiency this year. There is a very large amount of water
 5 stored in the Mesa Reservoir. It was stored because, at my sug-
 6 gestion, the consumers, the irrigators, acquiesced in having the
 7 irrigation water cut off in order that that Mesa Reservoir should
 8 be filled so that during the portion of the year when water is
 9 most needed there would be that large supply. Now, if it was our
 10 water that was used for that --

11 COMMISSIONER ESHLEMAN: It is the desire of the Commission
 12 to see that the people on the upper end of the flume have what
 13 they might call first call on water stored above, and they can
 14 supply gravity water only to those places where gravity water can
 15 be taken.

16 MR GORDON: I understand that they propose to utilize --

17 COMMISSIONER ESHLEMAN: I don't understand, Mr Gordon, as a
 18 matter of practical irrigation procedure, that there is any right
 19 in any consumer to any particular water. I don't think that is
 20 true.

21 MR GORDON: I did not intend to be understood so. What I am
 22 trying to say is that we anticipate -- we have anticipated for
 23 four years that something would be done in the way of provid-
 24 ing a greater storage of water at the head of the system. Now,
 25 it is manifest that we, along the flume line, can get no dir-
 26 ect supply of water from La Mesa. We can only be benefitted by
 27 that inasmuch as that cuts down the drainage from the Ogusman.
 28 We are benefitted in that. But they have nowhere increased
 29 their storage capacity in the four years in which they have been

1 telling us they were going to do it, and we understood that the
 2 rates in the opinion depended upon their increasing their storage
 3 capacity, as one of the conditions entitling them to an increase
 4 in rates; and many times consumers have spoken to me about the
 5 unfairness of continuing to pay those increased rates.

6 COMMISSIONER ESHLEMAN: In your section, Mr Gordon, as I
 7 recall, the rates were not increased, and the flume rates were
 8 not increased in any material degree.

9 MR GORDON: A good many were increased \$5, but I have in a
 10 sense represented all of the irrigators under this system. I
 11 believe I do now. There has been no attorney employed to repre-
 12 sent the consumers so far as I know. I am simply here in the
 13 capacity of chairman of that committee, and after a consultation
 14 with the committee day before yesterday, and the consumers along
 15 the pipe line were increased more than 100 per cent. They didn't
 16 object seriously to the increase. The objection to the increase
 17 is that the water company insisted on getting an increase with-
 18 out complying with the order of the Commission or without show-
 19 ing any good faith to begin to store more water. I understand
 20 there is about 20 feet of water in Guymac; I have no means
 21 of knowing exactly.

22 COMMISSIONER ESHLEMAN: What have you to say, Mr Fletcher?

23 MR FLETCHER: Your Honor --

24 MR HAINES: Just pardon me a moment. As to the bonds, it
 25 has occurred to me, as we have heard the consideration by all
 26 parties, whether any bonds are authorized at all, whether they
 27 should not be reserved for making the improvements that Mr
 28 Gordon refers to, and that the owners of the system take the
 29 stock of the system, and that the bonding capacity be used for

1 furnishing the funds necessary to make these necessary improve-
 2 ments. That is a suggestion that I think is worthy of consider-
 3 ation of the Commission. That system must be so improved as to
 4 utilize all the water supply there is, and I suppose no one will
 5 dispute that; and as to the method of raising the money, if bonds
 6 are issued the proceeds should be used for that purpose. Those
 7 are details, and that may be considered hereafter.

8 MR GORDON: May I ask one thing? I realize that possibly I
 9 am acting under a misapprehension. There was something said
 10 about Mr Henshaw and the San Luis River water. It is possible
 11 if I have an opportunity to read the schedules that are referred
 12 to, I would say that there is provision for a very great in-
 13 crease in the capacity of this system. Is that a fact?

14 COMMISSIONER ESELEMAN: I haven't seen it until just now.

15 MR GORDON: I am assuming that the proposition is simply to
 16 take into the corporation substantially the system as we under-
 17 stood it at the hearing on Application 118, and I know I have
 18 assumed that I was right in saying there has been no substantial
 19 change in the storage capacity.

20 MR FLETCHER: Mr Gordon has made the statement that there
 21 has been no substantial improvement made. Since the order of
 22 the Commission a year ago last March, we have paid out between
 23 \$200,000 and \$400,000 in the development of this system. He says
 24 that we have made no arrangements to get extra water to take
 25 care of the consumers. The facts are these: The decision of
 26 the Commission was that we were furnishing 256 minor's inches of
 27 water. We have installed pumping plants that will furnish 100
 28 inches of water or practically so. The very fact that we are
 29 not able at 24 hours' notice to operate these pumping plants and

1 put 100 inches of water into that flume, at a cost much less
2 per thousand gallons than if we built a reservoir and charged up
3 the interest on the investment -- we can deliver the water from
4 those pumping plants today cheaper than we can build reservoirs
5 and impound the water, and sell it at a rate to equal the cost
6 of pumping. Mr Gordon knows that we have, in addition to that,
7 done everything we could. We have had a lawsuit before the State
8 Water Commission -- a litigation for nearly a year, to get the
9 Beaulier Creek Reservoir site, that we only just got a decision
10 in the last two or three weeks. He says that we have side-
11 stepped the proceedings all along the line as regards that flume.
12 The fact of the matter is this, that the Railroad Commission
13 ordered us to put in a concrete flume. It would have cost
14 \$600,000 to have built it. It would have taken us two years to
15 build it. Time was of the essence of this matter. We must pro-
16 tect ourselves this coming winter. If we could have built that
17 concrete flume in five months, and we would have gotten seven
18 or eight or ten per cent interest on our investment, the ad-
19 ditional cost of constructing that cement concrete flume would
20 have forced the rates for water so high that you would have been
21 driven out of the country. Instead of that we applied to the
22 Railroad Commission -- I mean on account of not having the sale
23 for the volume of water, and if spread over the entire system
24 the rates would have been so high as to be exorbitant, and then
25 the question would come in, Well, the people cannot stand this
26 rate, so the man who has put his money into the system has got to
27 take what he can, which I have heard of in some decisions. Now,
28 by realizing that flume at a cost of \$50,000, the life of it was
29 lengthened for five years. That is \$10,000 a year. The interest

1 on the investment alone of a concrete flume for 35 miles would
2 have been \$60,000 a year, to say nothing of depreciation. We
3 claim we have done the right thing, and that the Railroad Com-
4 mission did the right thing in approving the lining of that flume.

5 COMMISSIONER ESHLEMAN: So far as your obligations are con-
6 cerned, and the relining of the flume, I think it is amply jus-
7 tified, and the Railroad Commission authorized that to be done,
8 and I think it is justified. So far as the supply is concerned,
9 that is a matter in the order, but there has to be a supply there
10 adequate before anything can be given to anybody else. What is
11 the condition of your right to pump there, Mr Fletcher?

12 MR FLETCHER: We had a case that lasted three or four days,
13 and we knocked out the injunction, and they asked us to put up a
14 bond so that if there was any damage we would pay it. But we are
15 absolutely satisfied that there can be no damage.

16 COMMISSIONER ESHLEMAN: Did they appeal that?

17 MR FLETCHER: No, they never done it. They could have appeal-
18 ed, but they have not seen fit to go ahead with the case.

19 MR HAINES: You have heard no complaint?

20 MR FLETCHER: Absolutely none, and we have had the water
21 measurements taken twice a month up and down the river.

22 COMMISSIONER ESHLEMAN: If there is plenty of water, they
23 can supply the water more cheaply by the method suggested than
24 if they went to large expenditure to store water above. What is
25 your opinion on that, Judge? There is no difference to you where
26 they get the water, just as they get it?

27 MR HAINES: No.

28 MR GORDON: There is a good deal of doubt as to the supply
29 of water from the locations of the three pumping plants.

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RAILROAD COMMISSION, STATE OF CALIFORNIA,
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1 COMMISSIONER ESHLEMAN: I understand that there are other
2 locations.

3 MR FLETCHER: We have put pumping plants in three loca-
4 tions, and our engineers have made a thorough study of it, and
5 we have operated the plants for some time, and we know the water
6 is there. And another thing, Mr Gordon has spoken about the
7 consumers relinquishing their rights to water during the winter.
8 When it was raining great guns, of course they were anxious to
9 do it. I asked them to do it and relieved them of any charge.
10 Why? As a double precaution so we would be sure the La Mesa
11 Lake would be filled. It is filled within two feet of the top
12 today. The spillway is filled up two and a half feet. We have
13 more water there than has ever been there -- a two years' sup-
14 ply; and we have 100 per cent efficiency without operating the
15 pumping plants this year -- at least until the month of December.
16 I think his criticism is extremely unjust under the circumstances.
17 Mr Murray, as you know, is 72 years of age; and while I hope
18 that he will live forever, yet a condition of this kind cannot
19 go on forever. The proposition has got to come to the time --

20 COMMISSIONER ESHLEMAN: Well, Judge Haines has suggested
21 the stockholders' liability, and it seems to me the main
22 question is as to the profit to be made, and we do not propose
23 to have a transfer made under conditions that the entire system
24 would be so overburdened that it would be handicapped in the
25 future. If this transfer is allowed, as we have done in other
26 cases, it must be conditional that it shall be able to have
27 borrowing capacity sufficient to enable it to borrow money in
28 order to meet contingencies. That is the main question.

29 MR FLETCHER: The letter Mr Gordon refers to did not
arrive in my office until last Wednesday, and I received it

1 Thursday morning. I have been out of town. Therefore I had
 2 no chance to answer Mr Gordon. I simply want to say that when
 3 Mr Gordon questions the good faith of this water company, when
 4 we have spent \$300,000 or \$400,000 in developing this system,
 5 with the panicky times and the difficulty of getting money --
 6 you know how impossible it has been to get money, and the
 7 sacrifices I personally have made to keep up my end of it, I
 8 protest, and as strongly as I can, against the mis-statement
 9 of facts Mr Gordon has made as to what this Guyanaca Water
 10 Company has done in developing this system. We have not tried
 11 to side-step anything; we have tried to carry the order out,
 12 and I deny his statements.

13 COMMISSIONER ESHLEMAN: I don't think that is a very
 14 important question, and I think I am correct in saying the
 15 transfer would not be inadvisable. Would it be a great hardship
 16 on you, Judge Haines, to come to San Francisco for the next
 17 hearing?

18 MR FLETCHER: As far as Mr Sweet is concerned, he made a
 19 request for another hearing.

20 COMMISSIONER ESHLEMAN: I am not considering him. I am ask-
 21 ing Judge Haines and Mr Gordon. It takes two days to get here
 22 and two days to get back, and it is quite difficult for us to
 23 find time to come down here.

24 MR HAINES: I would very much prefer if it could be so
 25 arranged that if the Commission has business in Los Angeles it
 26 could be heard there at the same time.

27 COMMISSIONER ESHLEMAN: It might be in Los Angeles.

28 MR HAINES: Yes.

29 COMMISSIONER ESHLEMAN: We will leave the matter as to the

1 time and place in abeyance at the present time, and it seems to
 2 me now that I have to be here next month in San Diego on another
 3 matter. If I do, we can set it down for that time. I will not
 4 set the matter now. In the meantime, you gentlemen may go over
 5 this and take up anything you desire to present.

6 MR COSGROVE: If the Commission please, may I ask the
 7 courtesy from the Commission at the time this matter is taken
 8 up of being notified?

9 COMMISSIONER ESHLEMAN: Yes. Mr Bagley, send a note to the
 10 office that the City Attorney is to be notified of the time and
 11 place at which this hearing is to be held.

12 MR FLETCHER: Your Honor, I have a few witnesses coming
 13 between 4 and 5 to testify as to the rates -- a representative
 14 of one of the bond houses.

15 COMMISSIONER ESHLEMAN: Mr Fletcher, we have more informa-
 16 tion on file with the Commission than you could give us this
 17 afternoon. It would take you a week to give us what we already
 18 know.

19 MR FLETCHER: I take pleasure in withdrawing my witnesses.

20 COMMISSIONER ESHLEMAN: In fact, sometimes I think we know
 21 too much about it.

22 MR GORDON: May we not have copies of this statement which
 23 Mr HARRISON has filed?

24 COMMISSIONER ESHLEMAN: Now, have you any more copies, Mr
 25 HARRISON?

26 MR HARRISON: No; copies will have to be made.

27 COMMISSIONER ESHLEMAN: Can you make additional copies?

28 A. Mr Fletcher will.

29 MR FLETCHER: Yes, I will do so.

RALPH A. SOLLARS, OFFICIAL REPORTER,
 RAILROAD COMMISSION, STATE OF CALIFORNIA,
 SAN FRANCISCO, CAL.

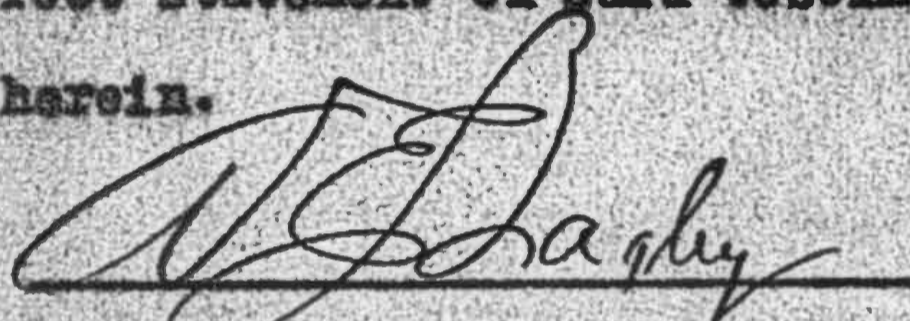
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1 COMMISSIONER EBHLEMAN: Then you send one to Mr Gordon.
2 Judge Haines has one already, and the Commission has one, and this
3 will be marked Applicant's exhibit 1. And the matter then
4 will be continued until a time and place to be hereafter fixed.
5 I want you all to understand that none of these matters are
6 foreclosed. In accordance with my usual custom, I told you
7 how I feel about it, but I am always ready to change my mind if
8 you can show me I am wrong.
9

10 Whereupon the Commission adjourned.
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Los Angeles, Cal., May 26, 1914.

I HEREBY CERTIFY that I, acting as shorthand reporter of the RAILROAD COMMISSION OF CALIFORNIA, correctly took down in shorthand the testimony and proceedings in the Matter of the Application of James A. Murray and Ed Fletcher for Authority to transfer property, Application number 1130, at San Diego, California, on Saturday, May 23rd, 1914; that the foregoing is a full, true and correct transcript of my said shorthand notes thereof, and a full, true and correct statement of said testimony and proceedings so had and taken herein.


 Shorthand Reporter.

RALPH A. BOLLARS, OFFICIAL REPORTER,
 RAILROAD COMMISSION, STATE OF CALIFORNIA,
 SAN FRANCISCO, CAL.

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Ed Fletcher Papers

1870-1955

MSS.81

Box: 57 Folder: 6

**Business Records - Water Companies - Cuyamaca
Water Company - State Railroad Commission -
Application #1130 for authority to transfer property**



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