

BEFORE THE RAILROAD COMMISSION
OF THE
STATE OF CALIFORNIA.

In the Matter of the Application of
James A. Murray and Ed Fletcher for
an order authorizing and permitting
an increase in the rentals, tolls and
charges for water furnished by them
and service rendered by them in fur-
nishing water in the County of San
Diego, State of California.)
Application No. 118.

-APPEARANCES-

Ed Fletcher, for applicant.
Haines & Haines, for certain protestants taking water
for irrigating purposes.
Crouch & Harris, for certain protestants, domestic
consumers in the suburbs of San Diego.

REPORTER'S TRANSCRIPT.

San Diego, California, June 24, 1913.

H. S. Moore,
Reporter.

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

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San Diego, Cal., June 24, 1913; 10 o'clock A. M.

COMMISSIONER ESHLEMAN: The Commission will come to order.

This is an application on the part of the Pacific Building
Company to have the order reformed in certain minor respects.
Judge Haines, will you present what you have to say in reference
to that application.

JUDGE HAINES: It is not a petition for a rehearing, but
it is rather supplementary in its nature, that is, it is the
attitude of the Pacific Building Company, to stand by the
decision as amended, and only adapt it to phases which were not
considered in the hearing. The order made by the Commission, and
shown on page 65 of the decision, is in words and figures as

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1 follows, to-wit: For domestic use 25 cents per thousand gallons,
 2 with a minimum charge of \$1.25 per month, the applicants to
 3 furnish meters and cost of installation of all facilities, the
 4 consumer to furnish pipes upon his own premises. That order,
 5 as we construe it, is one which brings the consumers into
 6 direct relation with the applicants, that is, Murray and Fletch-
 7 er, and gives to the applicants from the consumers, 25 cents
 8 per thousand gallons, and the minimum charge of \$1.25 per
 9 month. If Murray and Fletcher accept that, in respect to the
 10 consumers who are served by the distributing system owned by
 11 the Pacific Building Company, then they must accept the whole
 12 of it, that is, they must furnish all the facilities necessary
 13 to develop the water, the facts being that the water is fur-
 14 nished, as it were, by the wholesale under the former contract,
 15 by the terms of which the corporation now represented by Murray
 16 and Fletcher, whose contracts they assumed, agreed to furnish
 17 the water in bulk on El Cajon boulevard at the rate of \$60
 18 per inch, about, for 9.875 inches, and all above that amount
 19 at 10 cents per thousand gallons, and that being the arrange-
 20 ment, the Pacific Building Company distributed this water to
 21 its consumers under its distributing system at 20 cents a
 22 thousand gallons, with a minimum charge of \$1.00 per month.
 23 In that way they would sustain the cost of the maintenance of
 24 their distributing system, and of the service under it. As a
 25 matter of fact it is in the application, and I suppose it is
 26 established by the testimony, that while the original company,
 27 the Columbian Realty Company took the distributing system as a
 28 part of its real estate speculation, to furnish water to its
 29 consumers under the contract to which I have referred, that

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1 when they assigned to the Pacific Building Company, the land
 2 already being sold, that the function the Pacific Building
 3 Company is now performing is virtually as an Utility company.
 4 It is in the nature of a public utility company as to distrib-
 5 uting water, as to the compensation to be derived therefrom.
 6 As the order of the commission has adopted a direct relation
 7 between the consumers and applicants, Murray and Fletcher, the
 8 effect of it, if the state of affairs continues, is, that the
 9 Pacific Building Company will have to perform the services of a
 10 public utility company in distributing the water for nothing,
 11 contributing its plant for nothing, and maintaining and oper-
 12 ating it for nothing.

13 COMMISSIONER ESHLEMAN: I will say that neither one of you
 14 need spend any time on that question, because that cannot be
 15 done, and it is only a question of what modification is necess-
 16 ary in order to meet the case.

17 MR. HAINES: Looking at it from the public standpoint, it
 18 is very desirable that the intermediate company in a case like
 19 this, which subdivides the public utility service with the
 20 main company, Murray and Fletcher, should be eliminated, and
 21 the question is how it can be done. If the parties could agree
 22 upon the terms upon which Murray and Fletcher would take hold
 23 of the distributing system, and then take all the compensation,
 24 that would be the ideal solution. The question is whether
 25 Murray and Fletcher could be compelled to do it. One thing is
 26 very certain, either they ought to do that, or else they must
 27 consent to a subdivision of the 25 cents per thousand gallons
 28 and \$1.25 minimum.

29 COMMISSIONER ESHLEMAN: As to that point, it is my view

1 that the second can be done. I have very grave doubts as to
2 the first, unless it were by agreement. As I told you a
3 moment ago, I had some conversation with Mr. Fletcher last
4 night, and they are not disposed to do the first. Therefore,
5 if that is the case, and having doubts as to the power of the
6 commission to force them to do it, it is necessary for us to
7 limit ourselves to the second. Therefore, what amount of the
8 25 cents should your client in justice have, for the service
9 of distributing the water in this section. I would like to
10 take evidence on that point.

11 MR. HAINES: I am inclined to think that if the commission
12 takes the position that they have no power to enforce---

13 COMMISSIONER ESHLEMAN: I wouldn't want to be concluded on
14 that.

15 MR. HAINES: There is no question but that the decision as
16 made requires them to furnish all these utilities for complete
17 distribution.

18 COMMISSIONER ESHLEMAN: I think the commission undoubtedly
19 would have the power to require them to furnish consumers, and
20 extend their system if necessary, but the power to require them
21 to purchase an existing system which they might not want, I
22 have very serious doubts as to the commission's authority. I
23 would not want to be concluded on it, but I have doubts, and I
24 think we had better limit ourselves to the second alternative,
25 unless there would be a voluntary agreement between your client
26 and Mr. Fletcher.

27 MR. HAINES: The desirable thing would be to get together
28 on the purchase of the system. As I understand, Mr. Fletcher
29 desires to make a statement before taking any evidence.

1 MR. FLETCHER: Mr. Sweet, our attorney, is sick, and com-
2 pelled to go on a vacation, and I would like to make a few re-
3 marks, as follows. This system they are asking us about, we do
4 not believe we could be forced to purchase, and as in similar
5 cases, it is merely a matter of a real estate and land deal.
6 They bought the land, and had the distributing system thrown in.
7 They have sold their land and made three or four hundred per-
8 cent, and now want to make as much as they can out of the dis-
9 tributing system, and it seems to me, after investigating the
10 system, its condition is such that it does not warrant us to
11 buy, and we do not think that the courts can compel us to buy
12 the system, and if there is going to be any other alternative,
13 that is a matter for the courts to determine.

14 COMMISSIONER ESHLEMAN: It is a question of the division
15 of the rate. I think we will all have to concede that this
16 company cannot be required to continue to deliver the water,
17 with whatever expense there may be of distribution, to its
18 consumers at the same price for which they pay you, therefore
19 there should be some division necessary, and what amount of
20 division is the question to be decided.

21 MR. FLETCHER: If it is a matter of evidence, we will
22 waive at present.

23 COMMISSIONER ESHLEMAN: You do not feel like voluntarily
24 purchasing this system.

25 MR. FLETCHER: No sir, we do not.

26 COMMISSIONER ESHLEMAN: I would like to have the evidence
27 of what the system consists.

28 O. W. COTTON, a witness called in behalf of the Pacific
29 Building Company, being first duly sworn, testified as follows:

DIRECT EXAMINATION

MR. HAINES: What relation have you to the Pacific Building Company?

A I am president.

Q And you subscribed this application to the commission with respect to the relation between yourself and your company and the Cuyamaca Water Company, in the distribution of water to a certain territory. What is that territory involved?

A It is the territory lying north of University Avenue, most of it south of El Cajon Avenue, although a little is north of El Cajon Avenue, and between, I believe it is Pacific Avenue on the west, and Euclid Avenue on the east. I believe those are about the boundaries.

Q Have you a map with you?

A Yes, there is a map there.

Q You produce a map here, do you, of this territory. Now then, will you, from this map, describe the territory served by the distributing system mentioned in the application.

COMMISSIONER ESHLEMAN: Giving the streets, so it may be identified in the record.

MR. HAINES: Giving all of the streets?

COMMISSIONER ESHLEMAN: Describing the system so from the record I can determine just what it is.

MR. HAINES: Just the boundaries.

A The southern boundary would be University Avenue, the eastern boundary would be Euclid Avenue, the northern boundary would be Monroe Avenue, the western boundary would be Pacific, or Second Avenue.

COMMISSIONER ESHLEMAN: How many blocks, I would like to

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know generally just how large the territory is.

A I want to explain that there are some blocks in this territory not covered by this system.

Q Approximately what acreage is covered by the system?

A I couldn't say without having it figured. I can give the number of blocks that we are at present supplying.

Q You may do that and give the result.

A It will be approximately eighty blocks that we are supplying at the present time.

Q And approximately how many consumers?

A At the present time about 449 consumers.

Q Do those consumers on the average take sufficient water to exceed the minimum of \$1.25 per month?

A They would run just about the minimum.

Q So then the amount of water you deliver would have a direct relationship to the amount you pay for. Suppose they only took half the amount of water, which would amount to \$1.25 at 25 cents a thousand gallons, of course, if that is the case, you would receive your water at 25 cents, and would be getting more than that.

A I see.

Q I want to know just what that condition is.

A I should say the average will usually be about as much water as the \$1.00 is worth a month, that is their minimum rate, as close as we can guess at it. We have only owned the system for about a year, and it has been merely a branch of our other business, it has been a necessity for us to handle it, as somebody must handle the system, and we haven't gone into the details and figured those things to know exactly where we

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1 are, but as near as we have been able to average it, the service
2 runs about \$1.00 a month, and we use about that much water.

3 Q If the minimum is raised to \$1.25 at the rates which
4 go into effect the first day of July, which would be 25 cents
5 per thousand gallons, you would make off the consumers under
6 the present consumption?

7 A No, we believe most of them would use up close to the
8 amount of the minimum.

9 Q You think the minimum keeps them down to the use of
10 the minimum?

11 A Yes, they endeavor not to use more than their dollar's
12 worth.

13 MR. HAINES: How many acres, about, could be served from
14 this distributing system, additional to water actually being
15 used now, as a total, the whole number of acres?

16 A As I stated a little bit ago, I don't know exactly
17 the acreage. I can tell you the number of blocks we are not
18 now supplying.

19 Q Give the whole number of blocks which the distributing
20 system is adapted to reach, and then you can give the acreage
21 perhaps.

22 A This map does not show the exact outline of the dis-
23 trict we are supposed to furnish water to from this system, but
24 I should say there are between ten and twenty blocks in this
25 district that is under contract, that we are not now furnishing
26 water to, in addition to the eighty blocks we are now furnish-
27 ing water to.

28 Q It will be how many blocks all told?

29 A Approximately 100 blocks.

1 Q How many acres in a block?

2 COMMISSIONER ESHLEMAN: Or how many blocks to an acre?

3 A About five acres to a block.

4 COMMISSIONER ESHLEMAN: Those are large blocks?

5 A Yes.

6 MR. HAINES: That would be in the neighborhood of 500 acres
7 that your distributing system would reach?

8 A Yes, approximately 500 acres.

9 Q When those lots are all improved, will they call upon
10 the service of this distributing system?

11 A Yes.

12 Q Is there any other source of supply?

13 A No.

14 Q That is, they will have to get their water from the
15 Flume Company's system?

16 A Yes.

17 Q And as fast as people improve their lots, what arrange-
18 ment about getting water for them, what do they do?

19 A We have been making connections.

20 Q Are those lots that you have sold?

21 A No, we never owned but a very small portion of the
22 property in these 500 acres. Almost all of that property was
23 sold out by the Columbian Realty Company before we purchased
24 the tract. We bought the remnants of what the Columbian Realty
25 Company had left, and took the water system at the same time.
26 The most of the holdings we received from the Columbian Realty
27 Company are outside of the district we are furnishing water to
28 under this system.

29 Q Then you simply took over a sort of an obligation to

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1 furnish water like a public utility company?

2 A Exactly, somebody had to own the system.

3 Q Will you give the number of feet and different kinds

4 of pipe in the system?

5 A 2 inch pipe - - - - -56,795 feet

6 4 " " - - - - - 7,800 "

7 1 1/2 " " - - - - - 600 "

8 1 1/4 " " - - - - - 800 "

9 1 inch " " - - - - - 450 "

10 Q How long has the 2 inch pipe been in the ground?

11 A At different ages, some of it was put in several

12 years ago, and the balance has been put in as the tracts

13 are built up, as the people needed water, the pipe was extended.

14 A great deal of the pipe has been put in within the last two

15 years.

16 Q Do you know what the original cost of this 2 inch

17 pipe was?

18 A No. We know what it cost us to lay 2 inch pipe, and

19 we have based our estimate of its valuation on what it has

20 cost us to lay the pipe we have put in.

21 Q That is 2 inch pipe?

22 A Yes.

23 Q What original valuation did you put on this 2 inch

24 pipe?

25 A The original valuation, ten thousand and twenty seven

26 hundred dollars on the original pipe---\$10,027.

27 Q What depreciation do you allow on it in order to as-

28 certain its present value?

29 A We take 10 per cent depreciation off the entire amount

even off the pipe that has only been down a year or two years.

Q Do you consider that a fair average of depreciation?

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1 A Yes.

2 Q What do you make the net valuation?

3 A \$9,025 for the 2 inch pipe.

4 Q And the 4 inch pipe?

5 A Most of it is new pipe and a great deal has been put

6 in by our company, and we put that in without any depreciation.

7 Total cost \$3,120.

8 Q And the 1-1/2 inch pipe?

9 A I see we didn't make a notation of the cost of it.

10 The amount was small, and we didn't even note the cost.

11 Q None of the 600 feet of 1-1/2 inch or the 800 feet of

12 1-1/4, and 400 feet of 1 inch?

13 A We haven't made a notation of any of those.

14 Q Can you give a notation of what it would cost?

15 A It would only be approximate. I should say approximate-

16 ly, the 1-1/2 inch pipe would cost, laid, about 12 cents, the

17 inch pipe about-- The 1-1/2 pipe about 14 cents, the inch

18 pipe about 10 cents, and the 3/4 inch pipe about 12. I mean

19 the 1-1/4 about 12 cents a foot.

20 Q How many consumers are you serving now, did you say?

21 A At the present time 449 consumers, at the time this was

22 filed, the number was 338.

23 Q What can you say about the rapidity with which new

24 requirements for service are arising?

25 A I think we are making on this part of the system prob-

26 ably in the neighborhood of 15 taps a month, sometimes more and

27 sometimes less.

28 Q The system is building up rapidly?

29 A Very rapidly. We are making a total of sometimes 59

1 taps on our entire system in thirty days.

2 Q And 15 in this area of 500 acres?

3 A That is about as near as I can guess on it off hand.

4 Q And have you made any estimate of the monthly depre-
5 ciation of this distributing system?

6 A Yes, we put the depreciation at \$50 per month.

7 Q And what would be the interest at 7 per cent upon your
8 valuation?

9 A \$70 a month.

10 Q The maintenance and operation, what can you state
11 about that?

12 A The cost of maintenance and operation for this portion
13 of the system consists of a portion of the time of the superin-
14 tendent and the men necessary to keep the system in repair,
15 wagon and horse and feed, and the necessary book-keeping for
16 looking after the reading of the meters, cashier work, and so
17 forth, is figured at a cost of \$133.11 per month.

18 Q What do you make the total of depreciation and interest
19 per month, and the maintenance and operating expenses, book-
20 keeping and superintendence?

21 A \$253.11 per month for monthly depreciation, monthly
22 interest and expenses.

23 MR. FLETCHER: How much was that?

24 A \$253.11 a month.

25 MR. HAINES: Is there anything further you want to state
26 to the Commissioner?

27 A You have this statement of the condition of the system.

28 Q You have been acting thus far under the original con-
29 tract made between the Flume Company and the Columbian Realty

1 Company assigned to you, have you?

2 A Yes.

3 Q That is a contract of July 1st, 1909. Under that
4 you pay how much per month?

5 A A minimum of \$50 a month, and we never used our min-
6 imum, I believe.

7 Q \$600 a year. I think that is all.

8 CROSS EXAMINATION

9 MR. FLETCHER: You bought this system with lands at the
10 same time, did you not, a certain amount of money for the lands
11 under the water system?

12 A Yes .

13 Q And this land that this distributing system is located
14 on is north of University Avenue, isn't it?

15 A Yes.

16 Q You sold off practically all of your lands north of
17 University Avenue, haven't you, practically all of your tract?

18 A We never owned much property north of University
19 Avenue. The amount was very small, a matter possibly of a
20 total of 30 or 40 acres, not to exceed 50 acres out of the 500.

21 Q Fifty acres out of the 500?

22 A Not to exceed that.

23 Q You have sold that all, practically?

24 A Most of it, yes.

25 Q And at a good profit, as I understand?

26 A We made a profit on it, yes.

27 Q And the distributing system thrown in? Under your
28 contract with the Cuyamaca Water Company you have approximately
29 nine or ten inches of water under the old water contract?

1 A Yes.

2 Q With a minimum of \$50 a month, or about a cent or a
3 cent and a quarter a thousand gallons?

4 A Yes.

5 Q And you have been selling it at a minimum of a dollar
6 a month?

7 A Yes sir.

8 Q Selling the land and the water at a minimum of \$1.00
9 a month?

10 A No, the water.

11 Q Well, selling the land with the representation of a
12 dollar a month on the water?

13 A I don't want to mix the land and the water, I want
14 to say again that the amount of land that we acquired from the
15 Columbian Realty Company in this section was very limited. The
16 water system covers the mains of the entire district, and we
17 are furnishing water to the people that bought the land of the
18 Columbian Realty Company, and the Columbian Realty Company made
19 the profit on this land.

20 Q For the land you sold, you represented the charge for
21 water would be \$1 a month?

22 A Yes .

23 Q You said in your statement you took in \$449 a month
24 revenue at the present time, that your operating expenses are
25 \$133.00 a month, that including the depreciation, it is \$253.00
26 a month. Then you have been making on these figures, \$196.00
27 a month profit on this water?

28 A No.

29 Q As far as these figures are concerned?

1 A No, at the present time we have 449 meters.

2 Q And you get a dollar a month, do you?

3 A I made a mistake in my figures here. The number is
4 349.

5 Q Your expenses of maintenance is \$133 a month?

6 A \$133 a month.

7 Q A profit of \$160 a month, or more than \$200 a month,
8 on your own figures roughly that is it.

9 COMMISSIONER ESHLEMAN: You have left out of consideration
10 the depreciation.

11 MR. FLETCHER: Outside of the depreciation.

12 A With this correction, that the 349 meters is what we
13 have at the present time. We haven't collected a month's
14 rent on 349 meters.

15 Q You are doing it now?

16 A We will from now on. In the past the amount of meters
17 was very much smaller. When this was filed, the number of
18 meters was 338 meters, and before that it was less than that.

19 Q I want to bring out the one point that they bought
20 their land and got the distributing system with it, and made a
21 handsome profit on the land, and also on the distributing system,
22 and it is not working any hardship, I think, if we get a rea-
23 sonable profit for our water. This distributing system, is
24 that the appraisal of your engineer, the valuation you gave?

25 A No, it is an appraisal of our secretary, based on the
26 cost of the new pipe, and considering, as near as we have been
27 able to learn of the age of the pipe that has been installed
28 at various times.

29 Q Then it is simply an estimate?

A Yes.

1 MR. HAINES: You give the monthly depreciation at \$50, the
2 monthly interest on the valuation of the system at \$70, and the
3 proportion of expenses and maintenance and operation and super-
4 intendence and the like, at \$133.11. Now then, your present
5 minimum cost of water is \$50 a month?

6 A Yes.

7 Q That will make the total of your outgo \$303.11, would
8 it not?

9 A It would at the time this matter was taken up, when
10 we had but 338 consumers. At the present time the expenses
11 would be larger than \$133.11.

12 Q What would it be at the present time?

13 A That it would be impossible for me to say without
14 reconsidering our figures.

15 Q It is increased at least?

16 A It must have increased with the increased labor of
17 caring for the number of new consumers.

18 Q Going back to the time the protest was filed, your
19 expenses including cost of water, depreciation, interest and
20 superintendence and the like was \$303.11?

21 A Yes.

22 Q What would that leave you from your income, about?

23 A About \$34.89.

24 Q A month?

25 A At that time, yes.

26 Q That was on the basis of your getting water at \$50?

27 A \$50 a month.

28 COMMISSIONER ESHLEMAN: How much of this 9-7/8 inches have
29 you been using actually?

1 A We have never used the minimum as yet.

2 Q How near do you average it now?

3 A I couldn't tell. I could look it up by our records,
4 but couldn't tell you off hand.

5 Q Do you have records, Mr. Fletcher, as to how much
6 water you are ordinarily delivering to them?

7 MR. FLETCHER: Close to their minimum.

8 Q Would it go 9 inches?

9 A Close to it.

10 MR. FLETCHER: You have 339 meters?

11 A Yes.

12 Q The minimum is a dollar a month, that is \$339 a month.

13 A The original number was 338 at the time this suit was
14 brought.

15 Q Now it is 349?

16 A 349.

17 Q Your expenses are \$133.11?

18 A They were \$133.11 a month at the time we had those
19 meters.

20 Q Just a slight increase?

21 A A proportionate increase.

22 Q Call it \$140 a month. And \$50 depreciation?

23 A It would be a larger depreciation.

24 Q \$50 a month for the payment of the water rental, that
25 brings it up to \$240. Your income is \$349, leaving a profit
26 of \$169 a month on this individual piece. Judge Haines didn't
27 bring it out that way.

28 A You have eliminated the monthly depreciation and inter-
29 est on the investment.

1 A I have included that monthly depreciation, \$50 a month,
2 but this is only an immaterial matter.

3 COMMISSIONER ESHLEMAN: How much at 25 cents a thousand
4 gallons would your monthly bill for water which is now deliv-
5 ered to this company amount to?

6 MR. FLETCHER: We will have it figured out for you if you
7 want it.

8 COMMISSIONER ESHLEMAN: I would like to have that settled.

9 MR. HAINES: We can get it pretty well. The opinion of the
10 commission is correct in which at 10 cents a thousand gallons
11 it would be \$473.04 per annum.

12 COMMISSIONER ESHLEMAN: Those figures are correct in the
13 opinion?

14 MR. HAINES: Yes, those are correct. At 25 cents it would
15 be two and one half times as much.

16 COMMISSIONER ESHLEMAN: What is the amount?

17 MR. HAINES: The rate of 10 cents per thousand gallons is
18 at the rate of \$473.04 per inch per annum.

19 COMMISSIONER ESHLEMAN: That would be a monthly amount.
20 I can figure out if we agree that approximately the 9 inches
21 is being used, it could be figured.

22 MR. FLETCHER: I may be mistaken, and I am going to ask
23 Mr. Matthews to give it attention, and will furnish you the
24 figures.

25 COMMISSIONER ESHLEMAN: You may send in the figures, what
26 your book shows, but the situation is very plain that there
27 must be some difference, regardless of parties. This company
28 cannot be forced to distribute this water at 25 cents a thousar
29 gallons when they pay 25 cents a thousand gallons, unless the

1 minimum takes care of the slack, and Mr. Cotton says it won't.
2 It won't make any difference to you, purchasing the amount at
3 so much a thousand gallons, if the minimum is kept at one
4 dollar a month. Would it make any difference to you if the
5 minimum is kept at one dollar a month instead of \$1.25, if
6 that limits the amount of water they use. You buy so much
7 water and sell it. The relationship between the cost price and
8 the sale price of the same amount of water is that in which
9 you are interested?

10 A Yes.

11 Q If you have a dollar minimum, they are kept down to a
12 dollar, and therefore, you will not buy as much water from
13 Murray and Fletcher, but if it is made \$1.25, you will immed-
14 ately have to buy more water at the other rate?

15 A Yes.

16 Q Therefore, from your point of view, the additional
17 minimum would not be any additional burden. Under present
18 conditions it would not hurt you.

19 A Under present conditions we would prefer to have it
20 remain as it is, if we could buy the water as we have been
21 buying it, we prefer to let the rate stay where it is.

22 Q Under the condition brought about by the commissioner's
23 order, you are to pay 25 cents a thousand gallons and get 25
24 cents a thousand gallons. The less water you deliver, the bet-
25 ter you will like it. If you buy any number of gallons at 25
26 cents a thousand gallons, and sell it for 25 cents a thousand
27 gallons, you won't under any circumstances get any more than
28 you have to pay to Murray and Fletcher, will you?

29 A No sir.

1 Q Unless the minimum amount which is taken is less than
2 the minimum charge would be. That would be your only possibil-
3 ity of revenue, but assuming that they always take whatever
4 the minimum is, then the less minimum charge per month, the
5 less water you would be using, and the less you would be losing.

6 A Yes.

7 Q Therefore, if there is to be a fixed relationship
8 between the rate you pay Murray and Fletcher and the rate you
9 sell to your consumers, and the minimum amount determines what
10 they use, you are not interested in the minimum charge?

11 A I will modify it, that there are instances when the
12 people did not use the full amount, and that of course, helps
13 materially, in any event, on the amount of the surplus that we
14 have.

15 Q Has your company sold these lots with the understanding
16 that the water rate shall be a dollar a month?

17 A That has been our statement to the people when they
18 have inquired about it, that the rate of the water in the dis-
19 trict was to be charged at \$1 a month minimum with 20 cents a
20 thousand rate.

21 Q As I figure it, if you keep your minimum now at a
22 dollar, and sell this 9-7/8 inches, as apparently you will
23 pretty soon, if the number is increasing, and you pay Murray and
24 Fletcher 20 cents a thousand gallons, and sell it at 25 cents a
25 thousand gallons and make \$191.95 a month, according to your
26 estimate, that is not sufficient?

27 A I want to say Mr. Fletcher is mistaken when he says
28 we use nearly 9 inches. We come nearer to using 1 inch than
29 9 inches. I think we have used less than 1 inch, which is

1 something like our minimum, I believe.

2 COMMISSIONER ESHLEMAN: One inch. I was looking for nine
3 inches. They do not use 9 inches, but it is 1 inch.

4 MR. FLETCHER: They used last year twenty-two million
5 gallons, 22,114,684 gallons of water, from the first of June
6 last year to the first of June this year. I would like to
7 have our engineer here to correct those figures.

8 COMMISSIONER ESHLEMAN: I will allow you to take a state-
9 ment from your books and send Judge Haines a copy. All I want
10 to do is to get at the facts. There must be some adjustment
11 of this rate. I can't determine what adjustment is necessary
12 until I know what the facts are relative to the distribution
13 of water.

14 MR. FLETCHER: In justice to the Cuyamaca Water Company
15 owners, I want to make this statement. We are opposed to being
16 forced to buy the system of the Pacific Building Company, but
17 recognize that they cannot handle this water for nothing, and
18 we are agreeable to a reasonable reduction of prices, which, if
19 true, means a diminution of income, but we realize they cannot
20 do it for nothing, and do not ask them to do it for nothing,
21 and we want to be fair.

22 COMMISSIONER ESHLEMAN: I think that is the proper attitude,
23 and I don't think under the circumstances of the occasion this
24 company should expect to make a large amount of money from its
25 water operations, but they certainly should not be required
26 to lose money from their water operations, and I will try to
27 find out from the statement you send in, and the general infor-
28 mation I have on the subject, just what reduction in the
29 wholesale rates should be necessary in order to be fair to the

1 company.

2 MR. COTTON: The position of our company is the same as Mr.
3 Fletcher states is the position of his company. We do not want
4 anything but what would be fair and would allow our company to
5 have a reasonable income on its investment in this system. The
6 system was taken because somebody must own the system and
7 supply the residents who lived there before we bought the
8 property, before we bought the remnants of what is left, and we
9 took it for that reason, and all we want is to be allowed to
10 have sufficient revenue to be able to maintain the system in as
11 good condition as possible and to have a reasonable profit
12 on the investment.

13 COMMISSIONER ESHLEMAN: As Judge Haines has said, I think
14 the logical outcome of all these little systems is for the larg-
15 er systems to handle them. The Commission is not disposed,
16 under present conditions, even if it had the power, and I
17 haven't stated my conclusions, to require this Cuyamaca Water
18 Company to buy this system, because there are other places it
19 is more necessary for them to expend money than in buying these
20 small companies, but until they are acquired by them, there
21 should be some difference between the wholesale rate, and the
22 retail rate, and the rate I first fix may be more or less ex-
23 perimental. If it is unfair to either party, upon application
24 it can be changed, but we cannot tell as to any rates very well,
25 in advance, what would be the proper thing to do, and we can
26 always tell what effect it has upon the revenue, and whatever
27 recommendation I make is only tentative, and if on checking up
28 its effect, it is unfair to either one, we will change it.

29 MR. HAINES: Can you tell what the water that you were

1 supplying at the time this petition was filed, cost you per
2 thousand gallons?

3 A I could have that figured out at our office and make
4 a statement of it.

5 Q I would like that. And upon the water you were then
6 delivering, paying at the rate of \$600 per annum, or \$50 per
7 month, you were making above your outgo, about \$34.89 per month?

8 A Yes. I will say this, in that connection, that we are
9 able to handle the book-keeping work on the system cheaper than
10 it might be handled by an individual company, because we are
11 handling it as a department in our main office.

12 Q When you make your statement, I wish you would, under
13 all the conditions existing, make a statement as to what you
14 consider should be allowed out of the 25 cents a thousand gal-
15 lons in order to make you whole. Are you able to do that now
16 and give an opinion about how that should be apportioned, the
17 25 cents per thousand gallons?

18 A I could make a more valuable statement after checking
19 the matter.

20 COMMISSIONER ESHLEMAN: I will say that both sides may put
21 in these statements, but I want you to get them in right away,
22 because this rate goes into effect the first of July, and you
23 will have to furnish the water, but the rate will be tentative.
24 I would like to have you get the statement up today. I am
25 going to leave on the 1:10 train, but you can mail them im-
26 mediately to San Francisco and give a copy to the opposite side,
27 and I will try to hurry the matter out tentatively, and if it
28 does not suit either party after it is tried a short time, on
29 the proper representations as to its actual effect, we will

1 make some changes. I want to work the matter out properly.
2 If there is nothing further, I will ask each side to get in
3 their statements today, so it will start north tonight.

4 MR. FLETCHER: I take it there is no tendency on the part
5 of the court to force us to buy this system. It is a question
6 of rates.

7 COMMISSIONER ESHLEMAN: It is a question of rates.

8 MR. FLETCHER: We had testimony here showing that the
9 present value of the system is only \$6,111.00, and if you
10 want us to introduce that evidence, we will.

11 COMMISSIONER ESHLEMAN: What is that based pn?

12 MR. FLETCHER: Based on experts who have appraised the
13 value of the system and gone over it in detail.

14 COMMISSIONER ESHLEMAN: I haven't time to go into that in
15 detail, but after I have fixed a tentative rate, as a temporary
16 solution, if afterwards either this realty company or the
17 Cuyamaca Water Company feels aggrieved, I will be glad to have
18 the matter gone into carefully, and if I can make an off-hand
19 adjustment which will be fair, I would like to do it. I want
20 to save as much of my time as possible. I am not like your
21 attorney, when I get run down, I can't take a vacation. I don't
22 want to go very much into detail, but will take the statements.

23 MR. FLETCHER: We don't want to sleep on our rights, is all.

24 COMMISSIONER ESHLEMAN: The matter will be determined in
25 that way, and it is understood you will send the statements in
26 today.
27
28
29

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

1 I, H. S. Moore, do hereby certify that I, acting as
2 shorthand reporter for the Railroad Commission of the State
3 of California, on the 24th day of June, 1913, did correctly
4 take down in shorthand the testimony and proceedings in the
5 matter of the Application of the Pacific Building Company for
6 a modification of the decision in the matter of the application
7 of James A. Murray and Ed Fletcher for an order authorizing
8 and permitting an increase in the rentals, tolls and charges
9 for water furnished by them and service rendered by them in
10 furnishing water in the County of San Diego, State of Calif-
11 ornia, Application Number 118, and that I did thereafter trans-
12 scribe such shorthand notes into long hand, and to the best of
13 my knowledge and belief the foregoing is a full, true and
14 correct copy of said testimony and proceedings.
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Dated this 24th day of June, 1913.

H. S. Moore
Shorthand Reporter.

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

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

----oOo----

In the matter of the application of
James A. Murray and Ed. Fletcher for
an order authorizing and permitting
an increase in the rentals, tolls and
charges for water furnished in the
County of San Diego, State of California)

} Application No 118.

A. H. Sweet for applicants.
Haines & Haines, D.G. Gordon and Crouch & Harris
for Consumers.

ESHLEMAN, Commissioner.

OPINION ON APPLICATION FOR REHEARING.

The Pacific Building Company has applied to this Commission for a rehearing and modification of the order heretofore entered in this case respecting the rates which shall be charged by Murray and Fletcher to this Company. The Pacific Building Company is a land company which operates a water system in conjunction with the property sold by it and by its predecessor in ownership of this water system. It has been furnishing water to its consumers at twenty cents per thousand gallons with a minimum monthly charge of one dollar. It has in the neighborhood of 318 metered consumers.

In the order in Application No. 118, the Commission uses the following language with reference to the rates for domestic use:

"For domestic use twenty-five cents per thousand gallons with a minimum charge of \$1.25 per month, the applicants to furnish meters and cost of installation of all facilities, the consumer to furnish pipe upon his own premises."

It is urged by the Pacific Building Company that it cannot pay the Cuyamaca Water Company twenty-five cents per thousand gallons and then distribute the water to its patrons at the same price, and of course this goes without saying and it is admitted by the

owners of the Cuyamaca system. It only remains to be determined, therefore, what modification in the order shall be made respecting the wholesale rate which shall be charged by the owners of the Cuyamaca system to the Pacific Building Company. After consideration of the evidence introduced on this point and the statements filed. I am of the opinion that a rate of eighteen cents per thousand gallons is, under all the circumstances of this case at the present time, a reasonable rate to be charged by the Cuyamaca Water Company to the Pacific Building Company for the water distributed by the latter Company. The Pacific Building Company should be allowed to charge the rate which is established for a corresponding service to be performed by the Cuyamaca Water Company in the decision in Application No. 118, and such permission would be granted to it were it not for the fact that a complaint is now pending before this Commission, and not yet determined, wherein the quality of the service of the Pacific Building Company is called in question. The rate of twenty-five cents per thousand gallons with a minimum charge of \$1.25 fixed in Application No. 118 was the rate to be charged for good service. If the service is poor the rate should be lower. I am ready to recommend, however, that the Pacific Building Company be permitted to charge the rate of twenty-five cents per thousand gallons fixed as a rate for domestic consumption in Application No. 118, but that it be required to maintain the minimum rate of one dollar per consumer which it is now charging. No public utility should be permitted to bring about an increase in its rates when the character of its service is in question. If after the hearing of Case No. 403, which is the complaint now pending against the Pacific Building Company, it shall be found that its service is in fact good, or as soon thereafter as its service shall be proper in all respects, I recommend that it be permitted to enforce the minimum charge of \$1.25 per month.

I submit the following order:

O R D E R

Pacific Building Company having applied for a rehearing and modification of the order in this case, and a hearing having been held, and being fully appraised in the premises

IT IS HEREBY ORDERED,

1st. That the rate at which the Cuyamaca Water Company shall deliver water to the Pacific Building Company shall be eighteen (18¢) cents per thousand gallons up to a total consumption of 9.875 miner's inches per annum, and that beyond that quantity no water shall be delivered without the further order of this Commission, and the rate of eighteen (18¢) cents per thousand gallons is hereby fixed as the just and reasonable rate for this service.

2nd. Pacific Building Company shall charge twenty-five (25¢) cents per thousand gallons to its consumers with a minimum rate to each consumer of One dollar (\$1.00) per month, and shall observe the conditions with reference to the installation of meters and service prescribed in the main order in this case, and the rate of twenty-five (25¢) cents per thousand gallons with a minimum charge of one dollar (\$1.00) is hereby fixed as the just and reasonable rate to be charged by the said Pacific Building Company to its consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of July, 1913.

A true copy
H.G.Mathewson,
Asst Secretary
Railroad Commission
State of California.
(SEAL)

John M. Eshleman

H. D. Loveland

Edwin O. Edgerton

Commissioners.

Application
No 118

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

In the Matter of:

The application of James A.
Murray and Ed Fletcher for
an order authorizing and per-
mitting an increase in the
rentals, tolls and charges
for water furnished in the
County of San Diego, State of
California.

OPINION AND ORDER ON
APPLICATION FOR REHEARING.

Copy

Filed July 1st, 1913.

RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.
10th Floor Commercial Bld
833 Market St.,
San Francisco, Cal.

BRIEF OF CUYAMACA WATER COMPANY

in Matter of Application of September 8, 1913 for
Pumping Rates.

December 6, 1913.

State Railroad Commission,

333 Market St., San Francisco, Cal.

Gentlemen:-

In making our Brief asking for an increase of rate to cover the expense and cost of installation of plants for pumping of water by the Cuyamaca Water Company, I wish to present the following facts:

FIRST: On August 22nd, 1913, the Railroad Commission of California ordered the Cuyamaca Water Company to install pumping plants.

The following is a copy of the telegram:

San Francisco, Cal.,

August 22, 1913.

Cuyamaca Water Company,

San Diego, Cal.

Supply of water on hand available for consumers under Cuyamaca Water Company's system so low, extreme danger of water famine. Commission hereby directs you immediately to increase your supply by pumping plants or otherwise. Commission will permit you to charge excess rate to cover reasonable cost of temporary additional supply, such rate not to exceed ten cents per thousand gallons. Wire answer immediately.

RAILROAD COMMISSION OF CALIFORNIA.

11:37 A. M.

The Cuyamaca Water Company immediately wired the answer agreeing to install said pumping plants as per the order of the Commission. It became necessary and we immediately purchased riparian lands on the San Diego River as no other arrangements could be made to secure water except by pumping it ourselves. We determined

to install three pumping plants at different points along the River. Location and size of plants were submitted to the Railroad Commission and their approval secured. The Railroad Commission was asked and did secure for us the consent of the United States Government to install two pumping plants on Indian lands. Our engineer, Mr. Post, went to San Francisco and explained to Hydraulic Engineer Harroun our plans for these pumping plants. In addition Messrs. Harroun and Brookman visited our pumping plant No. 2 at Chocolate Creek on September 12th and our plans met with their approval. In good faith we proceeded immediately to install said pumping plants and no testimony has been introduced to the contrary. As a matter of fact, the general water committee in a communication to the Railroad Commission admitted that we had in good faith installed the pumping plants as rapidly as it could be done. There were only four well boring outfits in San Diego County. We had to bring one from Ocean-side and one from the Tia Juana River. It was necessary to install at least ten bored wells and connect same up to develop the amount of water necessary to furnish a full capacity to each plant. On October 9th we were pumping 40 Miner's Inches of water from the three plants. On November 1st our pumping plants were developing 70 Miner's Inches of water and the day we closed after the rains, our three plants were developing approximately 85 Miner's Inches perpetual flow and increasing daily. On September 1st, 1913 we had 16 feet 4½ inches of water in Cuyamaca Lake. Our engineer, Mr. Post, after consulting with your Hydraulic Engineer Harroun, agreed that for the best interests of all concerned, it was necessary to cut down the gravity water from Cuyamaca Lake to a domestic supply along the flume and commence pumping on September 1st from La Mesa Lake back to La Mesa City through the pipe line system. The engineers figured it out that this would take care of all leakage and evaporation the entire length of the flume and furnish a domestic supply at least until December 1st and possibly to January 1st. The leakage and evaporation on the flume alone is

approximately 92 inches of water perpetual flow. By having this taken care of together with the domestic supply by gravity from Guyanaca Lake, all water developed by pumping would be available for irrigation. The Guyanaca Water Company on August 30th, issued an order stopping the quarter supply of irrigating water from September 1st, 1913 and putting the entire system on a domestic supply. On September 10th the Railroad Commission ordered us to continue furnishing a quarter supply for irrigating on the advice of certain water consumers under the system who claimed there was plenty of water for months to come. This was admitted by one of the water committee, Mr. D. O. Gordon, whose testimony is a matter of record. The result was that Guyanaca Lake went dry on October 19th as predicted by Messrs. Post and Harroun and there was not enough water developed by pumping to protect our wooden flume from drying out before we could get our pumping plants into complete operation. It is true that Guyanaca Lake went absolutely dry on the 19th of October, but there was no water to furnish for irrigation in October from Guyanaca Lake for the reason that after leaving Guyanaca Lake the water follows a natural creek bed known as Boulder Creek through sands and gravel for a distance of 15 miles before reaching the diverting dam where the water enters into the Guyanaca flume and the small amount of water flowing out of Guyanaca Lake after October 1st was valueless as most of it was lost by evaporation and seepage in transit from Guyanaca Lake to the diverting dam.

We make this explanation for the following reason: Owing to a lack of water in October before we could get our pumping plants thoroughly in operation Guyanaca Lake went dry and the result was that the thirty odd miles of flume of the Guyanaca Water Company was without sufficient water to even take care of the leakage. The result was that 15 or 20 miles of this flume became bone dry, warped and full of numerous cracks, some of them a quarter of an inch in width between the boards, with the result that instead of our usual leakage and evaporation of two to three Minor's Inches

per mile, the leakage increased to ten and twelve inches to the mile. If the water had been shut down to a domestic supply on the first of September as ordered by this Company, such an occurrence would never have happened for the flume never would have gone dry and our pumping plants would have been in full operation long before the water ceased to flow from Cuyamaca Lake. Owing to extraordinary and unexpected rains between the 5th and 20th of November which thoroughly irrigated all the orchards for a month or two, the Cuyamaca Water Company ceased pumping on the 20th of November and prepared immediately to let contracts to reline the entire flume with two-ply roofing which will reduce the leakage of the flume to at least one-twentieth of one per cent a mile or approximately 13 inches for the entire flume and we ^{will} have this work completed by January 15th, 1914. In addition we have just let a contract to build a sixteen and fourteen inch pipe line a distance of nearly nine miles from the end of the flume to the city limits of San Diego. The contracts call for the completion of same by February 15th, 1914. The above mentioned improvements will reduce our leakage and evaporation to a minimum.

The following statement represents capital expenditure today including all pumping plants and lands as follows:

CAPITAL EXPENDITURE.

		Total Cost to Oct. 31, 1913.
		<u>1913.</u>
<u>La Mesa Plant,</u>	800.00	
Engineering, 10%,	<u>80.00</u>	\$ 880.00
<u>Pumping Plant No. 1, two-thirds depre-</u> <u>ciation of plant installed last</u> <u>year,</u>	2000.00	
Repairs,	<u>100.89</u>	<u>2,100.89</u>
		<u>\$2,980.89</u>

Brought Forward, \$ 2,980.89

Pumping Plant No. 2.

(a) Lands	6225.00	
(b) Engine and pump	4525.95	
(c) Pump well	981.63	
(d) Discharge pipe	899.89	
(e) Suction and other pipe	1105.26	
(f) Well No. 1,	138.40	
(g) Well No. 2,	240.10	
(h) Well No. 3,	527.43	
(i) Well No. 4,	519.87	
(j) General	177.85	
(k) Well No. 4,	528.73	
(l) Trench	1224.99	
(m) Engineering & Superintendence 10%	634.40	17,729.19

Pumping Plant No. 3.

Installation	171.35	
Engine and pump	1639.14	
Wells	640.24	
Discharge and suction pipe	268.33	
Engineering & Superintendence 10% --	271.70	2,988.76

Pumping Plant No. 4.

Engine, Pump and pipe	889.15	
Shaft	325.09	
Engineering & Superintendence 10% --	111.42	1,225.66

Pumping Infraction

Expense to date Oct. 31st	2204.93	
Estimated yet to be paid	5000.00	7,204.93

Total to October 31st ----- \$ 32,129.43

November - Capital Expenditure Nov. 1 - 27th ----- 1,195.65

\$ 33,325.08

Credit on lands purchased,	\$ 5000.00	
Credit on pumping plant No. 4, duplication of engines,	383.00	5,383.00

Total ----- \$ 27,942.08

You will notice we have deducted \$5,000.00 for lands. This refers to the purchase of the lands on which pumping plant No. 2 was located. We have set aside 10 acres of land to go with pumping plant No. 2 and do not ask for any interest on our money at this time from that investment. We do claim that we are entitled to be reimbursed in the sum of \$27,942.08 together with 7% interest from date of November 1, 1913 as well as any money spent in the operation and maintainance of said pumping plants. We are willing that this additional amount asked for be paid back to us covering a

period of three years from date of October 1, 1913. We base our three year period by the precedent already established by the Railroad Commission in establishing rates under like conditions during the year 1912 for the Cuyamaca Water Company for pump water. I refer to Exhibit already introduced at the hearing under the heading "The Cuyamaca Water Company Proceedings Regarding Pumping for 1912 before Railroad Commission" dated August 20, 1912. At that time you allowed a depreciation of thirty-three and one-third per cent on plant installed by your order. We contend that the life of the pumping plants to all practical purposes is not in excess of three years and in case that we are refunded our money in three years and the plants are utilized thereafter, that when we have been refunded our money and interest, and in case said plants are utilized thereafter, then we expect the Railroad Commission to make a new rate for pumping which will cover simply the operating expense. We contend that the Railroad Commission shall order the Cuyamaca Water Company to keep a separate account of not only the capital expense of said pumping plants, but cost of operation, and that said Railroad Commission shall establish an additional pumping rate to off-set said expenditures mentioned above and when said receipts for the increased pumping rates shall off-set the amount heretofore expended for the pumping emergency, then the excess pumping rate to be established by the Commission shall cease. All the Cuyamaca Water Company desires is the return of their money and interest and any Court at law will certainly give us this relief, particularly so when this expenditure of money made by the Cuyamaca Water Company was ordered by the Railroad Commission with a guaranty that we would be returned our money as per telegram of August 22, 1913, and particularly so as this expenditure was made with the knowledge and approval of the Railroad Commission and its engineer.

Messrs. Gordon and Haines do not deny, neither is there any testimony before the hearing to show but what in good faith we did everything possible to develop water as rapidly as possible. They contend, however, that owing to our lack of ability to furnish a full supply, we should be penalized on that account and made to suffer this additional loss that we have been put to on account of lack of supply of water. In answer I desire to call your attention to the fact that the Chief Engineer of the Railroad Commission gave us a physical valuation of \$484,000.00 for our property, but Commissioner Eshelman in his decision penalized us 25% on account of our 75% efficiency of water supply and established rates on that basis. Therefore, we were penalized for our inefficiency at the start-off. In other words, instead of allowing us \$88,000.00 income per year, which we would have been entitled to on the basis of the physical valuation of our property as determined by the Railroad Commission's Engineer, Mr. Harroun, we were only allowed by Commissioner Eshelman \$66,000.00 in his Decision and Order. To make matters worse, however, instead of getting \$66,000.00 which was intended by the Railroad Commission in its order, the facts are we are getting less than \$44,000.00 even when a full supply of water is furnished owing to unintentional errors made by the Commission in figuring out our income, as per statement now in evidence and submitted to Commissioner Loveland at this hearing.

I feel that this should be taken into consideration as well as the fact that the Guyanona Water Company has never in its history since we bought the system June 1, 1910, taken in enough money in any one month to even pay its operating expenses. Yet in good faith we have put into this system in addition to our original investment approximately \$300,000.00. How can any sane person question our good faith under these circumstances considering these financial times and how discouraging under the circumstances it is to have Messrs. Haines and Gordon assert, as they have, that we should not

receive any recompense under the circumstances for this latest emergency investment that we have put into our system on the order of the Railroad Commission.

Another contention of Messrs. Gordon and Haines is that we should have foreseen this emergency and installed the pumping plants earlier in the season. The records of the hearing will show that in the early summer we took the matter of pumping up with the owners of the El Monte Ranch. Mr. George Bach agreed with Messrs. Murray and Fletcher to make some arrangements whereby we would be allowed to pump on the El Monte Ranch. After a delay of two or three weeks we received word from Mr. Bach that the Riparian Owners Association below would not give their consent either to allow us to pump nor would they pump themselves and sell us water at so much a thousand gallons. We were further informed that an injunction suit would be brought if we attempted to pump. Would any sane man install pumping plants under these conditions without the backing of the Railroad Commission? I certainly feel that the course we took was absolutely right.

Messrs. Gordon and Haines claim that we should have bought the El Monte pumping plant instead of lands above. In answer I will say, our primary object was to install pumping plants where water would be developed at a minimum cost and where the danger of an injunction suit was the least. The lift of water from the San Diego River into the flume at the El Monte pumping plant is 275 feet. The pumping plant No. 2 which we installed at Chocolate Creek is approximately 200 feet lift. Pumping Plant No. 3 approximately 150 feet lift and Pumping Plant No. 4 approximately 40 feet lift.

Again, it is nearly twice the distance to the flume from the El Monte pumping plant as it is from the other pumping plants which we installed. Again, if we had installed the El Monte pumping plant, there would have been ten or fifteen ranchers within a half mile of the El Monte pumping plant who would certainly have had cause

to fight us immediately, while our nearest pumping plant which we did install at Chocolate Creek, known as Pumping Plant No. 2, is over 5 miles from the nearest pumping plant owned by any of the riparian owners and we felt that by getting as far away as possible from any member of the riparian owners association, we stood a good chance of no litigation. Before the injunction suit was brought we even offered the riparian owners association an agreement that we would simply pump temporarily and agreed to waive any rights that we might acquire by pumping.

Again, if we had purchased the El Monte pumping plant we would have to condemn a right of way from the pumping plant to the flume which would have taken months and this feature alone prohibited our acquiring the El Monte pumping plant.

We developed all the water that we expected by the pumping plants that we did install and said pumping plants are now developing to their full capacity and said pumping plants were installed with the consent of the Commission, both as to location and capacity. I desire especially to call attention to the great value of said plants to the system for every indication now is for a dry season again and the plants are available on twenty-four hours notice for at least 85 inches during this coming season.

The El Monte pumping plant and land has only been bought within the last two weeks by Mr. Murray individually at the request of a member of the City Council of San Diego. In our proposition to the City of San Diego we included a clause that any rates we made would be subject to the approval of the Railroad Commission. Attached hereto is copy of our proposition to the City of San Diego. Our idea in making this arrangement with the City of San Diego is to increase our revenue which means lower rates to the consumers. Any arrangements we make with the City of San Diego will undoubtedly apply only to pump water and with our improvements to be made, we will have added carrying capacity which in no way will conflict with

our service to the consumers of the Guyana Water Company but be a benefit to all instead.

At this time the Guyana Water Company desires to secure an expression from the Railroad Commission as to what shall be done in the matter of contesting the injunction suit of the riparian owners below. After three days fight in Court we were able to secure the dissolution of the temporary injunction by putting up a bond of Thirty-two Thousand Five Hundred Dollars (\$32,500.00). In contesting the case the riparian owners employed Mr. I. N. Huntsberger and Hunnaker & Britt of Los Angeles in addition to their local attorneys. We employed Messrs. W. B. Mathews and Judge Walter Bordwell of Los Angeles as well as our local attorneys to fight the preliminary injunction. It was necessary for us to employ as witnesses Messrs. J. B. Lippincott, Charles Lee and others at the preliminary trial and the expense of a preliminary injunction, as the records will show, totals up approximately six or seven thousand dollars. It will cost fully as much more to fight this case when it is tried on its merits and many thousands more to carry it to the Supreme Court in case of necessity. Before going to any further expense at this time we feel that the Railroad Commission should advise us in the matter as to whether we shall contest the case or not.

Respectfully submitted,

KF-BK

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF
CALIFORNIA.

.....: :
IN THE MATTER OF THE APPLICATION : :
OF JAMES A. MURRAY AND ED FLETCHER : :
FOR AN ORDER AUTHORIZING AND PER- : :
MITTING AN INCREASE IN THE RENTALS, : : APPLICATION NO. 118.
TOLLS AND CHARGES FOR WATER FURNISHED : :
BY THEM AND SERVICE RENDERED BY THEM : :
IN FURNISHING WATER IN THE COUNTY OF : :
SAN DIEGO, STATE OF CALIFORNIA. : :
.....: :

PETITION FOR FURTHER HEARING SUPPLEMENTAL
TO THE FIRST PARAGRAPH OF THE ORDER MADE
BY THE COMMISSION HEREIN, FIXING RATES FOR
DOMESTIC USES.

The undersigned, PACIFIC BUILDING COMPANY, a corporation (hereinafter designated as the petitioner) respectfully prays for further hearing supplemental to, and to determine the application to the relation between the Petitioner and Murray and Fletcher (Hereinafter referred to as the Applicants) of the first paragraph of the Order made by the Commission herein, on the 28th day of March, 1913, respecting the rates to be charged by Applicants as the said Order appears at page 80 of the typewritten decision, in words and figures as follows, to-wit:

"(1) For domestic use, 25¢ per thousand gallons, with a minimum charge of \$1.25 per month, the Applicants to furnish meters and cost of installation of all facilities, the consumer to furnish pipes upon his own premises."

The question over the application of this paragraph to water delivered to the PACIFIC BUILDING COMPANY (the Petitioner) arises from the fact that it is not a consumer of water at all, but is performing the function of a public utility company, in receiving water in bulk at the main of Applicants on El Cajon Avenue and distributing it to consumers in the territory principally between El Cajon Avenue and University Avenue to the south thereof defined in the Agreement between the SAN DIEGO FLUME COMPANY and the

COLUMBIAN REALTY COMPANY, dated July 1st, 1909, as found by the Commission in paragraph 4, pp.7-8 of its typewritten opinion herein; a copy of this contract is annexed hereto marked "Exhibit A", and made a part hereof. This distribution is made through a system of main and lateral pipes owned by the Petitioner, which it alleges comprise the following, to-wit:

57,300 feet 2 inch pipe, original cost \$10,027.00, less 10% depreciation, making its present value.	\$ 9,025.00
7,800 feet, 4 inch pipe, new and not depreciated, cost.	<u>3,120.00</u>
Present value of distributing system .	\$12,145.00
The monthly depreciation of this system is.	\$50.00
The monthly interest at 7% on its value is.	70.00
The monthly expense of all sorts for operation of this particular system is.	<u>133.00</u>
The total monthly expense of this system, including depreciation, interest and the cost of maintenance and operation is, therefore.	\$253.00

This system receives no water from the City of San Diego Water Supply, but is exclusively devoted to furnishing water delivered by the Applicants to this system from the main on El Cajon Avenue at a point between Fairmont and Highland Avenues, for the territory defined and restricted by said agreement of July 1, 1909, between the SAN DIEGO FLUME COMPANY and the COLUMBIAN REALTY COMPANY. The territory supplied from the San Diego City Supply does not embrace any of the territory described in said contract of July 1st, 1909.

The Applicants and Petitioner do, in fact, co-operate each in the capacity of a Public Utility, in furnishing this flume water to the actual users, the former furnishing the water in bulk to the Petitioner at its main on El Cajon Avenue, and the latter

distributing it to the consumers north of University Avenue, through the distributing system owned and supplied by it.

The Petitioner alleges, that, substantially, all of the lands north of University Avenue within the district defined in said contract of July 1, 1909, comprising upwards of 500 acres, at one time owned by the Columbian Realty Company had been substantially all sold by it to individual purchasers before it assigned its right to the Petitioner. As fast as these purchasers improve the land purchased by them, they demand water from the system of the Applicants through the distributing system of the Petitioner; that the Petitioner now owns no land in that district to exceed ten acres; and that the function performed by the Petitioner is part of the total obligation of the Applicants to furnish water to the actual users at the rates now fixed in said paragraph one (1) of the Order of the Commission.

Your Petitioner interprets the terms of said paragraph One (1) of the Order as fixing and limiting the compensation to be paid by the actual consumers of water, and that it does not permit the Petitioners to charge the consumer any higher or additional rate of compensation above the 25¢ per thousand gallons with a minimum charge of \$1.25 per month, awarded to the Applicants.

The Applicants demand, as Petitioner is informed (and from the paragraph four (4) of the letter addressed by the President of the Commission to Mr. Ed Fletcher under date of April 15th, 1913 of which a copy was furnished for Petitioners) it infers that the applicants Murray and Fletcher assume to demand from the Petitioner the whole compensation to be paid by the consumer for water, i. e. the whole of 25¢ per thousand gallons, with a minimum monthly charge of \$1.25.

This seems to be in accordance with the literal terms of the Order. That rate is in terms awarded to the Applicants and

no part of it to any other.

Your Petitioner respectfully represents that the Applicants in thus availing themselves of the terms of that Order and demanding, accordingly, the whole compensation for water distributed through the services of Petitioner and its distributing system, have, by the terms of the Order, come under the obligation to perform the whole service, not only to deliver the water in bulk at the El Cajon main, but also to distribute the same to the actual users. To do this they must use the said distributing system owned by the Petitioner.

Your Petitioner respectfully represents that the Applicants in demanding the whole compensation under the terms of the Order of the Commissioners, and in declining to perform the portion of the entire service involved in the distribution of the water to the consumers, will, virtually, demand the confiscation of the distributing system of the Petitioner, and all its services in maintaining and operating that system; for, manifestly, if the Petitioners must pay to the Applicants 25¢ per thousand gallons and \$1.25 per month minimum charge for each consumer, and the Petitioner is forbidden (as we believe it is by the terms of the Order) to collect more from the consumer, the result is tantamount to confiscation subjecting Petitioner to a monthly loss of \$230.00 under the present demands of consumers. This loss would increase as the number of consumers increase. This increase is an average of fifteen new consumers and connections per month, and will increase in arithmetical progression until the whole tract is improved.

It is submitted that the terms of the Order, above set out, admit of no such construction. By its terms it is ordered "that the following be, and they are, established as just and reasonable, and the only rates to be charged by the Applicants herein." Then follows the paragraph One (1) applicable to the consumers served through the distributing system of Petitioner, which we quote again:

"(1) For domestic use 25¢ per thousand gallons with a minimum charge of \$1.25 per month, the Applicants to furnish meters and costs of installation of all facilities, the consumer to furnish pipes on his own premises."

It submits that under the Order the Applicants are to take all the compensation; but that they are under the correlative duty to be at "the cost of installation of all facilities", and the consumer is to furnish pipes on his own premises.

It submits, further, that under the terms of this Order, the Applicants are released from the provision of the contract between the SAN DIEGO FLUME COMPANY and the COLUMBIAN REALTY COMPANY, notwithstanding that the Applicants expressly assumed and agreed to perform the covenants and obligations of the SAN DIEGO FLUME COMPANY therein expressed; and notwithstanding the fact that the Petitioner had after such assumption by Applicants become the assignee of the COLUMBIAN REALTY COMPANY of all of those covenants. (See copy of transfer by the COLUMBIAN REALTY COMPANY and annexed copy of contract between SAN DIEGO FLUME COMPANY and said COLUMBIAN REALTY COMPANY, under date of July 1, 1909, annexed hereto as "Exhibit A".)

As to the terms of the assumption by the Applicants of the obligation of the SAN DIEGO FLUME COMPANY in this contract contained, see the findings of the Commission herein, page 3 of its typewritten opinion.

In other words, (so that what the Petitioner means to state may not be mistaken) the Order of the Commission purports to abrogate and supersede the contract relations between Murray and Fletcher and the Petitioner, which fixed the price to be paid by Petitioner to Murray and Fletcher for water to be by it distributed to the consumers. That Order has also disrupted the relations of the Petitioner to the consumer under which the Petitioner could obtain from the consumers the rate of 20¢ per thousand gallons and \$1.00 minimum charge per month, which was the rate which Petitioner charged to the consumers for water obtained from Applicants at the price

fixed under the contract and thus reimbursed itself for the cost of distribution. And, in lieu of those relations, the Commission has newly established a direct and immediate relation between Murray and Fletcher and the consumer, by which the Applicants take the entire increased rate of 25¢ per thousand gallons and \$1.25 minimum charge per month, which the consumers are required to pay.

The Petitioner is ready to acquiesce in this Order provided Murray and Fletcher will conform, or be compelled to conform, to the correlative portions of the Order, to-wit:

to be "at the cost of installation of all facilities", necessary to carry out the new relations so established directly between them and the consumer.

In other words, since Murray and Fletcher seek to avail themselves of the rates to be paid by the consumer under the Order, it becomes their corresponding obligation to take over the distributing system of your Petitioner, and relieve it of the burden of maintaining and operating it. The Petitioner alleges, as above, that the value of that system is \$12,145.00. It is ready and willing to submit evidence upon the value of this system at a hearing to be duly had, and to abide by the valuation fixed on the same by the Commission. This, it submits, is the only proper course to be taken to carry out the Order of the Commission, and to avoid the appropriation of the distributing system, as well as, the services of Petitioner to the public use by Murray and Fletcher without compensation.

The President of the Commission has caused to be transmitted for the information of Petitioner a copy of a letter from him to Ed Fletcher in answer to a letter of the latter dated April 7th, 1913.

As this letter of Fletcher's was an ex parte affair and as Petitioner has not been favored with a copy of it, it is not advised of the representations made therein relating to this Petitioner. It can only infer by what is said in paragraph four (4) of the

President's letter that Fletcher made the following representation:

1. That Petitioner is able to obtain water for the consumers under its distributing system supplied from Applicants main on El Cajon Avenue from the City of San Diego.

This representation, if made, is not correct for two reasons:

First: That the distributing system connected with the Flume System, and which is confined to the territory north of University Avenue cannot be supplied from the City Water System through any connection made, or which can be made, for the physical reason that the pressure of the City System is insufficient to force water into this District.

Second: The City of San Diego is suffering from a serious and menacing shortage of water supply and cannot even furnish an adequate supply to the consumers in the territory it has undertaken with the Petitioner to supply; and by no possibility would the City extend its service to any part of the territory north of University Avenue covered by Petitioner's said distributing system.

Petitioner is also informed that Fletcher's letter contains a complaint that Petitioner is not distributing the whole of the 9-7/8 inches of water referred to in the contract of July 1st, 1909, so that Murray and Fletcher may have revenue on the whole of that amount of water at the rate fixed by the Order of the Commission.

If this complaint is made, the Petitioner answers to it, that in its capacity as a Public Utility Water Company it can deliver only so much water as the public it serves demands. Murray and Fletcher, under the Order of the Commission, come under direct relation to the consumers, present and prospective, who constitute that public and take the whole returns under the rates fixed by the Commission. That being the case the demand involved in Fletcher's representation, if made, comes to this: that the Petitioner does not only furnish the use, service, and operation of its distributing system so far as the same is now constructed to meet the present

demands of the consumers in the territory north of University Avenue, for nothing, but that it continue to extend its system as new consumers demand, and operate it all for no compensation, and meanwhile pay for all the water these new consumers have the public right to demand from the system of Applicants at some future time.

If Mr. Fletcher were asking the Commission outright to make conditions so intolerable to the Petitioner as to force it to abandon its distributing system to Murray and Fletcher and retire from the field to avoid bankruptcy, he would be doing nothing more direct to bring about such confiscation than he is doing by pressing such representations upon the Commission.

Petitioner protests that the only solution of the relations between Applicants and the Petitioner is for Applicants to comply with that portion of the Order which requires them to be at the cost of installation of all the facilities to furnish water direct to the consumer, the rates to be paid by whom they are claiming under the Order.

WHEREFORE PETITIONER ASKS that a supplemental hearing be had upon the adjustment of the relations between Applicants and the Petitioner. That at such hearing the value of Petitioner's said distributing system be fixed by the Commission and that the Applicants be required to comply with that part of the Order of the Commission requiring Applicants to be at the cost of all facilities for water served to the consumers, by taking over and buying from said Petitioner said distributing system at such valuation as may be fixed by the Commission's Order, and such other proper relief for Petitioner as may be conformable to right and justice.

PACIFIC BUILDING COMPANY.

BY O. W. COTTON (Signed)
PRESIDENT.

HAINES & HAINES (Signed)
Attys. for Petitioner.

STATE OF CALIFORNIA, :
 : SS.
COUNTY OF SAN DIEGO. :
 :

O. W. COTTON, being first duly sworn,
deposes and says: That he is the President of the PACIFIC BUILD-
ING COMPANY, a corporation; that he has read the contents of the
foregoing instrument, and that the statements contained therein
are true as he verily believes.

O. W. COTTON (Signed)

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 3 DAY OF MAY, 1913.

CHARLES C. HAINES (Signed)

SEAL

EXHIBIT A.

Columbian Realty Company, for value received, does hereby grant, sell, assign, transfer and set over to the Pacific Building Company, all its interest and estate in, and right and title to, the annexed contract between San Diego Flume Company and Columbian Realty Company, and all its interest and estate in, and right and title to any and all property of every kind and nature referred to in said contract.

Dated San Diego, California, March 7th, 1912.

COLUMBIAN REALTY COMPANY

BY James E. Wadham
Vice President.

ATTEST: Stanley T. Howe
Secretary.

State of California,))
County of San Diego.)) ss.

On this 8th day of March in the year one thousand nine hundred and twelve before me, Virgil S. Kipp, a Notary Public in and for said County, personally appeared James E. Wadham known to me to be the Vice President, and Stanley T. Howe known to me to be the Secretary of the corporation that executed the within instrument on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

Virgil S. Kipp.

Notary Public in and for the County
of San Diego, State of California.

THIS AGREEMENT, made and entered into this first day of July 1909, by and between the SAN DIEGO FLUME COMPANY, a corporation, and the owner of certain water rights and a system for the delivery of water to consumers in the County of San Diego, State of California, party of the first part and the COLUMBIAN REALTY COMPANY, a corporation, party of the second part,

WITNESSETH:

That the party of the first part does hereby agree to sell, furnish, and supply to the party of the second part, not to exceed 9-7/8 inches of water, miner's measure (under a four inch pressure from the center of the opening), being equivalent to 12,960 standard gallons of water every 24 hours for each and every inch, or a total per each 24 hours of 127,980 gallons, to be delivered through the pipe line of the party of the first part, situate on El Cajon Boulevard at a point a short distance east of what is known as the Teralta school house, at which point shall be located one of two meters for measuring said water, upon the pipe line of the party of the first part, through which water is delivered, and the other meter to be located at the intersection of El Cajon Boulevard or Avenue with Pacific Street, otherwise known as Second Street.

That said water is agreed to be sold, furnished, and supplied by the said party of the first part to the said second party for use within that territory in the said county of San Diego, described as follows, to-wit:

Commencing at the northeast corner of Steiner street (otherwise known as University Avenue) and Pacific street (otherwise known as Second street) thence east along said Steiner street (otherwise known as University Avenue) to the northwest corner of Steiner street (otherwise known as University Avenue) and Euclid street; thence north to the intersection of Euclid street with El Cajon Boulevard or Avenue; thence westerly along the southern boundry of El Cajon Boulevard or Avenue to

its intersection with Fairmont Avenue; thence north on Fairmont Avenue to its intersection with Monroe Avenue; thence west on Monroe Avenue to its intersection with Conklin Street; thence south on Conklin street to its intersection with El Cajon Boulevard or Avenue; thence west on the north line of El Cajon Boulevard or Avenue to its intersection with Fourth street; thence north on Fourth Street to its intersection with Monroe Avenue; thence west on Monroe Avenue to its intersection with an unnamed street east of and adjoining Block "D" of Teralta Heights; thence south on said unnamed street to Olive Avenue; thence west along Olive Avenue to a Second street or Pacific Street; thence south on Second street or Pacific street to the place of beginning.

That it is expressly understood and agreed that the water hereby agreed to be sold, furnished, and supplied to the party of the second part, shall be sold, furnished, and supplied to the party of the second part only within the territory above described.

It is further understood and agreed that the party of the second part is the owner of water rights attached to lands within the territory above described under other and divers contracts with the party of the first part, altogether amounting to 5.80-5/6 inches, as scheduled on Statement "A" attached to and made a part of this contract, and that the party of the second part has options to buy certain lands of divers owners thereof within said territory which have water rights attached thereto, in the total amount of 4.05-4/6 inches of water, as also scheduled on Statement "A" attached to and made a part of this contract. And that all such water-right contracts shall be rescinded and surrendered, and this contract shall be and hereby is substituted in the place and stead of all other contracts concerning rights for the use of water which applies to the lands within the boundaries

above described.

The party of the second part hereby grants to the party of the first part all its rights in and to the divers contracts above referred to, whether the same have already been acquired or shall hereafter be acquired by said second party.

It is further understood and agreed that nothing in this contract shall be construed so as to affect the rights of other persons not parties to this contract who may have waterright contracts with the party of the first part for the use of water upon lands within the territory above described, or as in any way releasing other persons or property owners within said territory from their liabilities under their respective contracts which they may respectively have with the party of the first part upon the lands within said described territory.

IN CONSIDERATION of the foregoing stipulations and agreements the party of the second part hereby promises and agrees on behalf of itself and assigns, to pay for the water supplied under this contract the sum of fifty dollars (\$50.00) per month, which said payments shall be made monthly on or before the tenth day of each calendar month at the office of the first party in the City of San Diego, which said sum shall be the minimum amount to be paid; and if the amount of water consumed during any calendar month shall be in excess of the amount of water to which the party of the second part is entitled, such excess shall be paid for at the rate of ten cents per one thousand gallons.

The amount of water furnished and supplied shall be determined as follows:

All water furnished under this contract shall be supplied through two meters located at the places above designated, and the reading thereof shall be taken on or about the first of each calendar month. The said party of the first part shall have the exclusive management and control of said meters.

It is further agreed that said water shall be supplied in accordance with the rules and regulations made and adopted by the party of the first part.

IT is further agreed that if the party of the second part shall fail or neglect to pay the said water rates as above provided and at the time and place above provided, that this contract shall, at the option of the party of the first part, be and become entirely null and void, and the same shall be deemed to have terminated, and the party of the first part shall have the right to shut off and cease to deliver said water; and it is further understood and agreed that the party of the first part shall not in any way be bound by any contracts which the party of the second part may make with any of its consumers or members.

All costs and expenses necessary in making connections of pipes, flumes, and all appliances for the taking and delivery of said water shall be paid by the party of the second part, and the cost of installing, repairing, and maintaining said meters on El Cajon Boulevard, or any other meter or connection which may be made, shall be paid by the said party of the second part, provided that all such connections shall be made under the supervision and to the satisfaction of the party of the first part.

The party of the second part shall not in any way, either by conduits originally deficient in manner of construction, or quality of material used, or by permitting such conduits to become or remain out of repair, or by any other means, or in any other manner, permit or allow any substantial or appreciable waste of any part of water herein contracted and provided for; and any violation of this provision shall give the party of the first part the right to shut off the water until such waste is sufficiently provided against.

If the supply of water of the party of the first part by at any time shortened, or its capacity for delivering same be impaired, by the act of God, the law or the public enemy, accident to any part or portion of its works, or failure of the average amount of rainfall, or for any other cause not due to the negligence of the

Company, then said party of the second part shall only have the right to demand and receive, during the period of such shortage or impairment anpro rate supply of water distributed under such reasonable rules and regulations as the Company may adopt, and the party of the first part shall not be responsible for any damages caused by any deficiency of water occasioned by any of the above causes, if it shall use and employ all due diligence at all times in repairing and protecting its flume and works and maintaining a flow of water therein.

This contract refers only to gravity water in the system of the party of the first part and not to any pumped water in seasons of drought except that the second party shall have equal privileges with other consumers in making special contracts with other consumers for pumped water.

IN WITNESS WHEREOF, the said respective parties have caused their respective corporate names and seals to be hereto affixed by their respective Presidents and attested by their respective Secretaries, in duplicate.

SAN DIEGO FLUME COMPANY.

BY M. C. Healion
President.

ATTEST:

Lou B. Mathews.
Secretary.

COLUMBIAN REALTY COMPANY.

BY Barbee S. Hook
President.

ATTEST:

Marcus Hook.
secretary.

STATEMENT "A".

WATER RIGHTS - COLUMBIAN REALTY COMPANY.

OWNED AND UNDER OPTION.

Folio of Flume Co. Acres Register	No.	Acres		Inches.	Rate per inch yearly	Annual Payment.
8/170	384	20	W. R. Nicholson, 1 to 5, 11 to 15, D 27 to 30, N, Teralta,	1.33 1/3	45.00	60.00
8	389	2	C. L. Williams, 1 to 11, C, Teralta,	.13	45.00	6.00
8	410	10	W. P. Herbert, 2 to 5, 12 to 15, C, Teralta,	.49	45.00	21.96
8/163	385	6	W. P. Herbert, 8 to 10, 18 to 20, C, Teralta,	.40	45.00	18.00
8	388	12.50	Harper, 21 to 25, N. Teralta	.83	45.00	37.20
		50.50		3.18 1/3		143.16
<hr/>						
243	374	5	J. W. Rife, (G) Pt. Lot 9, Minears Sub.	.12 1/2	60.00	7.56
11	377	20	J. W. Rife, (G) In S. 1/2 N.W. 1/4 28 - 16 - 2W,	1.00	60.00	60.00
11	376	20	Haton, In S. 1/2 N.W. 1/4 28 - 16 - 2 W.	1.00	60.00	60.00
10	378	13.5	Simons, In S. 1/2 N.W. 1/4 28 - 16 - 2 W,	.50	60.00	30.00
		58.50		2.62 1/2		157.56
<hr/>						
Options.						
8/110	379	10	Dalling, 47 to 50, N, Teralta,	.66 2/3	45.00	30.00
8	409	15	Quatermass, Teralta, 39 to 44, N	1.00	45.00	45.00
8	386	11	Allen, 2 to 9, 15, 16, 17, I, Teralta,	.73	45.00	32.88
13/243	365	26.50	Steilberg, S. 1/2, N.W. 1/4, 28 - 16 - 2 W.	1.67	60.00	100.20
		62.50		4.06 2/3		208.08
<hr/>						
Owned.						
		50.50	At \$45.00 per inch,	3.18 1/3		143.16
		58.50	At \$60.00 per inch,	2.62 1/2		157.56
		109.00	Total owned,	5.80 5/6		300.72
		62.50	Total on options,	4.06 4/6		208.08
		171.50		9.87 1/2		\$508.80

COLUMBIAN REALTY COMPANY
228-230-232 Granger Block.
San Diego, California.

At a meeting of the Board of Directors of the Columbian Realty Company, held at its office in San Diego on Wednesday, September 1st, 1909 a full quorum of the said Board being present, the following resolution was duly adopted:

"BE IT RESOLVED that the President and Secretary of this Company be, and they are hereby authorized and directed to sign, execute and acknowledge a certain contract with this Company and the San Diego Flume Company, a corporation, dated the 1st day of July 1909, and signed by M. C. Healion, President of San Diego Flume Company, which said contract is read in full before this Board at this time, and all the provisions thereof have been duly considered by this Board."

COLUMBIAN REALTY COMPANY.

BY Barbee S. Hook
President.

BY Marcus Hook
Secretary.

524
State of California)
:- ss.
County of San Diego)

On this 16th day of August, 1909, in the year of one thousand nine hundred and nine, before me, Laura B. Anderson, a Notary Public in and for said County of San Diego, duly commissioned and sworn, personally appeared H. C. Healien, known to me to be the President of the Corporation described in, and who executed the within and annexed instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed my official seal, at my office in the City of San Diego, County of San Diego, the day and year in this certificate first above written.

Laura B. Anderson.

.....

Notary Public in and for the County of San Diego, State of California.

State of California, }
County of San Diego } :- ss.

On this 20th day of August, in the year one thousand nine hundred and nine, before me, Curtis C. Marsh, a Notary Public in and for said San Diego County, duly commissioned and sworn, personally appeared Barbee S. Hook and Marcus Hook known to me to be the President and Secretary of the corporation described in, and who executed the within and annexed instrument, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the City of San Diego, County of San Diego, the day and year in this certificate first above written.

Curtis C. Marsh.

.....
Notary Public in and for the County of San Diego, State of California.

Dec. 23, 1913.

Before the Railroad Commission, State of California,
Attention Commissioner H. D. Loveland,
San Francisco, California.

Gentlemen:

I have before me the brief of Judge Haines in the matter of application for pumping rates as hearing in San Diego on the 28th day of November.

In answer to Article II relative to loss of water in transit will say that we can prove by the official records that our loss by evaporation and leakage in the flume this last summer was less than at any period for fifteen years under the management of the San Diego Flume Co., and our average loss is less than twenty percent.

In answer to Articles III & IV will say that the decision of the Commission was only handed down last March and went into effect the first of July this year. The present conditions are not unusual, and there has been a shortage of water the same as this year during nearly half of the last twenty years record, and since the order of the Commission to increase our supply, we have paid out in cash and obligated ourselves to the extent of two hundred and fifty or three hundred thousand dollars in the betterment of our system. This certainly shows good faith

The cause of the temporary loss of 37% of water was on account of the order of the Commission forcing us to furnish irrigating water against our order and best judgment. The total combined capacity of the pumping

plants that we installed is not 74 miner's inches as stated on Page Five, but between 95 and 100 miner's inches at full capacity, and it is impossible to secure two well boring outfits and put down ten or twelve wells in any less time than was consumed by the Guyanaca Water Co in this work; said pumping plants having been installed within sixty days from the time ordered, and all the plants in full operation within seventy-five days.

Judge Haines' brief would infer that there has been no pumping going on excepting pumping from the San Diego River. As a matter of fact, we have been to an additional expense of operating pumping plant No. 1 at La Mesa Standpipe since about the 1st of September, pumping back six to eight hundred thousand gallons of water a day every day to the city of La Mesa. In addition, we have been pumping from La Mesa dam to the La Mesa standpipe with an additional pumping plant. Last year we were paid an excess rate for pumping back from La Mesa dam, and there is no reason on earth why we should not be paid for this service this year.

It is a fact, and was admitted by Mr Gordon, Chairman of the General Committee, that they wired the Railroad Commission asking that irrigating water from Guyanaca Lake be continued after September 1st. This is the pivotal point; we objected to the continuance of this irrigation water and the cause of all our trouble and failure to deliver pumped water is the order of the Commission forcing us to continue drawing from Guyanaca Lake; thereby causing the flume to dry up before we could install our pumping plants and get in operation. If we had not had unusual rains in November we would today be

furnishing pumped water under the adverse conditions, but if we had been allowed to have our way and shut down to a domestic supply from Cuyamaca Lake after September 1st, we would have had 75 to 100 inches of water to furnish for irrigation at all times since November 4, 1913.

The statement made by Messrs. Haines & Haines relative to our furnishing water to the city of San Diego at 4 1/2¢ a thousand gallons is misleading; they are perfectly aware of the fact that our letter reads that in case all the reservoirs are full and in case there is any surplus which the consumers of the Cuyamaca Water Co. cannot use, then we will furnish to the city of San Diego what flood waters there may be in the San Diego River. The truth is that there is only about 30 or 40 days during the year that this condition applies, and if we don't sell this water to the city, it would go to the ocean. By selling it to the city of San Diego and collecting an amount no matter how small, it is of direct benefit to the consumers, for it means that much less for the consumers to pay.

In closing I once more call your attention to the following telegram:

"San Francisco, Cal. Aug. 22-1913.
Cuyamaca Water Company, San Diego, California,
Supply of water on hand available for consumers under Cuyamaca Water Company's system so low extreme danger of water famine. Commission hereby directs you immediately to increase your supply by pumping plants or otherwise Commission will permit you to charge excess rate to cover reasonable cost of temporary additional supply such rate not to exceed ten cents per thousand gallons Wire answer immediately.

Railroad Commission of California."

On the authority of the Commission in good faith I went out and borrowed the money to install these pumping plants;

Railroad Commission

the size and location of same being accepted by the Engineer of the Railroad Commission.

The Guyanaca Water Company expects and feels sure that the Railroad Commission will live up to its part of the agreement as we have fulfilled our part of the agreement in installing said pumping plants, and we ask now for a rate that will reimburse us during the next three years for the expenditures made.

Very truly yours,

EP/AK

1
2 BEFORE THE RAILROAD COMMISSION OF THE STATE OF
3 CALIFORNIA.
4

5 In the matter of the Application of }
6 CUYAMACA WATER COMPANY, under date }
7 September 8th, 1913, for the estab- }
8 lishment of Pumping Rates. }

9 STATEMENT ON BEHALF OF CONSUMERS GENERALLY AND OF
10 THE PACIFIC BUILDING COMPANY.

11 In this matter, we have not thus far been favored with
12 a copy of the application of the Cuyamaca Water Company, and
13 therefore assume that what that Company now asks of the Commis-
14 sion is what is stated on page 6 of applicant's exhibit 2, of
15 the evidence taken before Commissioner Loveland at the hearing
16 held at San Diego on the 28th and 29th days of November, 1913,
17 as follows:

18 "In order to provide for the pumping costs, the Company
19 asks the Commission to establish a rate of 2 cents per 100 cubic
20 feet to be added to the rates now in effect as a pumping charge,
21 as follows:

22 A pumping charge of 2 cents per 100 cubic feet for
23 minimum monthly domestic charge.

24 A pumping charge of \$10.35 per month per miner's inch
25 for water supplied for irrigation purposes.

26 A pumping charge of \$1.40 as the minimum monthly charge
27 to each irrigation consumer.

28 These rates to remain in effect continuously whether
29 pumping is going on during the month or not, until all the first
30 cost, interest, depreciation and operating expenses have been
31 absorbed.

32 The Cuyamaca Water Company is required to keep a care-
ful and separate account of all capital expenditures, interest,
depreciation and operating cost for pumping plants. Whenever the
sums obtained from the increase of revenue provided for in this
order shall equal these expenditures for pumping plants, the
Commission will modify this order."

33 A copy of the rates established by the Cuyamaca Water
34 Company pursuant to the decision of the Commission No. 536 made
35 March 28, 1913, was introduced in evidence before the said hearing.
36 In as much as said rates so promulgated, follow the order of the
37 Commission as contained in said decision at page 65, we quote the

1 order of the Commission respecting such rates as follows:

2 (1) For domestic use 25 cents per thousand gallons, with
3 a minimum charge of \$1.25 per month, the applicants to furnish
4 meters and cost of installation of all facilities, the consumer
5 to furnish pipes upon his own premises.

6 (2) For water to the La Mesa Mutual Water Company for
7 domestic use within the town of La Mesa, 15 cents per thousand
8 gallong, with a minimum charge of \$100 per month.

9 (3) For water for irrigation purposes, except domestic
10 purposes incident thereto, taken from the flume as hereinbefore
11 described, \$65 per miner's inch per annum.

12 (4) For water for irrigation purposes, except domestic
13 purposes incident thereto, other than that taken from the flume
14 \$70 per miner's inch per annum.

15 The request, therefore, asks for the increase of said
16 rate (1) fixed by the Commission so as to make the rate for dom-
17 estic uses $27\frac{2}{3}$ cents per thousand gallons and with a minimum
18 charge of \$1.40 per month.

19 And for the increase of rate (2) for water to the La
20 Mesa Mutual Water Company for domestic use within the town of La
21 Mesa so as to make it $17\frac{2}{3}$ cents per thousand gallons, with a
22 minimum charge of \$100 per month plus 15 cents per thousand
23 gallons.

24 And an increase of rate (3) for water for irrigation
25 purposes except domestic purposes incident thereto, taken from
26 the flume so as to make is \$189 per miner's inch per annum.

27 And for an increase of rate (4) for water for irriga-
28 tion purposes except domestic purposes other than that taken from
29 the flume to \$194.00 per miner's inch per annum.

30 We submit that in order that the merits of this extra-
31 ordinary application may be adequately understood, it is necessary
32 to consider the conclusions reached by the Commission in the ex-
33 haustive examination of this utility set forth in its decision
34 No. 536, reached March 28, 1913. By this decision it was
35 found that:

36 I.

37 The flume of the Cuyamaca Water Company is $35\frac{1}{2}$ miles
38 in length from the diverting dam at Boulder Creek to the Eucalyp-

1 tus Reservoir at the end of the flume. (Decision 536, p.6.)

2 II.

3 In the then present condition of the system which con-
4 tinues, the supply of water from the flow of the San Diego River
5 together with the storage available in the Guyamaca Reservoir,
6 is 256 miner's inches at the diverting dam. The loss in trans-
7 mission was found, when the decision was made, to be 25 per cent.
8 (Decision 536, p. 46).

9 III.

10 The applicants were found to be in control of an ample
11 supply of water, if the excessive losses were prevented, to supply
12 the reasonable demands of their consumers and to increase the sup-
13 ply available to them for their use by 33-1/3 per cent. (Decision
14 p. 63).

15 IV.

16 That the facilities of the applicants for the storage
17 and carriage of the water under its control were found to be ina-
18 dequate, insufficient, unjust and unreasonable to its consumers,
19 and that large, excessive and unreasonable loss of water occurred
20 in the system of the applicants, and that the flume of the system
21 had entirely passed its useful life and should be at once renewed.
22 (Decision 536, p. 63).

23 Based on these findings of fact, said decision of the
24 Commission No. 536 contained the following orders, to-wit:

25 "It is hereby ordered that the applicants herein begin
26 immediately the construction of a flume in lieu of the one now
27 used, which flume shall be of a character satisfactory to this
28 Commission after the plans therefor have been submitted to it,
29 but shall in any event be a closed flume or conduit of suitable
30 material to be determined on the submission of the plans to this
31 Commission; and

32 It is further ordered that within thirty (30) days from
the date of this order that the applicants file with this Commis-
sion plans and specifications of said flume; and

It is further ordered that said applicants take immedi-
ate steps to increase the available supply of water so that the
same may be increased over the present available supply at least
33-1/3 per cent. While the Commission does not at the present
prescribe details with reference thereto it reserves and does not

1 finally determine this question, and in the event that these ap-
2 plicants do not within a reasonable time in the opinion of the
3 Commission begin the construction of other facilities than the
4 ones specifically ordered herein, this particular matter being
5 held open for decision and for the further submission of evidence,
6 will again be considered by this Commission after due notice to
7 the applicants and the parties hereto as required by law;"

8 After fixing the rates as hereinbefore quoted, the de-
9 cision of the Commission closes with the following order, to-wit:

10 "It is further ordered that each and every portion of
11 this order is made in contemplation of the performance by the ap-
12 plicants of every other portion thereof, and that this order is
13 not to be considered as separable, and that no rates other than
14 the ones that are now being charged by these applicants may be
15 charged or collected, until said applicants have complied with
16 all of the provisions of this order or shall satisfy this Commis-
17 sion that they are in good faith proceeding to comply therewith."

18 The evidence before Mr. Commissioner Loveland developed
19 the history of the administration of this public utility since
20 the decision of March 28th, 1913, summarized as follows:

21 1. That the Cuyamaca Water Company up to the time of
22 this last hearing had taken no efficient steps to put its flume
23 in order to prevent the waste of water by reason of its defect-
24 ive and worn out condition as found by the Commission; but on the
25 contrary and at the time of this hearing before Mr. Commissioner
26 Loveland, the waste of water by the flume alone was such that so
27 long as enough water was turned into it to reach its end at the
28 Eucalyptus Reservoir 94 miner's inches were lost in transit.
29 Since it was found by the decision No. 536 that 256 miner's inch-
30 es was the capacity of the system at the diverting dam, this shows
31 that the wasting capacity of the flume had increased from 25 per
32 cent to 37 per cent since the decision of March 28th, 1913.

Thus it appears that instead of bettering the condition
of the flume as ordered by the Commission, the Cuyamaca Water
Company has permitted it for all practical purposes to fall into
greater disrepair.

No efficient steps whatever were taken by the applicants
to comply with the order of the Commission to increase their water

1 supply, although the necessity for it was found to exist at the
2 date of the decision of March 28th, 1913.

3 That on the 15th day of May, 1913, the said public util-
4 ity by reason of the shortage of its water supply cut down its
5 deliveries for irrigation to one-half of the normal supply. In
6 August it cut down its supply to one-fourth and on September 1st,
7 1913, it gave notice of a further reduction of its water deliver-
8 ies for the area under irrigation to one-twelfth of the normal
9 supply, which virtually confined it to domestic use.

10 Upon the protest of certain consumers the Commission
11 ordered at some time about September 10th, 1913, the resumption
12 of delivery to consumers of one-fourth supply. And it seems, on
13 August 22nd, 1913, it sent a telegram to the Cuyamaca Water Com-
14 pany which we assume is that set forth in the brief for the com-
15 pany herein.

16 This directed that company to "immediately increase
17 its supply by pumping or otherwise, and permitted the charge of
18 an excess rate to cover reasonable cost of temporary additional
19 supply, such rate not to exceed ten cents per thousand gallons.

20 The company put in pumps as follows:

21 No. 4 in the Indian Reservation just above the divert-
22 ing dam, with a capacity of four miner's inches, which commenced
23 operation September 9th, 1913.

24 No. 3. in the Indian Reservation, with a capacity of
25 forty miner's inches, put in operation October 9, 1913.

26 No. 2, at the junction of the Chocolate with the San
27 Diego with a capacity of thirty miner's inches, put in operation
28 November 9, 1913.

29 The total combined capacity of all these pumps measured
30 by the water actually developed did not exceed 74 miner's inches.
31 See page 1 of Applicant's Exhibit Two.

32 These pumps were put in so late that by the time their

1 operation was begun, the Cuyamaca Lake had been dry since October
2 19, 1913; and by October 23, 1913, the flume for want of a flow
3 from Cuyamaca Lake, and in view of the fact that its wasting pow-
4 er had risen to 94 miner's inches continuous flow, which the 74
5 inches combined capacity of the pumps was unable to overcome,
6 also went dry.

7 The outcome was that none of the water pumped reached
8 any consumer, but during the whole pumping period was wasted under
9 the line of so much of the flume as it traversed, by leaking
10 therefrom.

11 From the letter of November 20, 1913, addressed to the
12 City Council of San Diego, it seems that either Murray or Murray
13 and Fletcher acquired the El Monte Pumping Plant, which is near
14 the west end of the El Monte Ranch, and far below the pumping
15 plant No. 2 at Chocolate. This plant, notwithstanding the dire
16 need of the consumers to whom the Cuyamaca Water Company was al-
17 ready obligated, and notwithstanding the orders of the Commission
18 to put the flume in order and increase the water capacity for the
19 benefit of the consumers of that company as made March 28th, 1913,
20 Murray and Fletcher offered to sell to the City and offered to
21 put their flume in order by relining it with paper roofing, and
22 to construct new pipe lines on the westerly end of the flume to the
23 limits of the city of San Diego, and to deliver excess gravity wat-
24 er not needed by consumers of the Cuyamaca Water Company at 4½
25 cents per thousand gallons, and to deliver water pumped by the
26 city from the El Monte plant at 3 cents per thousand gallons.

27 With this summary statement of the facts developed in
28 the evidence at the late hearing, we respectfully submit the fol-
29 lowing observations bearing upon the demand made by the Cuyamaca
30 Water Company for such increased rates for gravity water as will
31 compel its present consumers to refund within three years to the
32 Cuyamaca Water Company the whole cost of the three pumping plants

1 installed with interest, depreciation, and the operation expenses.

2 It will be observed that the increased charges to meet
3 these demands are to be imposed on future deliveries of gravity
4 water, the rates of which were fixed by the order of March 28th,
5 1913.

6 We submit this:

7 First: that since these pumps 2, 3 and 4, have thus
8 far rendered no services whatever to the consumers for whom
9 rates were fixed March 28, 1913, that there is absolutely no
10 basis upon which any change can be made to consumers in respect
11 to these plants, either for principal, interest or depreciation,
12 nor for the expenses of the futile operation during the season
13 of 1913. And that nothing in the telegram of the Commission
14 of August 22, 1913, can be construed as permitting any pumping
15 change, unless water was furnished by pumping, and unless based
16 upon and limited to the water furnished by pumping.

17 Second: That the failure of the Cuyamaca Company to
18 put its flume in order is the proximate cause why none of this
19 pumped water reached the consumers; and likewise, the sole cause
20 of the early exhaustion of Cuyamaca Lake and of deficiency of
21 storage in La Mesa Reservoir.

22 Third: That this condition of the flume is responsible
23 for the lossess inflicted on the consumers by the progressive short-
24 ages of the normal supply to which they were subjected from May
25 15th, 1913, until the total cessation of the irrigation supply
26 on September 1st, 1913.

27 Fourth: That the consumers acquiesced in the rates
28 fixed by the Commission in its decision in view of the final
29 clause above quoted, which we repeat:

30 "It is further ordered that each and every portion of
31 this order is made in contemplation of the performance by the ap-
32 plicants of every other portion thereof, and that this order is
not to be considered as separable, and that no rates other than
the ones that are now being charged by these applicants may be
charged or collected, until said applicants have complied with all

1 of the provisions of this order or shall satisfy this Commission
2 that they are in good faith proceeding to comply therewith."

3 That they therefore became entitled to the full enforce-
4 ment thereof. That the Cuyamaca Water Company has not complied
5 with any of the concurrent conditions to be performed by it to
6 entitled it to the rates fixed by the Commission, and that said
7 plaintiff has not proceeded in good faith to comply therewith.
8 Specifically, that nothing efficient was done after the order of
9 the Commission toward putting the flume in shape to prevent the
10 vast loss of the gravity water; nor by way of additional storage.
11 Nothing was proposed, until apparently, stimulated by a desire to
12 furnish water to the City of San Diego, it adopted the device of
13 lining the flume with roofing paper.

14 There was no reason why this device should not have been
15 put in execution at any time after the original applications for
16 an increase of rates filed June 25, 1912. The duty to put this
17 flume in shape for its proper service existed just as much before
18 the decision reached March 28th, 1913, as it did afterward; the
19 decision simply declared and sought to enforce a pre-existing
20 obligation.

21 Since it was the public duty of this Company to supply
22 the water under its control and to that end to put its system in
23 shape to furnish the water without unnecessary waste, if it is
24 true that the shortage was caused by the deteriorated condition
25 of the system, then the attempt to pump amounted to a mere attempt-
26 ed substitute for the repair of the flume; instead of stopping the
27 wastage by the flume, the attempt was to make it up by pumping to
28 meet the waste.

29 If the pumping had succeeded in doing this and had
30 conferred a corresponding benefit upon the consumers, it would
31 still be open to them to say that the rates fixed by the Commis-
32 sion were fixed upon the concurrent conditions that the flume
should be put in condition to stop the waste; and if that had

1 been done, there would have been no shortage and no occasion to
2 pump. This as has been pointed out is the necessary effect of
3 the final paragraph of the order of the Commission; this is
4 strictly applicable to the demand made for pumping back from La
5 Mesa Reservoir by the pump No. 1, which was operated last year.
6 If the flume had been put in order, that would have been entire-
7 ly unnecessary.

8 But as to the new pumping plants 2, 3 and 4, not only
9 was the failure to put the flume in repair, the only occasion
10 for resort to such an expedient, but such plants have thus far
11 been of no utility as stoppages for the wastage of the flume.
12 Can, under any circumstances, a public utility water company
13 with propriety, demand any compensation for a part of its sys-
14 tem which thus far has proved neither used nor useful to its
15 consumers?

16 We submit not.

17 But, a fortiori, has it no right to make such a demand
18 in respect of a portion of its system not used or useful, when
19 the device is a mere attempted, though futile, substitute for
20 the performance of another duty previously existing, and perempt-
21 orily enjoined by public authority, but remaining unperformed;
22 and the performance of which would have made the resort to the
23 substituted device unnecessary.

24 We submit that if this flume had been put in order,
25 the gravity water would have supplied the necessities. If that
26 be so, would there have been any ground for increase of rates?
27 Certainly not, if the terms of the Commission's order mean any-
28 thing.

29 Since the proximate cause of the necessity for pumping
30 was not the failure of the gravity supply in its origin, but the
31 waste thereof after it was captured and brought under control,
32 which waste was continued in disregard of the orders of the Com-

1 mission, what possible basis can there be for increase of rates,
2 more particularly in view of the fact that the pumping afforded
3 not a particle of relief.

4 We make no further comment upon the demand that the
5 consumer be taxed to pay the principal of the cost of these pump-
6 ing plants, than to remark that it shows with what apparent im-
7 consciousness, there may be the approach to the verge of impu-
8 dence in demands upon a dependent public.

9 We submit that the applicants are not entitled to any
10 increased rates upon their application herein for the reasons
11 also pertinent. These observations apply in behalf of all the
12 consumers under the system.

13 II.

14 AS TO THE DOMESTIC RATES.

15 As to the increased demand for domestic rates, it was
16 conceded by the applicants at the hearing (See Mr. Fletcher's
17 testimony), that the Pacific Building Company ought not to be
18 made to bear any of the demanded increase of rate, for the reason
19 that it would inflict loss upon that company. The exhibit in-
20 troduced in behalf of the Pacific Building Company shows that und-
21 er the present apportionment of the 25 cents per thousand gallons
22 for domestic purposes, by which the Cuyamaca Company takes 18
23 cents, leaving only 7 cents to the Pacific Building Company; is
24 making it distribute the water received from the Cuyamaca Company
25 at a loss.

26 Should the consumers pay the proposed increase of rate
27 from 25 cents to 27-2/3 cents per thousand gallons:

28 A curious light upon this question is thrown by the
29 written proposal signed by Messrs. Murray and Fletcher, by which
30 they offer that "any excess gravity water not needed by the con-
31 sultors of the Cuyamaca Water Company, we will carry through our
32 system and deliver to the City of San Diego at said easterly city

1 limits at the rate of 4½ cents per thousand gallons."

2 If this Cuyamaca Company can see its way clear after
3 it has put its system in order as required by the order of the
4 Commission in decision 536 to furnish gravity water to the City
5 of San Diego at 4½ cents per thousand gallons, then it would seem
6 that it ought to be satisfied with a charge to the consumers of
7 25 cents per thousand gallons, and in the case of the Pacific
8 Building Company with the appropriation of 18 cents of that
9 rate, and that until it does so put its system in order, all
10 pumping expedients to take the place of compliance with its duty
11 and the orders of the Commission upon it to perform that duty,
12 must be charged to its own defaults and not ^{to} the consumers, and
13 especially so when no benefit whatever was had by the consumers
14 from the pumping.

15 Respectfully submitted,

16 *Hannes & Haines*
17 *Attorneys for Pacific Pioneering*
18 *Company et al*
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1
2 TO THE HONORABLE RAILROAD COMMISSION:

3 We are in receipt of the representation on part of
4 the Cuyamaca Water Company (Murray and Fletcher) in reply to the
5 statement made by the Pacific Building Company relating to the
6 apportionment of the water rates fixed by the Commission for
7 water distributed to certain territory covered by the distri-
8 buting system of the Pacific Building Company between the Cuya-
9 maca Water Company and the Pacific Building Company. The gist
10 of the answering statement is that the Building Company should
11 be obliged to maintain and operate its distributing system, to
12 collect the rates from the consumers and run the risk of losses
13 through non-payment of such rates for an allowance^{out} of the 25¢
14 rate fixed to the consumers of 5¢ per thousand gallons.

15 We submit that this is grossly insufficient, as shown
16 by the statements submitted, and under the known facts in the
17 matter. There is no evidence to support the allegation that
18 this distributing system or any part of it was a gift to the
19 Pacific Building Company, and as we are advised by the repre-
20 sentatives of the Pacific Building Company, such statement is
21 not true. As to the allegation in this answer that the supply-
22 ing of water to the consumers is only an incident, we refer to
23 the testimony of Mr. Cotton to the effect that in this district
24 when this water system was taken over by the Building Company,
25 there was an insignificant remnant of land to be sold, and that
26 in fact the Pacific Building Company is performing the function
27 of the Cuyamaca Water Company so far as relates to the distribu-
28 tion of water in this territory to consumers.

29 As to the statement that the Cuyamaca Water Company
30 has been operating this system for twenty-five years, has bought
31 reservoir sites and constructed dams, conduits and pipes, it
32 seems to be relevant to remind Murray and Fletcher that they
33

1 bought this system in 1910 for \$150,000.00 upon a speculation.

2 With respect to the argument that the amount of rates
3 to be apportioned to Murray and Fletcher for water furnished in
4 bulk to the Building Company for distribution to consumers
5 should be more than the 15¢ per thousand gallons for water furn-
6 ished to La Mesa: it seems relevant to recall the fact that when
7 the flow in the flume ceases, in order to furnish water to La
8 Mesa it must be pumped from the La Mesa reservoir; whereas the
9 water for San Diego flows by gravity from that reservoir. It is
10 also relevant that the original distributing system for La Mesa
11 Colony was build by the Flume Company; whereas here the distri-
12 buting system adequate to supply the consumers in the tract
13 here in question was furnished by the Pacific Building Company.

14 We are advised also by the Building Company that by
15 consent of the Building Company Murray and Fletcher are using
16 one of the mains of this distributing system for furnishing
17 water to territory north of the tract here in question, supplied
18 by them, for which use the Building Company gets no compensa-
19 tion. This is with the full consent of the Building Company
20 and is only stated in answer to the charge made that this dis-
21 tributing system is insufficient.

22 We call attention to the fact that the contract dis-
23 placed by the Commission's order provided for an excess rate of
24 10¢ per thousand gallons, which amounts to \$473.04 per inch per
25 annum. It must be remembered that all of this 9.875 inches of
26 water was to be furnished under a service instituted under a
27 purchase of water rights for that amount of water at not less
28 than \$600.00 per inch. This was a contribution to the capital
29 of the corporation and the construction ^{of the} system. This element
30 ought, and in a constitutional sense must be, taken into ac-
31 count against the Cuyamaca Water Company which expressly assumed
32 the obligations of the Flume Company.
33

1 If the right to revise rates, notwithstanding this
2 contract fixing them exists in the Commission, there is no ne-
3 cessity or propriety in ignoring the fact that the purchasers
4 of these water rights contributed capital to the fund used in
5 the construction of the system. The past financial success or
6 failure of the Flume Company has nothing to do with the rates
7 to be paid; not nearly so much as the fact that Murray and
8 Fletcher bought this system for \$150,000.00 and that they did
9 not construct the system, whereas the purchasers of these water
10 rights did contribute to the capital of the Flume Company some
11 of which was to be expressly devoted to the construction there-
12 of.

13 We submit that there is some limit to the constitu-
14 tional right of Murray and Fletcher to ignore their own express
15 assumption of the agreement to furnish water at the former con-
16 tract rates; and that this limitation will not permit the en-
17 tire disregard in the revision of rates of that contract and
18 the facts upon which it was based.

19 That contract, and especially the maximum rate of
20 10¢ per thousand gallons fixed for water not covered by water
21 rights, is some measure of what is reasonable, seeing that
22 Murray and Fletcher expressly undertook and agreed to furnish
23 water at that rate.

24 The Building Company is willing to be at the expense
25 of the maintenance and operation of its system for the distri-
26 bution of water and the collection of the rates and run the
27 risk of any bad debts in the collection and pay at the rate of
28 15¢ per thousand gallons for water delivered to it in bulk.
29 This is at the rate of \$709.56 net per inch per annum. The
30 enormous increase of this rate above what Murray & Fletcher
31 contracted to furnish it at, is evident.

1
2 TO THE HONORABLE RAILROAD COMMISSION:

3 The order of the Commission under which some division
4 of the rates fixed thereby between the Cuyamaca Water Company
5 and the Pacific Building Company becomes necessary, is as fol-
6 lows:

7 "For domestic use, 25 cents per thousand gallons,
8 with a minimum charge of \$1.25 per month, the applicants
9 to furnish meters and cost of installation of all facili-
ties, the consumer to furnish pipes upon his own premises."

10 Murray & Fletcher do not desire to buy the distribut-
11 ing system of the Pacific Building Company, but concede that the
12 rates to be paid by the consumers should be apportioned between
13 them and the Building Company upon some basis.

14 Upon consideration we submit, that if Murray and
15 Fletcher are to impose upon the Building Company the labor, res-
16 ponsibility and expense of enforcing and collecting the new
17 rates fixed by the Commission, and accounting for the same, in
18 addition to furnishing the use of their distributing system,
19 including repairs, and expenses of supervision and operation,
20 and also bear the depreciation, then not more than 15 cents per
21 thousand gallons should be rendered out of the rates to the
22 Cuyamaca Company.

23 We are furnished by the Building Company with a state-
24 ment which we submit marked "A" for identification. This gives
25 the water consumption for the month of May, 1913, and is taken
26 as an index to approximate the annual consumption. It shows
27 water consumption minimum users for the said month
28 of May, 435,070 gals; at this rate for year, 5,220,840
29 Above minimum in May, 1,760,245; at this rate for yr 21,122,940
30 Total approximate for year, Gallons, 26,343,780

31 Mr. Fletcher's statement to the Commission, of which
32 he has furnished us a copy, shows the water furnished by the
33

1 Cuyamaca Company during the past year, Gals. . . 24,114,684.

2 We think it fair to say that one of the principal
3 elements which justify higher rates for domestic water than for
4 irrigation purposes, is the larger cost of a distributing sys-
5 tem for domestic users, and the larger cost of collection and
6 administration. This element is furnished by the Pacific
7 Building Company.

8 We submit that the same interest rate of 7% per annum
9 allowed by the Commission to the Cuyamaca Company, as well as the
10 rate of 6% per annum for depreciation should be allowed to the
11 Building Company.

12 The exhibit A is stated upon this theory. That state-
13 ment shows an apparent monthly gain of \$19.00 to the Building
14 Company.

15 But it must be remembered that there must be some loss
16 of rentals by the removal and the like of consumers in arrears.
17 So that is Murray and Fletcher are paid 15 cents per thousand
18 galling as measured at their bulk delivery and run no risk of
19 loss by the failure of consumers to pay for water used, it is
20 submitted on the above statement that they should be content.
21 At 15 cents per thousand gallons they would be getting compen-
22 sation at the rate of \$709.56 per inch per annum.

23 As shown by the statement of Mr. Fletcher, the total
24 maximum which consumers in in this territory may call for un-
25 der the present duty of the system, is the 46,800,000 gallons
26 per annum, the equivalent of 9.875 miner's inches per annum.

27 The approximate estimate of the annual use as based
28 on the May consumption, as also the statement by Mr. Fletcher
29 show that, roughly speaking, one half of the 9.875 inches has
30 been used, and that half remains to be called for as people im-
31 prove their lots.

MAY, 1913.

172 meters below minimum used 58,010 cubic feet, or
435,070 Gal. or an average of 343 cubic feet per
meter at \$1.25 Min. 2572 Gallon, \$ 215.00

146 meters above minimum used 176,690 cubic feet,
or 1,325,175 Gal., an average of 1280 cubic
feet at 25¢ 332.00

\$ 547.00

435,070
1,325,175

1,760,245 Gallons for May taken as a monthly
average at 15¢ per^M gallon to Murray &
Fletcher, 264.00

\$ 283.00

7% on Investment of \$ 12,145.00	\$ 850.00 per annum,
6% Depreciation on 12,145.00	728.00 " "
Expense of operation,	<u>1596.00</u> " "
	3174.00

Per month, 264.00

Possible balance per month, \$ 19.00

EXHIBIT "A".

APPLICATION NO. 118.

BEFORE THE RAILROAD
COMMISSION OF THE STATE OF
CALIFORNIA.

oooooooooooo

In the Matter of the
Application of JAMES A.
MURRAY and ED FLETCHER,
for an order authorizing
and permitting an increase
in the rentals, tolls and
charges for water furnished
by them and service render-
ed by them in furnishing
water in the County of San
Diego, State of California.

BRIEF OF THE PACIFIC
BUILDING COMPANY.

COPY.

HAINES & HAINES

ATTORNEYS AT LAW

827-828-829 TIMKEN BLDG.

SAN DIEGO, CAL.

1
2 BEFORE THE RAILROAD COMMISSION OF THE STATE OF
3 CALIFORNIA.
4

5 In the matter of the Application of
6 JAMES A. MURRAY and ED FLETCHER for
7 an order authorizing and permitting
8 an increase in the rentals, tolls,
and charges for water furnished in
the County of San Diego, State of
California.

APPLICATION NO. 118.

9
10 TO THE HONORABLE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA:

11 With respect to decision No. 764 in the matter of the
12 application of the Pacific Building Company for a supplemental
13 order to the original order made in the matter of application
14 No. 118, the Pacific Building Company respectfully represents:

15 That said order allows the Pacific Building Company to
16 charge only \$1.00 minimum instead of \$1.25 as fixed in the orig-
17 inal order; that the ground upon which the minimum rate has been
18 so reduced is a complaint made in case No. 403. The Pacific
19 Building Company has already addressed a letter under date of
20 July 3, 1913, to the Commission upon this subject, a copy of
21 which is as follows:

22 San Diego, California, July 3, 1913
23 Railroad Commission, State of California,
24 Capitol Building,
Sacramento, California.

25 Gentlemen:

26 The only trouble we were able to locate on the
27 system was a disturbance in the water when we were instal-
ling some new four inch mains on El Cajon Boulevard.

28 After this work was completed, we took the Commit-
29 tee from the Teralta Heights Improvement Club, namely, Mr.
30 Blood, Mr. Bennett, and Mr. Filmore on an inspection tour to
31 the reservoir which supplies this water. We also took sam-
ples of the water at each of their residences, after which
a report, copy of which is attached hereto, was sent by Mr.
Blood, chairman of the Committee to the Railroad Commission.

32 In view of the favorable answer of the Committee,
33 we did not know that it was necessary for us to reply, hence

1 our not communicating with you.

2 It is the desire of this Company to give the best ser-
3 vice to our patrons, possible, also at all times to conduct
4 our business along the lines prescribed by the Railroad Com-
5 mission.

6 Trusting this is satisfactory, and regretting the delay
7 on our part, we are,

8 Yours very truly,

9 O.W.Cotton, President. "

10 They also enclose a copy of the letter received from
11 complainants in the matter #403 upon which this company submits
12 that no discrimination should be made against it in the matter of
13 the minimum rate, but that it is entitled to the \$1.25 fixed in
14 the original order.

15 Something is said in the communication by Mr. Blood
16 respecting the filtering of the water. The Pacific Building
17 Company does not suppose that the Commission would require it to
18 deliver water in any different condition than that in which it
19 is received from the Cuyamaca Water Company.

20 Wherefore the Pacific Building Company prays a modifi-
21 cation of the order of July 1, 1913, so as to make the minimum
22 charge \$1.25 according to the terms of the original order.

23 The Company reserves the right to treat this merely as
24 a tentative rate to be tested in actual practice as to whether
25 it is just and reasonable.

26 Respectfully submitted,

27 PACIFIC BUILDING COMPANY

28 BY O. W. COTTON, president.

29 Haines & Haines,
30 Attys for Pacific Building Co.
31
32
33

Company with 150 miner's inches of water, upon demand therefor, at any time within 20 years for use upon any lands belonging to the Development Company; that said contract was a valid contract when entered into and that it has not been rescinded or set aside; that on June 1, 1910, the Flume Company sold its water system to James A. Murray and that James A. Murray agreed, for himself and his successors in interest, to carry out all the contracts for the supply of water theretofore made by the Flume Company; that Murray subsequently transferred a one-sixth interest in the property to Ed Fletcher; that subsequent thereto the Development Company demanded performance of said contract of Murray and Fletcher but that performance was refused; that thereafter, on February 16, 1912, the Development Company brought suit against Murray and Fletcher in the Superior Court of San Diego County for the specific performance of the contract of February 7, 1908; that thereafter, on December 5, 1913, Murray and Fletcher set up as a defense to the suit the order of this Commission rendered on March 28, 1913, in the above entitled proceeding and claimed that they could not perform the contract of February 7, 1908 on the ground that it conflicts with this Commission's said order; and that the superior court had previously adjudicated on demurrer to the complaint in said action, that the complaint stated facts sufficient to constitute a cause of action. The particular portion of this Commission's order of March 28, 1913, to which the Development Company objects is the direction that no additional consumers be added to the system except domestic consumers under the terms specified in the opinion. The Development Company has used only one miner's

inch out of the 150 miner's inches referred to in the contract of February 7, 1908, and Murray and Fletcher, who are doing business under the firm name and style of Cuyamaca Water Company, take the position that under this Commission's order of March 28, 1913, it is forbidden to deliver water for irrigation to any land which was not being irrigated on March 28, 1913.

The Cuyamaca Company further takes the position in this proceeding that the contract of February 7, 1908, is void in toto both as establishing a preference in favor of La Mesa Development Company as against other persons living within the area to the use of which the Cuyamaca Company's water has been appropriated and dedicated and as attempting to carve out a private use in favor of the San Diego Flume Company's officers and directors through the instrumentality of another corporation, La Mesa Development Company, which had the same or almost the same officers and directors as San Diego Flume Company.

The question of the validity of the so-called water right contracts of the San Diego Flume Company is being adverted to in the decision this day being rendered by this Commission in Application No. 1432, being the joint application of James A. Murray and Ed Fletcher on the one hand and La Mesa, Lemon Grove and Spring Valley Irrigation District on the other, for an order authorizing the price at which the property of the Cuyamaca Company is to be sold to the Irrigation District, to which decision reference is hereby made.

If the contract of February 7, 1908, is void, as claimed by the Cuyamaca Company, no harm will be done by amending this Commission's order of March 28, 1913, as requested by the Development Company. On the other hand, it was not this Commission's

intention in its decision of March 28, 1913, to place stumbling blocks in the way of the performance by the Cuyamaca Company of any valid outstanding contracts for the delivery of water. If the contract of February 7, 1908, is a valid and enforceable obligation against the Cuyamaca Company, this Commission does not desire by any language in its order of March 28, 1913, to make performance of that contract difficult or impossible. Whether the contract of February 7, 1908, is valid or not is a matter for the determination of the courts. All parties should obviously work together to expediate the determination of this question so that the extent of the legal obligations of the Cuyamaca Company's system for the delivery of water may be determined at as early a date as possible.

The granting of the petition of the Development Company herein will not in any way change the obligations, if any, of the parties under the contract of February 7, 1908. Such action will merely place the Development Company in the position of being able to have adjudicated in the proper forum, without embarrassment from this Commission, the question whether or not its contract is valid.

I recommend that the petition of La Mesa Development Company be granted and submit herewith the following form of supplemental order:

SUPPLEMENTAL ORDER.

A public hearing having been held in the above entitled proceeding, and the Railroad Commission finding that the petition of La Mesa Development Company herein should be granted.

IT IS HEREBY ORDERED that the order rendered on March 28, 1913, in the above entitled proceeding be and the same is

hereby modified by adding thereto the following proviso:

"Provided, however, that it is not intended by this order to prevent the said James A. Murray and Ed Fletcher from performing any valid contract for the supply of water which exists at the time of making this order, to-wit, on this 28th day of March, 1913, made by the San Diego Flume Company, the predecessor in interest of the said James A. Murray and Ed Fletcher."

In all other respects said order of March 28, 1913, as modified by subsequent orders, shall remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of June, 1915.

Max Thelen

H. D. Loveland

Alex. Gordon

Edwin O. Edgerton

Frank R. Devlin

Commissioners.

A True Copy
H. G. Mathewson,
Assistant Secretary
Railroad Commission
State of California.

Ed Fletcher

C-1912

BEFORE THE RAILROAD COMMISSION
OF THE
STATE OF CALIFORNIA.

In the Matter of the Application of)
James A. Murray and Ed Fletcher)
for an Order Authorizing and Per-)
mitting the Increase in the Ren-) APPLICATION 118.
tals, Tolls and Charges for Water)
Furnished by them and Service Ren-)
dered by them in Furnishing Water)
in the County of San Diego, State)
of California.)

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REPORTER'S TRANSCRIPT OF TESTIMONY.
VOL. VI.

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I N D E X

	Direct	Cross
Ed. Fletcher,	604	627

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

San Diego, Saturday, August 31st, 1912, 10 o'clock A.M.

COMMISSIONER RUSSELLMAN: The Commission will come to order.

MR SWEET: Mr Ellis, who was on the stand the other day, went out over the system yesterday and is working on his report. I had hoped that he would have it in shape so I could recall him this morning.

MR GORDON: If Mr Sweet only wants to show that we have a large number of wells and pumping plants out there, to supplement the flume supply, we are guilty of that, and I don't think there is any necessity for spending any time over it, if that is all he wants.

MR SWEET: We want to show the number of wells, the amount of pumping that is done, the quantity of water that is pumped, and the situation generally out there. I will call Mr Fletcher.

ED FLETCHER, a witness called in behalf of the applicants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR SWEET:

Q You testified in this case the other day?

A Yes.

Q Mr Fletcher, will you look at the three boards that are at my feet here, and state if you know where they came from -- if you have seen them before, and where they came from.

A I ordered these boards in and told my people to bring in boards that were the original boards of the flume, a fair sample of them.

1
2 Q Do you know that these boards were taken from the
3 San Diego flume?

4 A I didn't take them with my own hands, but I am will-
5 ing to swear that they were taken from the flume.

6 Q Do you think that they are part of the original construction
7 of the flume?

8 A That was my order, and Mr Ruiz has been with the flume,
9 I think, nearly all the time -- I will have him in here and have
10 him identify them as part of the original boards, if desired.

11 Q State from what part of the flume they were taken.

12 A Up near the Chocolate Canyon is my understanding.

13 Q Are they in the condition now that they were when
14 taken out of the flume? Has anything been done to them? If so,
15 what?

16 A There are two identical boards there, one is unplanned,
17 and the other is planned. They were the same thickness and in the
18 same relative condition. I had two of them run through the
19 planing mill this morning so as to show the life of the material.

20 Q So as to show the condition of the material?

21 A Yes sir.

22 Q When were they taken out of the flume?

23 A This last year.

24 Q In the year 1911?

25 A Yes, about that time.

26 Q They were taken out since you and Mr Maxey acquired
27 it?

28 A Yes sir. I consider them an average of the entire
29 system. I ordered that --

Q From what part of the flume were these boards taken,

1 from the bottom or sides?

2 A I don't know. I think one was from the bottom and part
3 from the sides.

4 Q Which ones were taken from the bottom?

5 A The big one -- the wide one was taken from the bottom,
6 is my understanding; the others from the sides. I prefer to
7 have Mr. Davis answer that.

8 COMMISSIONER ESHLEMAN: I will examine the boards, but I
9 don't think they need be introduced in evidence. It would take
10 a special car to take them around with us.

11 A The only thing is this, your engineer has said that
12 the life of the flume is only two years, and I felt that by
13 getting a fair average of the boards, that it could be shown
14 that that was not hardly giving the flume the life it ought to
15 given. That is the only reason for introducing these boards in
16 evidence.

17 COMMISSIONER ESHLEMAN: I will be glad to examine them.

18 Q BY MR SWEET: Now, since Mr Fletcher is on the stand,
19 I will proceed to examine him in reference to the matters that
20 I desire to interrogate him on. Mr Fletcher, what connection
21 did you have, will you state, with the operation and maintenance
22 of this water system since the first day of June, 1910?

23 A I own an undivided one-sixth interest in the flume, and
24 in a general way most of the time have been looking out for its
25 destinies without salary.

26 Q Since the first of June, 1910?

27 A Yes sir.

28 Q Will you go on now, Mr Fletcher, and in your own way
29 state the condition of the flume at the time you acquired it,

1 and what you and Mr Murray have done with it since you acquired
2 it.

3
4 A Immediately on taking over the flume, we protected
5 ourselves by water filings and proceeded immediately to put the
6 system into shape. We have spent thousands of dollars in mak-
7 ing surveys, have acquired lands, dam sites and so forth, the
8 intention being to get everything in shape to proceed with the
9 proper development of the system. When we took it over, we
10 found that our predecessor had sold water and made these so-
11 called water contracts with different people, varying in prices,
12 some at \$30, \$45 and \$60, and as high as \$65 a year maintenance
13 charge.

14 COMMISSIONER ESHELMAN: Sixty-five dollars for what kind
15 of water?

16 A For a miner's inch. Some water had been sold as high
17 as ten and twelve cents a thousand gallons, I believe, some at
18 four and six and five cents, and we found everything in confus-
19 ion, and everybody dissatisfied, because different people were
20 paying different rates; and we felt that in some way, either in
21 court or by agreement in some way, that the question should be
22 solved, on account of the growing demands of the country that
23 the system be developed, which Mr Murray, the principal owner,
24 fully intends to do. The Flume Company was owned by English
25 people. In this connection, I want to say that it was a cor-
26 poration -- the San Diego Flume Company; that to the best of my
27 knowledge and belief not one dollar was ever paid to the
28 stockholders of the system. It was a bankrupt concern practically.
29 Even the bondholders only got fifteen or twenty cents on the
dollar and the stockholders nothing. That is a matter easily to

1 be determined by the witnesses who will be put on the stand.
 2 We realized that this country needed water, and in connection
 3 with that I want to say that there were 97 minor's inches of
 4 so-called water rights sold with the land by the old San Diego
 5 Flume Company. It was sold in connection with lands, 970
 6 acres. I believe that is the only land that ever was sold
 7 by the Flume Company with land and water.

8 Q You say 97 acres?

9 A 97 inches, one inch to ten acres.

10 COMMISSIONER ESHELMAN: Does that fact appear in the con-
 11 tracts?

12 A Yes. Now, of that 97 inches of so-called water right
 13 contracts, which was sold with the land, there are 28 inches,
 14 I believe, that have never taken any water. They have never
 15 paid any maintenance for the last twenty-five years. There was
 16 a clause in all those contracts that they had to take the water
 17 within a reasonable time; otherwise their contract, so-called,
 18 was void. And 28 inches of the ninety-seven never has asked for
 19 the water.

20 COMMISSIONER ESHELMAN: Will that appear in the contracts?

21 A Yes sir, that will appear.

22 COMMISSIONER ESHELMAN: Well, I mean which ones they are.

23 MR. STREET: I don't know whether it will appear in the
 24 contracts or not.

25 A Yes. Mr. Mathews can furnish them.

26 COMMISSIONER ESHELMAN: I want the individual contracts
 27 pointed out where the land was purchased, and the water to-
 28 gether, and those that are in the condition that you just have
 29 testified to.

Q-2

1 A This 23 inches, I believe, have never been used at
2 all and one or two have made a demand the last two or three
3 years, but as they never paid for any maintenance yearly, and
4 as they never have asked for the water within a reasonable time,
5 our attorneys said they could not expect any water anyway, and
6 we never have given them any. However, it is twenty-five years--
7 there are only one or two so-called agreements that have made
8 any demands on us since we have owned the system. The others
9 never have asked for any water and never have paid anything, or
10 never have paid anything for maintenance.

11 MR HAINES: May I ask whether those who took water under
12 that arrangement, buying land and water, and have used the
13 water, are those embraced in the schedule A of 67.27 inches of
14 water.

15 A Yes.

16 MR STREET: That is the schedule attached to the petition.

17 A Yes, that is correct. Now, I want to bring out a
18 point here. There has been so much said about the Flume Com-
19 pany going into the land and water business together. As a
20 matter of fact, there are only 95 inches of so-called water
21 rights altogether, is my understanding, that is sold that way,
22 and it only means -- as sold at \$100 an acre, land and water,
23 it only could amount, even at the most, to \$95,000, as the
24 revenue to the Flume Company in the sale of lands and water
25 this way together. And as the system cost over a million two
26 hundred thousand dollars, according to my understanding, and
27 as they never did realize but two or three hundred thousand
28 dollars for the sale of their water rights that they sold at
29 that time, why, it shows that from the very beginning it was

1 deemed to bankruptcy the way they handled it. Your Honor, I
2 am only a common layman, but you have discussed the matter of
3 intangible value, going concern, and I would like to spend about
4 three or four minutes on that subject, with your permission.

5 COMMISSIONER ESHELMAN: All right.

6 A The San Diego Flume Company I can prove has, better
7 than any other water company of its kind in San Diego County,
8 delivered the goods. I mean that it has delivered the greatest
9 amount of efficiency of any water system in San Diego County.
10 There will be introduced in evidence by our Secretary, a state-
11 ment showing that we have actually delivered the last twelve
12 years 75 per cent of gravity water. In addition, we have deliver-
13 ed about 7 or 8 per cent of pumped water, so that our efficiency
14 is between 82 and 83 per cent of the total amount. Our records
15 will show that. Now, at that same time, the Linda Vista Irri-
16 gation District, a body of men joined together that same year,
17 who decided to form a district and put water over 44,000 acres
18 of land just north of the city of San Diego -- they voted
19 \$160,000, or \$170,000 in bonds, bought acquired land sites, made
20 surveys and the boom busted and what was the result? There
21 were 150 families living there at that time; now there are only
22 four or five families living in that district. The bonds were
23 declared valid. Including interest, they amounted to something
24 like three or four hundred thousand dollars, and I have had the
25 unpleasant duty of buying up those bonds, owing to other reasons,
26 and getting the title clear to those lands. We compromised at
27 fifty cents on the dollar, and those people have never received
28 a drop of water, have been compelled to pay out approximately
29 four or five hundred thousand dollars, and not one drop of water

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

1 was over delivered. I simply bring this out in comparison, to
 2 show that at that time everybody made a mistake in water
 3 development. The Sweetwater system cannot show such a high
 4 rate of efficiency in the delivery of water as the San Diego
 5 Flume Company. The old San Diego Flume Company went the limit
 6 to deliver the goods, it looks to me, and they have certainly
 7 suffered for it. As a matter of fact, they have been in servi-
 8 tude, and every stockholder lost everything that he had in, and
 9 the bondholders never got but fifteen or twenty cents on the
 10 dollar. In connection with that, let me call attention to
 11 the statement of the attorney for the defense, Mr Gordon, who
 12 said -- the testimony can be re-read -- that it cost him five
 13 cents a thousand gallons to pump water, that he only paid a
 14 cent and a quarter a thousand gallons for water from the San Diego
 15 Flume Company. As a matter of fact, my point is that water
 16 has been delivered by the San Diego Flume Company for less than
 17 the cost of production -- two or three times less than the cost
 18 of production. That will be shown. Hasn't he had the benefit
 19 of all of that for these years? It was a good trade. It was a
 20 good contract, if the contracts are declared legal.

21 COMMISSIONER EHELMAN: That is in the nature of argument,
 22 and not testimony.

23 A True. But just one more point in connection with that,
 24 that if the railroad makes a contract with a coal company and
 25 builds a track twenty or thirty miles into the country, and
 26 agrees to haul coal at a certain rate per ton, and it runs on for
 27 ten or fifteen years, and nothing is allowed for depreciation
 28 and loss, it becomes almost a bankrupt concern, and you come in
 29 by their application and you determine not alone the question of

1
2 whether it is a fair rate or not, but you determine whether
3 the coal company can stand an increase in rates on coal, and
4 you find that it can, and the result is that the Railroad Com-
5 mission decides that that original rate, under that original
6 contract was not fair, and that both companies can live, and a
7 new rate is established which means life to both corporations.
8 And why isn't it an identical case here, that the San Diego
9 Flume Company did make so-called contracts that absolutely on
10 their face are not going to be -- could not be fulfilled? That
11 nothing has been allowed at any time for depreciation? Is it
12 a fact that Mr Murray and Mr Fletcher have got the rest of
13 their lives, with their heirs, successors and assigns, to
14 carry this burden? It strikes me when Murray and Fletcher took
15 over that bankrupt concern and have put in \$100,000 in it
16 without seeing one increased dollar in revenue, and have cut
17 off three or four miles of flume, put in these new siphons,
18 built a reservoir at Murray Hill to take care of the domestic
19 supply of the city of La Mesa, and are ready and equipped,
20 having made surveys in the mountains and acquired rights to
21 lands, and are ready to act now, it looks to me as if the time
22 has come for the Railroad Commission to say, "Gentlemen, the
23 time has come, and everybody under this system must be treated
24 alike." I would not be a party to taking away any water from
25 any man under this system. I say it is a question of rates.
26 Any man who has been using water in the past should get his
27 water, and it is simply a question of price.

28 COMMISSIONER ESHLEMAN: Now, Mr Fletcher, that is argument.
29 If you and your attorney both want to argue it, I will hear
you also.

1 A You sir. I told you I was only a common layman. I
2 never was --

3 MR SWEET: I am glad your Honor stopped him, because he
4 might have dispensed with the services of his attorney.

5 A I never was more interested in my life. I want to be
6 fair with these people out there.

7 MR SWEET: Now, you may proceed, Mr Fletcher.

8 A These contracts, your Honor, call for water only when
9 the water is there. It is not a perpetual proposition. In
10 every contract, to my knowledge --

11 MR SWEET: That is in the contract. Can you state anything
12 concerning the number of acres covered by each class of
13 these contracts, or any of the classes, or do you want Mr
14 Mathews to do that?

15 A Ho. I just want to bring out this point, that while
16 it is true that these so-called water right contracts cover
17 10,000 acres, yet in many cases, just as an illustration, a man
18 will only own one inch of so-called water right contracts, but
19 it is applicable to 100 or 150 acres of land, put anywhere that
20 he has a mind to put it, and it does not apply to any individual
21 ten acres. That is why there is such a large amount of acreage,
22 but under most conditions it is an inch of water to ten
23 acres.

24 MR HAINES: While you are on that subject, Mr Fletcher, are
25 you able to give the total number of acres covered by the water
26 rights?

27 A We are only furnishing water --

28 Q I know, but I mean the total number of inches.

29 A I only want to say one more thing in justice to Mr

1 Murray and myself, that we have bought back a number of releases
 2 of so-called water right contracts. We have never entered into a
 3 contract of any kind for water except for domestic purposes,
 4 since we bought the system; and I feel that we have relieved
 5 the system to that extent of the repurchasing of these releases
 6 of water right contracts, and that we come into this court
 7 here with clean hands, and we believe that the Commission will
 8 do what is fair with us, and for that reason we think -- I
 9 want to make it a point -- we have applied to this Commission. We
 10 have not asked them to establish a rate; we have not told them
 11 what we wanted; we laid ourselves right before them, and said,
 12 "Here is the situation." And I feel that it shows a fairness
 13 that should be considered in this matter.

14 By Mr Sweet:

15 Q Now, Mr Fletcher, you say you can't give the total
 16 number of acres covered by the contracts?

17 A I think it is ten thousand and something.

18 Q Can you state the number of acres on which water has
 19 been furnished?

20 A I believe it is only four or five thousand acres;
 21 something like that.

22 Q You said that you had made no new arrangements for
 23 the sale of water since you and Mr Murray acquired them?

24 A No sir, excepting for domestic purposes.

25 Q You have not furnished water to any persons except
 26 those who were being furnished when you acquired it, except for
 27 domestic uses?

28 A Exactly.

29 Q Mr Fletcher, will you state in a general way what you
 and Mr Murray have done since you acquired the system, in the way

1 of extensions and enlargements and improvements?

2 A We are now spending \$11,000, ten or eleven thousand
3 dollars -- in putting in a cast iron distributing system
4 to take care of Kensington Park and Normal Heights systems.
5 We have built the Murray Hill reservoir which supplies the
6 city of La Mesa, for domestic purposes. While this brought
7 us absolutely no revenue at all in addition, yet any time that
8 a trestle or flume might go out, the city of La Mesa would be
9 without even water for domestic purposes; and this is a pro-
10 tection for the La Mesa and Spring Valley and Lemon Grove
11 systems, as it carries over a month or six weeks' supply.

12 Q What other extensions have you made?

13 A Two siphons, one across South Park, and one across
14 Chocolate, and in that way we abandoned three or four miles of
15 flume, and the expense of maintenance; and that is where the
16 worst leakage was, up in those hot canyons.

17 Q What have you done in the way of re-caulking the
18 flume?

19 G-4 A We spent ten or twelve thousand dollars and have put
20 the flume in a condition so that its loss by leakage and
21 evaporation is no more than at any time in the history of the
22 flume. We have made surveys and acquired lands, and as I say,
23 are ready today and in a condition, with the money available,
24 to develop this system as soon as rates are established that
25 will mean reasonable return on the money invested, and the
26 value of the system.

27 MR HAINES: I wanted to ask right there, you say you have
28 surveyed and acquired lands. For how much water?

29 A I am not an engineer. I will have to leave that to

1 the engineers.

2 Q As an owner of this system, have your engineers
3 arrived at the estimate of what water you can develop?
4

5 A There are so many things that enter into that --
6 everything depends on the amount of money that is expended.
7 I am satisfied that the supply can be, by the expenditure of
8 a million or a million and a half of dollars -- that we can
9 treble or three times increase the supply, and by the expendi-
10 ture of another million, that we can materially increase that
11 supply.

12 Q BY MR SWART: Mr Fletcher, do you own any lands under
13 the system yourself?

14 A Yes sir.

15 Q Will you state anything concerning the value of the
16 lands under the system, or any of the lands under the system,
17 with water, and the value without water.

18 A I can state this from actual results. I bought land
19 at fifty to a hundred dollars an acre, and I am getting from
20 fifteen hundred to twenty-five hundred dollars an acre for it
21 today in subdivision.

22 Q Mr Fletcher, have you had any experience in buying and
23 selling real estate for yourself, and also as a broker or as
24 an agent for others in San Diego County?

25 A I have been in that business.

26 Q How long?

27 A For the last eight or ten years, doing nothing else,
28 practically.

29 Q Have you in that business had occasion to handle or
deal in lands in the vicinity of Guymaca?

1 A Yes sir.

2 Q What have you done in the way of handling lands in
3 that country -- selling?

4 A Mr Detrick and I are now selling lands up there in
5 subdivision.

6 Q Near Guyanosa?

7 A Near Guyanosa, yes sir.

8 Q Are you familiar with the Guyanosa Dam Site?

9 A I am.

10 Q Will you state what in your judgment that land in-
11 cluded in the dam site is worth per acre?

12 MR HAINES: For subdivision?

13 MR SWEET: For any use to which it can be put.

14 A The land within the dam site is some of the best farm-
15 ing land in San Diego County. In fact, practically every foot
16 of it is good land; and I am willing to put up a five thousand
17 dollar bond that I can sell that land for \$100 an acre within
18 two weeks if the water was taken away from it. The lands out-
19 side the dam, some of them are fruit lands, but a large part of
20 it is timber land and hillside land. Of course, having the
21 lake there, particularly enhances the value of that property,
22 as that land can be sold, most of it in subdivision, and part
23 of it as fruit land.

24 Q Can you state the value per acre of the lands included
25 in the rights of way, compared with the rest of the land?

26 A I think the rights of way from the diverting dam down
27 to the tunnel -- I think they call it Cape Horn Tunnel -- old
28 ten dollars an acre is all right, but from --

29 Q What is the length of that strip?

A It is about fifteen or twenty miles.

1 Q What is the width of the right of way?

2 A Fifty feet.

3 Q From Cape Horn tunnel this way?

4 A From there to the end of the flume I don't believe
5 there is a foot of land -- say from the Frink ranch, Monte ranch
6 to the end of the flume -- I don't think there is a foot of land
7 adjoining it that can be bought for less than seventy-five dol-
8 lars to one hundred dollars an acre, and from that up to two
9 and three hundred dollars an acre.

10 Q What is the width of your right of way?

11 A Fifty feet.

12 Q Fifty feet all the way. Now, Mr Fletcher, the reser-
13 voir at the end of the flume is the Eucalyptus Reservoir, is it?

14 A Yes sir.

15 Q How many acres are there in that?

16 A Oh, there are only a few acres.

17 Q What is the value of that land included in the Eucalyp-
18 tus Reservoir?

19 A The Garrettsen Investment Company own all the land
20 adjoining except Mr Kealion's land.

21 Q Do you know what the land is worth?

22 A Yes.

23 Q What is it worth?

24 A It is worth three or four hundred dollars an acre,
25 because I have tried to buy the land adjoining and could not. I
26 think I offered \$250 an acre for it and they would not sell it
27 to me.

28 Q How long ago was that?

29 A About nine months ago. In fact, as an accommodation, they

1 sold me a little piece, and I paid \$250 an acre for it.

2 Q The next reservoir this way from the Eucalyptus
3 is the Murray Hill reservoir?

4 A Yes sir.

5 Q What is the value of the land included in that?

6 A I can only judge that by telling you that all around
7 the dam there is a subdivision known as Murray Hill, and we
8 are getting from \$800 to \$1000 an acre for that land in subdivis-
9 ion.

10 Q How about this land in the reservoir?

11 A This land is lower down, and while it could be worked
12 nicely in conjunction with subdivision, I would say that a
13 reasonable value would be \$400 an acre.

14 Q The next reservoir is the La Mesa Reservoir?

15 A Yes sir.

16 Q What is the value of the land included in that?

17 A The adjoining lands, Mr Hoalton asked me \$225 and \$250
18 an acre for, last year. I am going a great deal by that. How-
19 ever, I think that a value should be given to lands on account
20 of its possibilities for conservation of water in reservoirs;
21 but I consider that a valuation of \$200 to \$250 an acre is very
22 reasonable, particularly as I understand the Railroad Commis-
23 sion are now establishing rates which under ordinary events are
24 going to be maintained for say five years; the probabilities
25 are that we will not have a chance for the next five years to
26 have a readjustment of rates. It would not pay to go into it,
27 in the first place. I feel under existing conditions, when I
28 come down to a physical valuation of properties, under this new
29 law, as I understand it, that you should be liberal in your

1 estimates, because San Diego City is going to grow, the whole
2 country is going to develop, and the values will materially
3 increase around; and I feel under these circumstances that a
4 very liberal valuation should be made on reservoir properties.

5 Q Mr Fletcher, in regard to the operation of the system,
6 will you state to the Commission the number of persons employed
7 constantly in operating it, and what they do and what they are
8 paid.

9 A Mr Mathews can give the exact number, but we have I
10 believe only five regular men on the flume, flume walkers,
11 and at other times we get additional men when it is necessary.
12 We have Mr Harriot, who is superintendent; Mr Ruiz has charge
13 of the flume; Mr Barte is our engineer doing construction work;
14 we have one person at the Cayman Lake as care taker, who fixes
15 up the fences and takes care of the dam and regulates the flow
16 of water.

1 He keeps up the telephone line. We have a caretaker at La
2 Mesa dam who does the same work, and Mr. Matthews has all that
3 done.

4 Q Mr. Fletcher, would you care to state or put a
5 valuation on the entire system from your knowledge of it?

6 A Mr. Sweet, I can only answer that by saying that
7 I told Mr. Post, our consulting engineer, to go to Los Angeles
8 and get Mr. William Mulholland, or Mr. Lippincott to pick out
9 reliable men and let them come down here and determine that
10 fact themselves. I have never directly or indirectly in any
11 way, or have never discussed with them, or in any way tried to
12 influence them in any appraisal of any kind or description.
13 In fact, I didn't know until the last day just what even
14 these men appointed by Mr. Lippincott had appraised the value
15 of our system. Mr. Murray--

16 MR HAINES. Mr. Fletcher, the question asks for your valua-
17 tion.

18 A I have no idea as to the valuation.

19 MR SWEET. Mr. Fletcher, do you know the amount of bonds
20 that were issued by the San Diego Flume Company?

21 A If I remember rightly, it was a million or a little
22 over. We burned them.

23 Q Mr. Matthews knows and the books will show the amount
24 of money that has been expended upon the system since you and
25 Mr. Murray acquired it?

26 A Yes, sir. Mr. Murray and I have never drawn any
27 salary or personal expenses. It was agreed between us
28 that Mr. Murray would put up the money outside of the original
29 cost I paid for my one-sixth interest myself, but since then

1 Mr. Murray has put up all the money and I agreed to operate and
2 look after the system.

3 A Do you know what interest rates are in San Diego
4 County for money loaned generally?

5 A Yes, sir.

6 Seven per cent is customary, and eight.

7 Q Do you know what the current rates of interest are
8 for money loaned upon country real estate secured by mortgage
9 upon country property in this county?

10 A There is such a demand for money that the banks
11 of this city don't loan very money on outside property, but
12 generally it is 8 to 10 per cent when they do loan any.

13 Q Do you know what the rate of interest is upon money
14 invested in an enterprise similar to this, and in properties
15 similar to this under consideration--this water system in this
16 county?

17 A I am associated with men who are developing a water
18 system in New Mexico and I consider its possibilities greater
19 than ours, and we will be compelled to sell our bonds at
20 90 cents on the dollar in order to get money to finance it.
21 I don't believe there is hardly any system in the state of
22 California today can realize over 90 cents on the dollar for
23 its bonds on any long term.

24 Q What rate of interest would such bonds have to bear
25 in order to be sold at 90 cents?

26 A These bonds will be six per cent, and there is a
27 commission besides to be paid.

28 MR HAINES. Are the Sweetwater bonds also six percent?

29 A I don't know.

MR SWEET. Do you say they are?

1 MR HAINES. I don't know.

2 A Mr. Harris, the attorney, asked questions pertain-
3 ing to the ownership of land around Grossmont, and I said
4 I would bring that subject up. I own several hundred acres
5 around Grossmont, but I am in the same position as I des-
6 cribed a little earlier, that when Mr. Gross and I purchased
7 the Villa Caro ranch, there were ten inches of so-called
8 water right contracts that came with the land. There were
9 about 300 acres in the ranch. Below the flume we only had
10 about 50 acres. Above the flume the other 250 acres. And the
11 water is applicable and can be put--at least 7 or 8 inches of
12 it can be put all over the ranch, so that will give you an
13 idea how they sold water at that time. Sometimes very--
14 you will find lots of land that it is absolutely impossible
15 to irrigate, yet these so-called water rights are applicable
16 if you can use it. So that in the matter of Grossmont--
17 nearly all of Grossmont - these old so-called contracts apply.
18 In addition to that, I acquired 3 inches of so-called con-
19 tracts from George Hawley in the purchase of Hawley's place
20 at La Mesa. Mr Murray owns land there and to it is attached
21 5 inches, I believe--3 or 5 inches, of so-called water con-
22 tracts. In that connection I want to say that Mr. Murray and
23 I have been treated exactly at all times as any other con-
24 sumer, and the records in our office will show. We have stood
25 our losses and stood our charges.

26 Q Have you irrigated any lands under the system?
27 Have you put any water on lands which you have used for raising
28 citrus fruits?

29 A Yes; I have raised lemons and oranges.

1 Q Can you state to the Commissioner the quantity of
2 water per acre that is required to irrigate these lands for
3 the production of citrus fruits?

4 A It is very changeable--the conditions out there.
5 For instance, I ^{have} owned a five acre lemon orchard in Lemon Grove
6 and lived there for 2 years. I only had a quarter of an inch
7 of so-called water right contract attached to that land,
8 which would be an inch to twenty ~~acres~~. I got along very
9 nicely with an inch to twenty acres there, for the reason
10 that there is about a foot and a half of soil, and then there
11 is a clay underneath--sort of a clay or adobe, and that adobe--
12 with the winter range, that adobe would become wet and would
13 retain the moisture, and it was remarkable how little water
14 was needed for that tract. But you take, on the other hand,
15 a piece of land on the Villa Caro ranch down in the valley,
16 where the sands and the soil is 15 to 30 feet deep, you have
17 to use a tremendous amount of water--floods it quickly and we
18 don't suppose that an inch would take care of over 7 or 8
19 acres. Everything depends upon the local conditions.

20 Q What are the conditions generally about La Mesa and
21 Lemon Grove?

22 A They are perfectly the same. I can say that an
23 inch to 12 or 15 inches would be about right.

24 Q The conditions generally about Lemon Grove and La
25 Mesa are about the same as on that piece of land you have
26 described?

27 A Yes, but conditions change when you get into El
28 Cajon and from there on.

29 Q How old was that orchard you spoke of?

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

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A Eight to ten years.

Q Where was it?

A Lemon Grove.

Q Was it producing fruit?

A Yes, and paid very well.

Q How are the lands this side of La Mesa, of about the same character?

A Yes; but in that connection I want to say this, that the country is developing so fast that if a man plants a lemon orchard today, within ten years from now by the time that is full grown, it will be subdivided and cut up into acre tracts--almost every lemon orchard in this county. I believe that San Diego is the playground of the United States and we have all the rest of the United States to draw from. It has been demonstrated, you take a lemon grove--every one of these places is being subdivided. It is practical to subdivide from San Diego to Grossmont today, and in that connection I want to call attention to Mr. Ellis's report. I ordered him to go out there and find out how many wells there were out there in El Cajon valley, and see how many different flume owners--different people that took water from the flumes--had wells. I sent him out yesterday to get data on the Hawley flume line that Mr. Gordon asked for. We simply wanted the facts. and we find that every man out in the El Cajon valley, practically, has a well in addition to his flume water. I may be considered an enthusiast, but the time is coming and you will see it, when it will be a joke to farm in San Diego county in the next 10 or 15 years, unless you get away back into the mountains. Every orchard in the El Cajon valley above

1 the frost line is going to be subdivided into one and five
2 acre tracts and become villas. There is no question about
3 it. It is not a question of irrigation; it is a question of
4 how much water can be developed and put it where it does the
5 greatest amount of good to the greatest number. And I simply
6 wanted to show the Commission that the people of El Cajon
7 valley were not entirely dependent upon the flume; that they
8 can develop wells of their own. As a matter of fact, they are
9 developing more water today than we are furnishing them, and
10 if this Commission have any confidence in the growth of San
11 Diego city, they will see that the country between Grossmont
12 and San Diego is going to develop rapidly. I feel that it is
13 the greatest good to the greatest number, and it is that
14 section of the country more particularly that must have water
15 or we retard the growth of this country.

16 Q MR SWEET. have you made any investigation to ascer-
17 tain what is paid for water under other systems in this county,
18 or in Southern California for water for irrigation?

19 A Only in a general way. I know at places they pay as
20 high as 10 or 12 cents a thousand gallons for water; but it
21 is changeable. Every locality is different. But here is a
22 particular case where right next to the ocean, where we have
23 wonderful possibilities of development, and water is very
24 valuable in my opinion--more valuable than any other section of
25 southern California. I also want to call attention to one more
26 fact. If you go out to El Cajon valley you will see that in the
27 valley itself it gets too cold for citrus fruits, and that there
28 are no citrus fruit orchards there. You will see that they
29 hug the hills, but the great value of water is shown where you

1 can put water where the grounds are frostless or practically
 2 so, and those crops that can be raised there, such as winter
 3 vegetables and tomatoes and citrus fruits, will command and
 4 pay the highest price. I am satisfied that the people from El
 5 Cajon valley east can develop enough water to take care of
 6 their own needs if it becomes necessary.

7 MR SWEET. Cross-examine.

8
 9 CROSS-EXAMINATION.

10 MR HAINES. Q Mr. Fletcher, when did you first enter upon
 11 negotiations for the purchase of this flume system?

12 A I think it was in May--either the last of April or
 13 the first of May, 1910.

14 Q Was Mr. Murray associated with you then?

15 A No. I had no business with him then.

16 Q When did he first become associated with you?

17 A The first of June, 1910.

18 Q Now, with whom did you deal in making this negotia-
 19 tion?

20 A With George W. Marston.

21 Q Who did George Marston represent?

22 A Me.

23 Q And do you say you dealt with yourself?

24 A I mean to say that I put through the deal myself,
 25 yes, sir, and sold to Mr. Murray an undivided five-sixths inter-
 26 est in the system.

27 Q How did Mr. Marston come into the deal?

28 A I asked him to get the option.

29 Q From whom?

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

1 A From Mr. Healion.

2 Q He was then your agent?

3 A Yes, sir.

4 Q And Mr. Healion represented whom?

5 A He represented the owners of the system, I am told,

6 Q Who were they?

7 A I don't know.

8 Q Well, the San Diego Flume Company was the owner so

9 far as the record shows, was it not?

10 COMMISSIONER ESHLEMAN. The legal title was in the San Diego

11 Flume Company?

12 A I think so.

13 MR SWEET. That is admitted.

14 MR HAINES. Yes. Q What condition was this bonded

15 indebtedness in?

16 A I prefer that you have Mr. Sweet put on the stand

17 to answer those questions, as he was the attorney and handled

18 all details.

19 Q Well, that might be objected to by Mr. Sweet.

20 A Mr. Sweet can tell you the facts.

21 Q You know the facts, don't you?

22 COMMISSIONER ESHLEMAN. Give them as near as you can, Mr.

23 Fletcher.

24 A I understand that there was a million dollars worth

25 of bonds or more that Mr. Healion's

26 Q Who held those? Did Mr. Healion hold those?

27 A The English bondholders, as I understood, held those.

28 Q You said you got them and burned them? From whom did

29 you get them?

1 A We didn't get the bonds.

2 Q Didn't you say you burned them?

3 A No, we didn't get the bonds. We demanded that they
4 let us see them burned. Is that right, Mr. Sweet?

5 Q In whose hands were they when they were burned?

6 A They were in nobody's hands.

7 MR SWEET. I may state that the bonds were held, I think,
8 by trustees under the bond issue. The bonds were secured by a
9 deed of trust to the property, and my understanding is the
10 actual physical possession of the bonds was in the trustee.

11
12 MR HAINES. Who were the trustees?

13 A I don't know. Mr. Sweet handled all of that.

14 MR SWEET. I don't know the names of them.

15 MR HAINES. Q Did you get a certificate of title?

16 A Yes, I got a certificate of title showing the property
17 in our name. That is all I ever saw.

18 Q Didn't it show it to be in the San Diego Flume Com-
19 pany?

20 A No; I never saw a certificate to that effect. Our
21 attorney handled that.

22 Q You required these bonds to be destroyed before you
23 took over the system?

24 A No, I didn't. I don't know how it was--either they
25 offered to let us see them burned, or it was--

26 COMMISSIONER ESHLEMAN. You wanted to know that the lien
27 of the bonds was extinguished before you bought the system?

28 A I don't know whether it was Mr. Sweet that demanded
29 that or how it was. I left it to Mr. Sweet.

1 Q MR HAINES. Did you see them burned?

2 A Yes, sir.

3 Q Who put them in the fire?

4 A I don't remember that. I think it was Mr.--either
5 Judge Boon or Mr. Healion.

6 Q Did you buy the bonds with the system?

7 A No, I didn't have anything to do with that. I don't
8 know anything about that. All I know is we put up money in
9 the--

10 Q Wasn't it a fact, Mr. Fletcher, that the bondholders
11 simply took over the system by an arrangement with the corpora-
12 tion?

13 A Why, that is my understanding but I don't know. All
14 I know is that we put up our money and said, "Mr. Sweet, whenever
15 you can show the property free and clear from all encumbrance,
16 turn the money over to them and not before."

17 Q When this system was sold, were you acting in behalf
18 of Mr. Murray, or were you acting as agent of the San Diego
19 Flume Company?

20 A I was not their agent and never made any commission
21 on the sale.

22 Q You were not?

23 A I was not, and never made any commission.

24 Q That is, the San Diego Flume Company nor anybody in
25 that corporation, as bondholder or otherwise, paid you any com-
26 mission?

27 A No, no one paid me any commission. If any one got
28 any commission it was Mr. Marston.

29 Q Well, was Marston your agent for the Flume Company's
agent?

1 A He went and asked them for a price as my agent.
2 COMMISSIONER ESHLEMAN. What is the significant fact?
3 MR HAINES. Why, I am getting at that. How much cash
4 was paid to the Flume Company for this conveyance?

5 A \$150,000.

6 Q In cash?

7 A In spot cash, yes, sir.

8 Q Was any part of that refunded?

9 A No, sir.

10 Q That is what they really realized on the system, was
11 it?

12 A Yes, sir.

13 Q How did you get your interest in the system?

14 A Mr. Murray deeded to me an undivided one-sixth.

15 Q For your services in negotiating the deal in his
16 behalf and yourself?

17 A No, sir, I put up the cash and turned it over to Mr
18 Murray and as the deed had been drawn to Mr. Murray for the
19 whole thing in error, why, Murray proceeded to deed me an
20 undivided one-sixth.

21 COMMISSIONER ESHLEMAN. I don't believe it would make any
22 difference, Judge.

23 A I put up the money without any assistance from Mr.
24 Murray by borrowing from him or otherwise.

25 Q MR HAINES. The consideration, then, was \$150,000?

26 A Yes, sir.

27 Q Now, before purchasing the system at that price,
28 did you have engineers make an examination of it?

29 A We did.

1 Q Who were they?

2 A I did, rather. I will tell you frankly that I had
3 in mind selling it to two or three different people. I had
4 a report; Mr. Murray never had any report on it, if my recol-
5 lection serves me right, but I had a report made in January
6 1910. I had three different people in view that I proposed
7 to interest in the system.

8 Q Now, what engineers made that report?

9 A Mr. Post, W. S. Post.

10 Q Was he the only one?

11 A He is the only one. If you want a copy of that
12 report I will gladly give it to you. He told me it was a
13 snap and advised me to buy it. He said the flume had only a
14 life of 5 or 6 years.

15 Q That is in writing, is it?

16 A Yes. He said the flume only had a life of 5 or 6
17 years.

18 Q If it is in writing that is the best evidence.

19 A But that everything else was in fine shape and by
20 all means to get hold of it.

21 Q Did he tell you that the flume was junk?

22 A No, sir, ^{he} never made that statement, and the first
23 time I ever heard him say the word "junk" was on the stand.
24 He said the flume was in pretty rotten condition in spots, but
25 its life was 5 or 6 years.

26 Q Was this \$150,000 the first price put to you by the
27 flume company?

28 A Why, they had been asking three and four hundred
29 thousand dollars for that system, and the lowest price that I

1 ever heard until I bought it was \$250,000.

2 Q Had you been considering other offers at \$300,000?

3 A No. I told you I never negotiated with them at
4 all.

5 Q You never did?

6 A No, Mr. Warston did it all.

7 Q He got the price of \$150,000?

8 A Yes, sir.

9 Q And with that you closed the deal?

10 A Yes, sir.

11 Q Now, before you finally closed this deal, did you
12 have a report upon the possibilities of developing the supply
13 of water in addition to what there is now?

14 A I had a hydrographic report made by Mr. Post. I want
15 to qualify that statement, however, by saying that part of that
16 report I don't care to furnish to the public, but will fur-
17 nish it to the Commission.

18 MR HAINES. That is all right.

19 A I will furnish all of that report to the Commission.

20 MR HAINES. yes, that is all right. But you bought the
21 system with a view to developing it and not leaving it in the
22 present condition, didn't you?

23 A We bought the system, first, because we considered the
24 price cheap and a good investment, and, second, because we
25 intended to develop it.

26 Q When you say you bought the system because you
27 thought it was a good investment, did you mean to say it was
28 a good investment in the condition in which it was then?

29 A I look upon it in the same light that I would a

1 piece of raw land, and what I know I can do with it in sub-
2 division. It was the basis of a remarkable development.

3 Q Did you buy it at \$150,000 under the conviction that
4 it was as it then stood a paying investment at that figure?

5 A I had hoped that the system--Ask that question again,
6 please.

7 COMMISSIONER ESHLEMAN · Read the question.

8 (Last question read by the reporter.)

9 A I knew that it was not paying any big interest on the
10 investment when I bought it.

11 MR HAINES Q Had you made investigation of the income of
12 the system at the existing rates at that time before you bought
13 it?

14 A Yes, sir, I knew about the basis on which it stood.

15 Q Did you take all those things into consideration when
16 you bought?

17 A Well, to tell you frankly, I will have to tell you
18 that by saying that I bought it for two reasons: First, I
19 didn't see how I could lose anything on it, and second, I wanted
20 if I could be of some use in helping to bring new money into
21 San Diego County and see the system developed and the back
22 country of San Diego to get the benefit of that development.

23 Q We sympathize with you and would like to help you as
24 far as we can.

25 MR SWEET. It doesn't pay bills, though.

26 A It has brought gray hairs, too, I assure you.

27 MR HAINES · yes, the labor is very exacting. We are not at
28 all oblivious to that feature of it. Now, Mr. Fletcher--

29 A Judge, I would like to go right on further and say one

1 word, if you care to have me.

2 Q yes.

3 A I tried for months to get the people under the system
4 to take over this system, bond themselves and develop it. I
5 was in hope that it could be handled in that way. I was in
6 hopes that they would take it over; and at one time Mr.
7 Murray would have been glad and did agree with me that we would
8 take bonds--sell it at a reasonable price and let them bond
9 themselves for its development and improvement. But this is
10 what I discovered, that the interest of La Mesa, the interests
11 of City Heights and the interests of El Cajon and Lakeside,
12 all that country, conflicted so that it is utterly impossible
13 to get those three elements together. After months--a year
14 or two--of negotiations, we simply had to come to that con-
15 clusion; and I can only see one solution of this problem, and
16 that is that Mr. Murray, who has any amount of money, will
17 develop this system; and I, while I can't speak for Mr. Murray,
18 I am sure in my own mind that I can get him to agree, after the
19 system is once completed, to sell it on 10, or 20 or 30 year
20 bonds. And my hope and my desire is that the people under the
21 system shall own it. But I do believe that Mr. Murray today can
22 develop that system much cheaper than the people out there
23 themselves, and with less friction and with quicker results.
24 I have lived with those people out there for fifteen or twenty
25 years. I desire their confidence and respect. I want to play
26 the game square. We have come to this situation where we have
27 hired only the best men to investigate this system. The men
28 on the stand before me speak for themselves as to their integ-
29 rity and it is not a question of seeing what is the last cent we

1 can get out of the people out there. It is simply a question of
2 what is fair and square between men. Let this question be
3 solved at the earliest possible date and let us go ahead with
4 our development, and I thank heaven that we have a railroad
5 commission here that will help to solve this speedily.

6 Q Now, you speak of the territory between Grossmont and
7 the city of San Diego. About how far is it from Grossmont to the
8 city of San Diego?

9 A Eleven miles.

10 Q That you say is rapidly being developed into a sort
11 of urban or suburban population?

12 A Yes, sir.

13 Q And the use of water for purely agricultural purposes
14 is giving way to more or less city uses?

15 A As I told you, in the next ten years I think that
16 is what it is coming to.

17 Q And in that sort of territory, irrigation rights,
18 you think, will give way to a sort of domestic use rights?

19 A You can't get away from it under those conditions.
20 There is a point right there that if this Commission sees fit
21 to establish rates, I believe that they should consider this
22 point and determine it. When those irrigation uses cease,
23 and the domestic supply commences--that matter should be con-
24 sidered; and it is a very important question.

25 Q You believe from your observation and experience
26 that there are two distinct classes of use?

27 A I do, yes.

28 Q That the domestic right will stand higher than the
29 right for irrigation use?

1 A I do. At La Mesa, Mr. Grable and I have subdivided a
2 piece of land out there, and what is the result? There is
3 an inch of water or two inches of water, I think to twenty
4 acres, or something like that, and they have divided it up
5 into 1/90th of an inch to each individual, and there is one
6 man out there, to my certain knowledge, who got his water for
7 70 cents a year last year for his house purposes, and the irri-
8 gating of his lawn, and none of them, I understand, in the
9 town of La Mesa, today, are paying over 50 cents a month for
10 their water. I am just as much to blame as the rest of them
11 are. I don't know what we can do, but dividing an inch of
12 water up into 90 different parts and selling 1/90th to each
13 lot owner--why, it is ridiculous on the face of it.

14 Q At the same time, if a man were cultivating 10 or
15 even 5 acres, he would desire a constant supply when he needed
16 it?

17 A Yes, sir.

18 Q So that, as a question of pure economics, you would
19 say that when the classification is reached between irrigation
20 and domestic use, that the domestic uses can stand a higher
21 rate?

22 A There is no question about it, Judge.

23 Q You own Villa Caro ranch, you say?

24 A Yes, sir.

25 Q That was in lemons when you bought it?

26 A Yes, sir, lemons and oranges.

27 Q Are you continuing the cultivation of the lemons and
28 oranges on it?

29 A I have subdivided it into three and five acre tracts.

1 It will soon be subdivided into house lots. That is in the
2 El Cajon valley, too.

3 Q You are not attempting to keep up the orchards?

4 A I did, yes, sir--kept it up all the time, excepting
5 a portion that I took out years ago planted on a side hill.

6 Q Now, do you contemplate enlarging the supply of this
7 system, the supplying of tracts of agricultural land to the
8 east of Grossmont?

9 A We have made no plans. We want to know where we are
10 at first.

11 Q What I wanted to know, Mr. Fletcher, was whether in
12 your contemplated increase of this water supply you proposed
13 to devote part of it to the irrigation of lands--of new lands?

14 A We will be absolutely controlled by the Railroad
15 Commission in that respect, I would say.

16 Q Do you suppose the Railroad Commission could direct
17 you to refrain from supplying agricultural lands if they were
18 under your system, and you had the water?

19 A I think they have the power. In the first place, it
20 is the quantity of water, and then I think in the next place
21 comes paramount the question of domestic supply, and after that,
22 irrigation water.

23 Q Do you mean to say that you think the Commission
24 could order the water supply, if there is any sufficiency at
25 all, to be devoted to Villa and domestic uses this side of
26 Grossmont, and refuse lands on the other side?

27 A I believe the question of public policy of greatest
28 good for the greatest number will prevail and when it comes to
29 a question of domestic water, the irrigation water will be

1 crowded out .

2 Q Your idea is that the Railroad Commission will have
3 the power to devote this water to domestic purposes and refuse
4 it for irrigation?

5 A If there is a scarcity of supply, yes .

6 Q You believe that in this state domestic uses take
7 precedence of irrigation uses?

8 A Yes, sir .

9 COMMISSIONER ESHLEMAN. When water is already used for
10 irrigation and is not used for domestic?

11 A If you can't get any water and people are there and
12 need water for domestic purposes, and no other water is available,
13 I believe water will be taken from the irrigationist.

14 COMMISSIONER ESHLEMAN. I will say that question is being
15 briefed in the Otay case.

16 MR HAINES. Now, was that your idea in introducing this
17 evidence as to wells, that the Commission could compel people
18 who already were taking water under the flume to forego that
19 use, and develop the water by wells?

20 A That is a question that I want to answer in this way:
21 I was prompted to send that man out to discover the number of
22 wells purely on Mr. Gordon, a statement that he was paying 5 or
23 6 cents for pumping water and buying our water for a cent and a
24 quarter a thousand gallons. My opinion is that the San Diego
25 Flume Company, this system, has been under servitude to these
26 people, and has been compelled to furnish water at materially
27 less than cost. And Mr. Gordon himself stated that if water were
28 going to cost higher than pumped water, he certainly would
29 pump his own water. And for that reason I felt that if it is

1 going to come down to a question of furnishing water for domes-
2 tic purposes, I wanted to show the Commission that if all that
3 supply was taken away under extraordinary conditions from the
4 irrigationists in El Cajon valley, and that includes myself,
5 that they still had a source of supply from which to draw.

6 Q What is to say, if the rates were fixed so high--
7 if rates were fixed high enough, they might be driven to using
8 pumped water and letting flume water go?

9 A I don't like the way you put that question, for this
10 reason; that every well that is put down in San Diego County
11 is an added asset to San Diego County, and I am tickled to death
12 to see the number of wells in El Cajon valley that are being
13 put down around the foothills that catch all the percolating
14 waters from the watershed above, and thereby save it.

15 Q Will you say, then, that you desire the Commission to
16 fix rates so high upon this flume water they have been enjoying
17 that they would find it cheaper to dig wells?

18 A After what I have stated I don't think it is fair for
19 you to put the question to me that way, for this reason: That
20 I only want what is right and you cannot put your finger on
21 one move that Mr. Murray and I have made but what has been
22 simply to get at the facts, get them from responsible people,
23 and let the question be determined by the facts. If the people
24 of El Cajon valley and that section out there, in my opinion,
25 were wise, they would join in with us instead of taking the
26 attitude they have, and say, Here, let us get together; let
27 us agree on a rate and let us see this system developed at the
28 earliest possible day. Otherwise, in my opinion, it means
29 5 or 6 or 10 years before the question of development of water

1 supply will be solved in that section.

2 Q Your position here has been to set aside all these
3 contracts?

4 A No, sir. I have not even taken that attitude.

5 Q you have not?

6 A No, sir. I told you I was on both sides of the fence, and
7 I want to present all the facts fairly and squarely.

8 Q you and Mr. Sweet have not agreed upon your theories,
9 then?

10 A As to Mr. Sweet's theory, that is his own, and I
11 refuse to take sides either way on this question.

12 Q That is, Mr. Sweet is to get as high rates as he can
13 from the Commission on whatever theory he can do it?

14 MR SWEET. I am protecting Mr. Fletcher from himself.

15 A This is the most complicated question in the history
16 of the state of California in my opinion-- the Cuyamaca Water
17 Company--and I don't where I am at. We are trying to find
18 out, and therefore we welcome the Railroad Commission. I don't
19 know that I can answer any other way.

20 Q Well, on page A of Exhibit 2 there is submitted to
21 the Commission an estimate of the annual amount required,
22 that is, in the present condition of the flume system, \$111,545,
23 a year, to be raised by rates. Is that the figure you are
24 asking?

25 A I never saw that report, and it is nothing that I am
26 asking for at all. It is a valuation placed by Mr. Lane on the
27 system and a basis of rates figured on that valuation purely
28 from his own personal belief and standpoint.

29 Q These are all experts employed by you to estimate

1 these matters?

2 A I never employed them. I am going to pay the bills,
3 Mr. Murray and I, but Mr. Lippincott picked them out.

4 Q Mr. Fletcher, have you the records, or are they under
5 your control--records of the Flume Company which show the
6 amount in the aggregate and in detail paid for these water right
7 contracts?

8 A I will tell you frankly, I don't know. Mr. Matthews
9 can answer that question.

10 Q Do you know where the ledgers and the other account
11 books of the San Diego Flume Company are?

12 A No, sir.

13 Q What did they turn over in the way of records?

14 A Mr. Matthews can answer that. Of course, we have the
15 records of the amount of water for the last 12 or 13 years.

16 Q In connection with their physical condition and their
17 revenues, what did you get?

18 A We will put Mr. Matthews on the stand. He was the
19 man that came with the flume and he brought over what he needed.

20 MR SWEET. You took him over with the rest of the junk, did
21 you?

22 A Yes.

23 MR HAINES. I think that is all I want to ask.

24 BY MR GORDON.

25 Q Mr. Fletcher, I suppose you have a copy of the con-
26 tract to purchase?

27 A I think we have the originals.

28 Q It was executed in duplicate?

29 A Yes, There is a bound volume of them, isn't there,

1 Mr. Matthews?

2 COMMISSIONER ESHLEMAN. you mean the contracts of pur-
3 chase between Murray & Fletcher and the previous owners?

4 MR GORDON. No, I mean the contracts of sale from the
5 Flume Company to James A Murray.

6 MR HAINES. No.

7 MR GORDON. That has not been put in evidence.

8 A It will be. Every record we have in the office is
9 yours if you want it.

10 MR GORDON. If this is going to be put in--

11 A Yes, sir, I say it is.

12 MR GORDON. I simply want certain facts.

13 MR HAINES. It is a short contract?

14 A It will be put in.

15 MR HAINES. Mr. Fletcher, I have here two volumes. One
16 is marked water right contracts, and the other water right
17 contract 2, San Diego Flume Company. These were turned over
18 to you, were they, by the San Diego Flume Company upon the
19 purchase made?

20 A Yes, sir.

21 Q We can consider this in evidence for the purposes
22 of counsel?

23 MR SWEET. Yes. We would like to keep them in a safe,
24 but we will consider them in evidence.

25 COMMISSIONER ESHLEMAN. I want you to agree on that stipu-
26 lation during the week's recess.

27 MR HAINES Yes.

28 MR GORDON. Q Now, before you made this purchase, you had
29 inquired carefully into the water right contracts, had you not?

1 A No, only in a general way.

2 Q Only in a general way. In the contract it is speci-
3 fied, isn't it, that you bought subject to 635 miner's inches
4 of contracts outstanding?

5 A In the papers that Mr. Murray signed, I think that
6 was specified. It was a matter of record, however. Whatever
7 it was, the record speaks for itself.

8 Q As a matter of fact, then, there was in excess of
9 428 miner's inches which you claim now was clear gain?

10 A I don't see the point.

11 Q Well, the contract, as a matter of fact, specifies
12 that you assumed 635 miner's inches.

13 A The contract is the best evidence, Mr. Gordon. I
14 don't know. whatever it is, the record stands.

15 Q You knew there were a lot of these contracts out-
16 standing?

17 A Oh, yes.

18 Q And you deliberately agreed to get in the place
19 of the Flume Company as to the performance of those con-
20 tracts?

21 A Whatever the contract carried with it we assumed.

22 COMMISSIONER ESHLEMAN. Well, now, Mr. Gordon, I don't
23 see that the question has any relevancy here, because that is
24 the law.

25 MR GORDON. I want to make it clear, that he was fully
26 posted as to the facts.

27 A I have lived under the system 25 years.

28 MR SWEET. The deed is made subject to these water con-
29 tracts, and, as the Commissioner says, we bought subject to

1 then anyway.

2 COMMISSIONER ESHLEMAN. If there had not been a word in
3 the contract about them, you would have taken them as they are,
4 but as a matter of good faith, Mr. Fletcher knew about this
5 contract?

6 MR GORDON. yes, and especially agreed to the perform-
7 ance of them.

8 COMMISSIONER ESHLEMAN. Nevertheless, regardless of that
9 agreement, if it was required of the Flume Company, he would
10 have to perform them.

11 MR GORDON. You speak of your disappointment and failure
12 to sell--to have an irrigation district organized, and, there-
13 fore, you were obliged to go on and develop this yourself?

14 A I was sorry that they could not get together.

15 Q What was the best suggestion of an offer that you
16 ever made?

17 A Oh, a dozen times I told different people that I
18 would like to do it.

19 Q Well, something definite. Was there ever a definite
20 offer?

21 COMMISSIONER ESHLEMAN. You mean as to amount?

22 MR GORDON. As to amount.

23 A As to what we would sell it for?

24 Q Yes. What did you say an irrigation district could
25 get that system from you for?
26
27
28
29

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1 A Any offer that I ever made was subject to the ap-
2 proval of Mr Murray, and the lowest that Mr Murray ever offered
3 to sell the system was \$400,000. That was before we had put
4 a great deal of this money in. I would have sold it for less.
5 I offered several times to sell for less, provided Mr Murray
6 would.

7 Q Provided he would, but was there ever anything that
8 an irrigation district could have acted upon?

9 A If they had been half alive to the situation, there
10 were times there for six months that they could have tied it
11 up for \$400,000, or even less.

12 Q About that time you sent out notices, didn't you,
13 that you were losing \$700 a month?

14 A No. It was months and months afterwards. For nearly
15 a year I was talking with different people urging them to get
16 in and form a district.

17 Q But at all times you claimed you were running the
18 system at a loss, didn't you?

19 A That is a matter of record.

20 Q You claimed that.

21 A I told them that.

22 Q You told them you were losing money, but you would sell
23 out at a profit?

24 A No, price I offered to sell my interest in the system
25 for cost and interest, and I put that in writing several times,
26 but that was to show my good faith, and I believe right today
27 that the final solution of this whole question will be the
28 ownership of the system by the people themselves; but there was
29 such a fight and conflict between the people that nobody could

1 got together, and we had several meetings, as you know.

2 Q At the time that that purchase was made, do you
3 remember a conversation that we had in regard to the position
4 of the commissioners and Murray and Fletcher?

5 A I talked with you a number of times.

6 Q I mean particularly about the time that the purchase
7 was made.

8 A I don't remember now.

9 Q You don't remember of saying that you were going
10 right ahead to develop the system at an expense of a million
11 and a half or so?

12 A I never made that statement to anybody, -- never, with-
13 out qualifications.

14 Q Didn't you ask whether we would temporarily be willing
15 to submit to a doubling up of the rates for a limited number
16 of years?

17 A That was your suggestion; not mine.

18 Q Now, in your testimony, you have spoken of your inabil-
19 ity to have us get together and agree on anything to help you
20 out. Didn't I propose a basis of compromise for the very purpose
21 of trying to help you out of this matter?

22 A There has never been but one that you have been in
23 authority to state for the majority, and that has been in the
24 last two weeks, when you talked with Mr Murray and I out there.

25 Q I think you will find from my letters that you are in
26 error.

27 A You were always speaking from your own personal --

28 Q To refresh your memory, we will go back to the 8th of
29 July when the Commissioner was here.

1 A Well, of course I mean since -- I don't know the
2 point you are driving at, but you talked compromise right along.

3 Q Didn't I tell you that particular pains had been
4 taken to ascertain the sentiment of the water users?

5 A You may have said it. I don't remember it, but you
6 may have said it. We talked so many times together, Mr Gordon.

7 Q Didn't you hear Mr Murray refuse to consider any
8 basis of compromise?

9 A Since we applied to the Commission, yes; but not be-
10 fore that. That took place since we applied to the Commission,
11 did it not?

12 Q You seemed to consider me as a pretty good witness in
13 regard to pumping water. Now, as I remember it, I said that
14 I considered the pumped water was not any cheaper than the flume
15 water would be at five cents a thousand gallons, although it
16 does not cost that.

17 A I ask that the record be read, the first day's evi-
18 dence.

19 COMMISSIONER KSHLEMAN: Oh no.

20 MR GORDON: I don't think that is in evidence.

21 A It is in evidence.

22 Q Now, you have had enough experience with these mat-
23 ters to know that when you pump water you only pay for the water
24 you pump.

25 A Yes.

26 Q Under these contracts, do we not pay sometimes for
27 five or six or seven times as much water as we get?

28 A It depends on what you use.

29 Q As a matter of fact, in winter, as an irrigator, do you

1 use your water?

2 A The maximum, as I understand it, out of the 428 inches,
3 so-called water rights that we are furnishing -- well, I don't
4 know as all of the farmers are taking it, but the maximum we
5 have ever delivered is 356 inches. That is the greatest amount
6 that ever was demanded under the system.

7 Q I am speaking to you as an irrigator and user of
8 water.

9 A Unless you have storage to take your water.

10 Q As a matter of fact, the flume water costs per thous-
11 and gallons a great deal more than the average rate -- a cent
12 and a quarter is the rate spread over the year.

13 A If you took advantage of all your water, it will cost
14 you a cent and a quarter a thousand gallons.

15 Q If you use it for four months out of twelve, it costs
16 three times that?

17 A Yes, every man uses as much as he wants.

18 Q Did you buy all of the tangible property of the San
19 Diego Flume Company?

20 A I don't know. What do you mean by "tangible"? Do
21 you mean real estate?

22 Q Well, the visible property.

23 A Does that mean real estate?

24 Q Real estate and water rights.

25 A We didn't buy all the real estate, no.

26 Q They had some real estate, did they?

27 A There was some real estate we didn't buy.

28 Q What I want to know, Mr Fletcher, is, did the Flume
29 Company convey to you and Mr Murray all of the property that is

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1 used in any way in connection with the distribution of water?

2 A I don't know.

3 Q You don't know of anything they reserved?

4 A Because there was an auxiliary company called the La
5 Mesa Development Company. They owned the pumping plant; the
6 La Mesa Development Company owned the pumping plant.

7 Q I am speaking of the San Diego Flume Company.

8 A Mr Mathews can answer that. He knows. I don't.

9 Q How much land have you on which there is no water
10 right -- on which water has never been placed -- flume water?

11 A You mean under the system at Grossmont?

12 Q I mean that can be reached with reasonable cost from
13 this San Diego flume system.

14 A Do you want me to bring my book down?

15 Q I want to know approximately. You needn't get down to
16 five or ten acres.

17 COMMISSIONER ESHLEMAN: Just as near an approximation as
18 you can give.

19 A Well, it is hard to answer that question.

20 COMMISSIONER ESHLEMAN: How many acres have you under the
21 flume?

22 A That will flow by gravity from the flume?

23 COMMISSIONER ESHLEMAN: Well, you can answer it in that way
24 first.

25 A Oh, I have 100 acres, or 120.

26 COMMISSIONER ESHLEMAN: How much land cannot be reached by
27 gravity?

28 A A couple of hundred acres; three or four hundred
29 acres, maybe.

66

1 COMMISSIONER ESHLEMAN: On how much of that land under the
2 flume do you actually use flume water to irrigate? Is that
3 what you want?

4 MR GORDON: No. I know about what land he has to which
5 water has been attached. What I want to know is how much other
6 land he has to which he would like to attach water.

7 A Everything depends upon the feasibility of pumping.
8 I own 5000 acres in the S Tract; some of it is 2000 feet high,
9 yet it runs down to a level with the flume. I own 500 acres
10 that is a little above the flume, to which water could be
11 pumped. I own about 800 acres more between El Cajon and San
12 Diego, scattered around in different places; but in some places
13 we would have to run a pipe line five miles to get to it, and I
14 think it is more susceptible of irrigation from other sources.
15 So it is almost impossible to answer that question.

16 Q The first tracts that you spoke of are up in the Quinn
17 Valley region, are they?

18 A Yes.

19 Q I rather wanted to know how many acres of that are with-
20 in even reasonable reach of pumped water from this system.

21 A There is only about 500 acres. Mr Owen Wooster and
22 myself own 5000 acres there. I own about 2000 acres more, but it
23 is impossible -- it is impracticable to irrigate over 500 or 400
24 acres of it from the present flume by pumping say a couple of
25 hundred feet.

26 Q As to the 2000 acres above that, do you know of any
27 possible source of supply of water?

28 A Not at present, no.

29 Q You don't know of any?

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1

A Not at present.

2

Q As to the land that you own this side of the margin of El Cajon Valley, do you know of any possible source of supply except this?

3

4

5

A Wells.

6

Q You are interested in Holix?

7

A With two others, I control five or six hundred acres there. There are three or four hundred acres there that is included under this Villa Caro. There is only three or four hundred acres on Holix, I am including Grossmont, so if you are talking about Holix, there is only three or four hundred acres there.

10

11

12

13

Q Only three or four hundred acres there?

14

A Yes sir.

15

Q Do you own any land of any of the mesa land between here and El Cajon?

16

17

A I am in with Mr Grable on about ten or fifteen acres.

18

I own ten or fifteen acres at Lemon Grove.

19

Q You don't own any large bodies in there?

20

A No, not between there and Grossmont.

21

Q Now, as to Mr Murray's ownership of land to which no water has been applied, how many acres has he at Grossmont?

23

A Altogether, good, bad and indifferent, about six or seven hundred.

24

25

Q Do you remember how many inches of water he has altogether?

26

27

A Five.

28

Q And that is attached largely to the immediate neighborhood of the cultivated lands?

29

1 A Yes sir.

2 Q So he has probably over 500 acres to which no water
3 has been attached?

4 A That is about right. A lot of it is very rough, you
5 know.

6 Q Government reservoir is somewhere near the center of
7 this five or six hundred acres, isn't it?

8 A It is next to the railroad. You mean the Murray Hill,
9 don't you?

10 Q I mean the Murray Hill.

11 A It is fairly well in the center, yes.

12 Q Do you know of any possible way of getting water on
13 to the Murray Hill tract, four or five hundred acres?

14 A Yes, we expect to put down a well there to develop
15 water. Negotiations are on now.

16 Q Put down a well up on that mesa?
17 had

18 A Yes sir, a deep well. We have a man from San Francisco
19 come down and look the field over, and the prospects are good.
20 We are going to put a well down there to see whether water can
21 be developed.

22 Q How many other large tracts of land does Murray have?

23 A He has 300 acres between La Mesa and Lemon Grove, those
24 rolling hills, which is above the fluge level three or four
25 hundred feet.

26 Q Is there any probability of his getting water for those
27 except from this system?

28 A I don't know, except the people of Lemon Grove are
29 putting down a well within a half a mile of him -- going down
deep. They are going down about 2000 feet, I believe.

Q They started at a lower level, didn't they?

A Oh, within a hundred or two hundred feet.

Q Now, hasn't Mr Murray been subdividing that 500 acres over at Murray Hill?

A He has subdivided about 60 acres, I think.

Q Isn't it his purpose to put the flume water, as much of it as he can get, on to that tract to develop that tract?

A He expects to get water either from the flume or from this well that I told you about.

Q Doesn't he want the water from this system to be put on to that tract?

A He wants the water from either one source or the other.

Q Now, you have spoken of a considerable expenditure for a cast iron pipe at Kensington Park.

A Yes sir.

Q What water rights were there over at Kensington Park?

A Part of the old original contracts made by the flume company. It is a matter of record.

Q Have you any idea?

A We are not furnishing any excess, I will tell you that now.

Q You are not furnishing any excess?

A No, not to my knowledge.

Q The point was, I wanted to know why there was so heavy an expenditure for a comparatively small part of the total quantity of water.

A Because the old pipe was in bad shape, and we had to

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1 put in new pipe, which we have done. It is part of the dis-
2 tributing system.

3 Q You speak of the great increase in the value of
4 land by putting water on it. What do you think the value
5 of that tract of land of Murray's at Murray Hill -- what
6 is the value of that without any water, for any purpose?

7 A Well, you mean today's market value?

8 Q Supposing that there cannot be water gotten from
9 this system, would anybody gamble on putting a well down
10 there, do you think?

11 A We are going to take the chance.

12 Q But you would not buy a great tract of land on that
13 chance, would you?

14 A Yes sir. F. R. Thum Company and myself own 2000
15 acres adjoining -- right adjoining.

16 Q Haven't they a right to pump water from the river?

17 A That is what they would like to find out.

18 MR SWEET: Their attorney is here.

19 MR GORDON: You say they are --

20 COMMISSIONER ESHLEMAN: I understand you are on all sides
21 of this question.

22 A I am on all sides. I don't know where I am at.

23 MR SWEET: It is up to me to look out for Mr Murray.

24 A I think so, too.

25 MR GORDON: Does the land to which you refer as having
26 gone from fifty to a hundred dollars an acre up to fifteen
27 hundred to twenty-five hundred an acre -- is that that land
28 up on Grossmont?

29 A No; it is that land lying between Grossmont and La

1 Mesa.

2 Q Go back to that tract of land of Murray's. For
3 agricultural purposes, is it worth over ten or fifteen dol-
4 lars an acre?

5 A If there was no water system in the country, and if
6 there was no water could be developed by wells, then of
7 course it is only worth what it can actually produce in the
8 matter of crops, like hay and grain.

9 Q And ten or fifteen dollars an acre would cover it?

10 A I figure that it is worth about -- if there was no
11 water system there at all, I should think the land -- and
12 the city of San Diego was here, I should think the land would
13 be worth \$25 an acre -- \$20 or \$25; but let me say in that con-
14 nection that we can get one hundred to one hundred and fifty
15 for the raw land today, owing to the possibilities of develop-
16 ment.

17 Q There is no water located on it for use now?

18 A No.

19 Q So that it is practically without value unless you have
20 water, or unless you develop this system?

21 A Or put in wells.

22 Q But until you get water on it, it has a very low value?

23 A Yes sir.

24 Q What do you believe that that land would sell for sub-
25 divided by Mr Murray, if by increasing the capacity of this
26 system he can put a sufficient quantity of water on the land?

27 A Roughly I would say an average of -- you must make this
28 distinction, that the land on the mesa and where you get the view,
29 and the breezes from the ocean, is capable of subdivision into

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1 acre tracts, and you can safely figure on five hundred to a
2 thousand an acre for it. But the low lands, where there is
3 frost and some of it is adobe, why, two or three hundred dollars
4 is all right.

5 Q But on an average.

6 A In certain locations, by putting water on land, you
7 can increase its value from a hundred to two thousand dollars
8 an acre. In other places --

9 Q I mean that particular tract, that five hundred acres.

10 A Well, some land will sell for \$1500 an acre with
11 water, and some of it will only sell for \$200 an acre, or \$250.
12 It depends on how rough and its quality and location.

13 Q We will leave that now. Go to Cuyamaca Ranch. Do you
14 know what the ranch is offered for?

15 A Cuyamaca Grant?

16 Q Cuyamaca Grant.

17 A I come pretty close to knowing, yes sir.

18 Q How much?

19 A The company that foreclosed the mortgage and took in
20 the ranch are offering it or did offer it six or eight months
21 ago for \$200,000.

22 Q How many acres?

23 A About 20,000. I know the ranch very well.

24 Q Now, one of your witnesses testified that there was
25 5000 acres of that of good land.

26 A He meant to say that there are 5000 acres of it that
27 could possibly be plowed and put into cultivation.

28 Q I don't think it is right for you to say what he
29 meant.

COMMISSIONER ESLEMAN: How do you know what he meant to

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

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say?

A Because we have gone over the Guyanaca Grant time and again.

COMMISSIONER ESHLEMAN: You can give what your opinion is, but you don't know what he meant.

MR GORDON: How many acres do you think of good pasture land, land that could be plowed or put into fruit?

A I don't think there is over three or four thousand acres of that altogether, which is estimated of that five thousand --

Q He estimated that at forty dollars an acre.

A What at forty?

Q That land in the Guyanaca Grant, that good land.

A I don't think so. He told me he would not sell his bottom land like that in the reservoir for \$200 an acre. He owns a ranch just adjoining.

Q As to this three or four thousand acres that you think there may be as good land in there --

A That includes the timber land.

Q The good land includes the timber land?

A Yes sir; there isn't over three or four thousand acres of good land, including the timber land. The rest of it is wild and rocky. It is not worth five dollars an acre; it is not worth three. There isn't 250 acres altogether on the Guyanaca Grant of land, bottom land, like that which is in the reservoir site.

Q You are reasonably familiar with the right of way of the flume, are you not?

A Only in a general way.

1
 2 Q You have personally been over it. Now, beginning a
 3 mile say above the Cape Horn tunnel and going down to the
 4 Jamaica trestle is probably sixteen miles, isn't it?

5 A Well, I will take your word for it. It is probably
 6 that -- fifteen or sixteen miles.

7 Q What do you think is the average value of the land
 8 occupied by the flume on that stretch?

9 A The raw land?

10 Q Yes.

11 A I would say seventy-five to one hundred dollars an
 12 acre. I don't think there is any foot of land that you can buy
 13 to the west and lower down, even at that price, hardly; but of
 14 course higher up on the mountainside to the east, where it is
 15 rough and rocky, it is different.

16 Q You think it is worth in the neighborhood of a hundred
 17 dollars an acre?

18 A From seventy-five to a hundred dollars, take it all
 19 through.

20 Q If you owned a large tract of land and were not going to
 21 use the water from such a flume as this, you would be willing
 22 to deed a right of way at the price per acre of your land?

23 COMMISSIONER ESHLEMAN: Would you put the same price on this
 24 strip across your land as you would on a corresponding amount of
 25 your land that was not in that shape?

26 A If it benefitted the general public, I would hesitate
 27 to refuse to give them a right of way. When I say "give" I
 28 don't mean to give it for nothing. I would expect a reasonable
 29 valuation for the right of way, but I would give it at a valua-
 tion which would pay an average valuation on the land at the time
 the flume went through there.

1
 2 Q In that fifteen miles, how many places are there
 3 where, without a great deal of trouble, you can get across
 4 the barrier that that flume makes, between the land above and
 5 the land below?

6 A I don't know.

7 Q Do you understand what I mean?

8 A No, I don't. Do you mean how many ravines do you
 9 cross?

10 Q At how many points can the owner of the land cross?

11 COMMISSIONER ESHLEMAN: He is trying to get at this, that
 12 the flume is a detriment to the land by being in the way, and
 13 the inability to cross it. Do you know anything about that?

14 A Yes. We have never refused anyone the right to cross
 15 over at any place.

16 MR GORDON: That is not what I mean.

17 A At different points from a quarter to a half a mile
 18 apart there are trestles so that you can drive under, so it makes
 19 it accessible to drive under or go over.

20 Q Are you not very much in error in stating that every
 21 quarter of a mile or so?

22 A Quarter or half mile through that stretch there. I am
 23 thinking of Lakeview particularly, and along the west side of El
 24 Cajon Valley.

25 COMMISSIONER ESHLEMAN: Well, let us not get away from this.

26 A In some places it may be a mile. In some places it is
 27 a quarter of a mile.

28 MR GORDON: That is all I had noted down that I wanted to
 29 ask.

BY MR HARRIS:

Q I understand you, Mr Fletcher, that you were interested

1 more in the good of San Diego and the surrounding community in
2 the purchase of this plant, than you were in any gain which would
3 accrue to you or Mr Murray; is that right?

4 A I was looking to both my own interest, as well as the
5 interest of the community.

6 Q But the interest of the community predominated in your
7 mind at that time?

8 A It is hard for me to decide just where the distinction
9 should be drawn.

10 Q Didn't I understand you to say on direct examination
11 that realizing the great need of land here, you took that thing
12 over?

13 A Yes. The thing had been lying dormant for fifteen or
14 twenty years, and I thought it would be doing good for the
15 country if I could get some man with money to come in and develop
16 it.

17 COMMISSIONER ESHLEMAN: I don't think that has very much to
18 do with it, Mr Harris.

19 A I can't help the community without helping myself, and
20 vice versa, generally.

21 Q BY MR HARRIS: Have you an option, Mr Fletcher, on any
22 other land lying along this Flume or where water can be put on
23 it, either by gravity or pumping, in addition to the land you
24 have described to the court?

25 A No, I have not; not that I have in mind.

26 Q As I understand your evidence -- it is not very clear,
27 but as I understand it, you and Mr Murray together have some
28 five or six thousand acres along the flume which could be
29 irrigated either by gravity or pumping from this system.

A No sir, I didn't say so. Mr Murray owns about a thousand

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acres individually, and I probably have just three or four hundred acres altogether under the flume by gravity. Then I would probably have 500 to 1000 acres more that it would be reasonable for me to pump; that it would be reasonable and justified for me to pump out of the flume on to these lands. I have owned lots of these lands, however, before I bought the flume.

Q Did you own all these lands that you have testified concerning, at the time you bought this system?

A Nearly all of them, yes sir.

Q Did you acquire contracts on them at about the time that you bought the system?

A No. I have owned the Villa Care for nine years. The Crossmont I have owned for nine years.

Q Did you contract for considerable portions of them at about that time?

A No, I didn't contract for anything at that time in the shape of land, when I took this system over.

Q As I understand it, you have along the line of this system a subdivision tract with Mr Murray, or Mr Murray has a subdivision tract, I am not sure which.

A He has a subdivision of about sixty acres, yes.

Q Then I understand that you have a subdivision tract with Mr Grable, and one with Mr Detrick?

1 A No. The land that Detriek and I own is up near Cuyamaca
2 lake and has nothing to do with this system or drainage.
3 Mr. Grable and I own 10 or 12 acres in the town of La Mesa.

4 Q The you have only one subdivision tract at the present
5 time along the line?

6 A Right around Grossmont there, that is the only one.

7 Q You stated in your examination that you looked upon
8 this system a good deal as you would upon a tract of land which
9 could be improved and subdivided; is that correct?

10 A Yes, sir.

11 Q And you looked upon the speculation therein about the
12 same, didn't you?

13 A I saw its possibilities of development, or thought
14 I did.

15 Q You say that you have some land above the flume at
16 Grossmont, and that you had some water at Grossmont.

17 A Yes.

18 Q You had about 10 inches of water, if I remember it?

19 A Yes, sir.

20 Q And about five or six hundred acres of land?

21 A All around there.

22 Q Had any of this water ever been used above the
23 flume?

24 A Yes.

25 Q Had it been used below the flume?

26 A Yes.

27 Q It had been used in both places?

28 A Yes, sir, - so-called water right contracts gave me that
29 permission under the terms of it.

1 Q You also stated that you had been buying up some
2 contracts. Do you have it in mind that when you buy up a
3 contract for which water has never been purchased, that you
4 have a right to place that water upon land that has never
5 before been irrigated?

6 A Let me say that a number--

7 COMMISSIONER ESHLEMAN. Well, the only relevant answer to
8 that question is have you bought up the contracts that were
9 applied to land where water had not been delivered, and have
10 you delivered water any place else under such contracts?

11 A All I can say is a number of people had not paid
12 their assessments. I don't know whether they had taken the
13 water or not, and some of them came in and said, We don't con-
14 sider our contract worth anything, and if you will cancel
15 this so-called contract, why, we will call it off.

16 COMMISSIONER ESHLEMAN. Answer Mr. Harris's question direct,
17 whether or not you have taken any of these contracts where the
18 water was not used and have applied the water to any such
19 place since?

20 A No, we have never applied the water since taking
21 back the contracts.

22 Q MR HARRIS. Is it your intention to apply the water
23 to these tracts that have the water?

24 A No, As I told you in the first place, we have
25 never sold a water right since we have got the system, and
26 we have only furnished water where houses are constructed, for
27 domestic purposes.

28 Q Do you think it would be fair for you to pay \$150,000
29 for this system and then, as your engineers have estimated,

1 draw out 8 percent on \$800,000?

2 MR SWEET. Oh, I object to that.

3 COMMISSIONER ESHLEMAN. He may answer the question.

4 A I am glad to answer it. I can simply say this, that
5 the cost of our system today is nearly \$300,000 instead of
6 \$150,000.

7 Q MR HARRIS. And all you ask is interest on that?

8 A And we have asked the Railroad Commission to determine
9 its value and establish a rate that will warrant us in putting
10 a a million and a half to two million more into this system,
11 if necessary, to develop it.

12 Q What was the reservoir at Murray Hill constructed for?

13 A Primarily to protect the domestic water supply at the
14 city of La Mesa, Spring Valley and Lemon Grove.

15 Q And what secondary? To irrigate Mr. Murray's land?

16 A No, sir, we have never taken a drop out of it to
17 irrigate Mr. Murray's land. We have never taken a drop out.

18 Q Have you any contract with the parties who for-
19 merly owned the contract for water to Normal Heights and
20 Kensington Park by which you agreed to furnish water at a fixed
21 rate for all that district?

22 A I suppose you refer to the Normal Heights system?

23 Q Yes, sir.

24 A That agreement calls for a fixed rate for water sub-
25 ject to any change by the Railroad Commission. The Normal
26 Heights people own some so-called water right contracts, and
27 they wanted us to get rid of the--wanted us to take over their
28 system which they had built, and we furnish the water direct
29 to the consumers, which we did.

1 Q What is, in other words, Mr. Fletcher, when you and
2 Mr. Murray bought this system, you bought it subject to certain
3 claims to water by the original parties who platted Normal
4 Heights, did you not?

5 A My understanding is that Normal Heights had certain
6 so-called water rights, yes, sir; and there was a lemon
7 orchard near that section and they dug out the lemon orchard
8 and subdivided the lands and furnished the water under these
9 contracts so-called. But at some later date, before we took
10 possession, I think they changed that around to a little dif-
11 ferent contract of some kind, but Mr. Matthews and the books are
12 the best evidence. They will be introduced, and the whole mat-
13 ter will be brought out.

14 COMMISSIONER ESHLEMAN. Murray & Fletcher have a contract
15 with these Normal Heights people?

16 MR HARRIS. I want to make it clear that there is a con-
17 tract between Murray and Fletcher.

18 COMMISSIONER ESHLEMAN. We will have the contracts pro-
19 duced and introduced.

20 A Everything that we have we will be glad to furnish.

21 COMMISSIONER ESHLEMAN. When Mr. Matthews is on the stand,
22 you can interrogate him concerning that contract, the contract
23 made by Murray & Fletcher with the people who plotted Normal
24 Heights and laid out that section, wherein they show obliga-
25 tions under that contract. All contracts will be introduced
26 in evidence.

27 MR HARRIS. That is what we want.

28 COMMISSIONER ESHLEMAN You make that your business, Mr.
29 Harris, and call that to my attention when Mr. Matthews is on the

1 stand.

2 MR HARRIS. Yes; we want that contract.

3 COMMISSIONER ESHLEMAN. When Mr. Mattheve is on the stand,
4 you call for it.

5 MR HARRIS. Do you think, Mr. Fletcher, that Normal Heights
6 should pay 25 cents per thousand gallons for water and La Mesa
7 about 5 cents, as I understand is being done at the present
8 time?

9 A There are so many inconsistencies and different
10 rates--so many of them, and they are all inconsistent today,
11 that that is why we have appealed to the Commission and asked
12 them to establish rates. I certainly don't believe that one
13 man should furnish water at 5 cents a thousand gallons and
14 another man charged 25 cents.

15 Q Are you demanding that the people at Normal Heights
16 pay for the meters that are being installed there at the present
17 time by your company?

18 A We felt that the--

19 COMMISSIONER ESHLEMAN. Well, you can answer that.

20 A We did, yes; We asked that they pay for the meters.

21 MR HARRIS Q Do you still demand that?

22 A We are waiting a ruling of the Commission. It is
23 held up in abeyance.

24 Q Do you think it would be fair and just for this Com-
25 mission to order set aside annually a sum equal to one-
26 twenty-fifth of the value of this system, in the light of the
27 testimony of some of your engineers, that a good portion of
28 the system is a permanent structure and will be liable to
29 endure for 200 or 250 years?

1 A I don't know. I am right up in the air. I want 668
2 to pass it up to someone better in authority.

3 Q you would be willing to take it if it was given to
4 you, notwithstanding the great needs of San Diego and vicinity?
5 What are you going to do with the land at Cuyamaca outside of
6 the fence?

7 A I hadn't made any plans. There is about a thousand
8 acres in the dam sight. Included in the fence are 950 acres,
9 I think. And that only means about 600 acres scattered around
10 the lake. It really is needed in our drainage purposes. He
11 just happen to own it.

12 Q Are you and Mr. Detrick in your subdivision scheme
13 there selling out sites for summer houses or outing residences?

14 A yes, sir. That is 5 miles away.

15 Q Is this land outside of the dam suitable for summer
16 residences and outing locations, the same as the land you are
17 selling?

18 A Part of it is and part of it is not.

19 Q Do you propose to sell any of it for that purpose?

20 A I have made no plans.

21 Q What was the value placed on this land for taxation
22 in 1911?

23 A Mr. Matthews will answer that. He can give you that
24 information.

25 Q In your expense account that you have attached to
26 your complaint, you have an item of general expense amounting
27 to \$22,733.25 for last year. Can you tell us some of the items
28 that compose that?

29 A Mr. Matthews can and will produce the vouchers for

1 every cent paid out.

2 Q Will he also produce vouchers showing what these other
3 large sums consisted of?

4 A Yes, sir; the Commission has had complete possession
5 of all of our records and books for the last month or two.

6 MR HARRIS. That is all.

7 BY MR HUNTSBERGER.

8 Q Mr Fletcher, do you or Mr Murray own any land below
9 the diverting dam along the San Diego river, riparian to it?

10 A No, sir.

11 Q Have you any under option?

12 A I have not; I don't know what Mr. Murray has.

13 Q You are representing him in regard to his property
14 as agent, are you not?

15 A Some of his properties.

16 Q Your property in this county. In your appraisal you
17 said you had made surveys and acquired lands to develop the
18 system?

19 A Yes.

20 Q You have acquired no lands below the diverting dam?

21 A No. My opinion is that the waters should be conserv-
22 ed in the mountains in the winter.

23 Q I wanted to know whether it was your intention to
24 pump any below the diverting dam?

25 A It never has been considered. Of course, it has
26 been talked of in a general way along with other things, but
27 the recommendation of our engineer, and my own opinion coincide,
28 that the water should be conserved in the mountains in the
29 winter and let down in the summer.

1 Q you have sent engineers to investigate the water
2 bearing sands below the diverting dam?

3 A Yes, sir.

4 Q For what purpose?

5 A Because the Commission desired it in the first place,
6 and because, as a matter of fact, we are paying the United
7 States Government, and they are making all the records of the
8 levels of water from the diverting dam down to the ocean, and
9 we are doing it for this purpose so we can show conclusively
10 that any water that flows below the dam and comes in below the
11 diverting dam absolutely does not affect the riparian owners
12 below. We want to be in a position to show that, that when
13 we build these dams in the mountains, that none of them will
14 be injured.

15 Q In other words, that the run-off will be sufficient
16 to supply your system without injuring them?

17 A Yes, sir. There is 106 miles of watershed above
18 the Lakeside land.

19 Q By building storage dams, you simply increase the
20 impounded water; some of them are now impounded in natural
21 lakes or basins; and to add storage dams you simply add to
22 the stored water?

23 A Yes, sir; we want to stop the flood water that goes
24 out into the ocean.

25 Q How much of those flood waters is it your idea or in-
26 tention of stopping and impounding?

27 A Mr. Post says, and the records of Mr. Lee shows that
28 there is about four times as much water goes over the diverting
29 dam as is diverted. Mr. Post's estimate, and the one that I go

1 on, is the one which shows that we can get double or treble our
2 supply of water by the building of these reservoirs above the
3 diverting dam, and yet not take all the flood waters.

4 Q Let me ask whether it is the purpose to build storage
5 dams so large as to absorb or appropriate all of that flow
6 for a period of years before any runs over?

7 A It is not our intention to; it costs too much
8 money, and conditions don't warrant putting in that much money
9 at the present time. I want to say this, that Mr. Matthews
10 will introduce evidence, and the actual records will show that
11 we furnished in the last 12 years 75 per cent of the full sup-
12 ply of gravity water, and to that is ^{to be} added about 7 per cent
13 of pumped water, so we furnished over 80 per cent of the water
14 demanded under our system, which no other system in San Diego
15 County did during that period.

16 Q By 75 percent of the gravity water, I understand
17 you to mean of the total run-off.

18 A 75 percent of all the demands on us.

19 Q Not of the total run-off?

20 A No, 75 percent of all the demands made on us by our
21 consumers was delivered during the 12 years. And in addition
22 to that, that has to be increased by the pumped water, which
23 was not taken into consideration, so that we actually furnished
24 our consumers over 80 per cent of their demands, and while we
25 have not the records during the 12 years preceding that, I
26 understand that they furnished a full supply during those
27 12 years, so really for the last 24 years we have delivered 90
28 percent of the demands made by our consumers on our system.

29 MR HUNTSBERGER. I think that is all.

1 BY MR HAINES.

2 Q I believe you say there was an expenditure of \$10,000
3 for a pipe line to Kensington?

4 A Kensington and Normal Heights. I think that is
5 about right. It is either ten or eleven thousand.

6 Q Are you supplying any lands there that are not cover-
7 ed by water rights?

8 A Furnishing just to the domestic use.

9 Q That is to say, you are extending beyond the present
10 use?

11 A No, just replacing the old pipes.

12 Q Are you confining your supply to those places that
13 are covered by old contracts?

14 A I think so. Mr. Matthews can answer the question.
15 We are not extending the system; we are putting the pipes right
16 down where they were before, to replace the old ~~lines~~ pipe
17 lines.

18 Q Are you confining the distribution of domestic
19 water to a region covered by the contracts?

20 A Yes, sir.

21 Q Who laid out this Kensington Park?

22 A Well, I will have to qualify that. I was thinking
23 of Normal Heights at that time. Kensington Park is a new
24 piece of land which we have furnished with water for domestic
25 purposes. Twenty-five or thirty houses; but Normal Heights was
26 originally, my understanding is, the old Gay place, and with
27 certain water right contracts upon it, and it has been sub-
28 divided; but there is some new land at Kensington Park that
29 we have given water for domestic purposes alone, which was not

1 included in any so-called water right contracts.

2 Q How much of that territory do you propose to supply
3 with this \$10,000 pipe line?

4 A Well, there is only 40 acres in that tract.

5 Q That is laid out adjoining San Diego?

6 A Yes, adjoining San Diego right on the city limits.

7 Q And it is laid out in lots?

8 A Yes, sir.

9 Q And this pipe line was built to supply that?

10 A The Kensington Park people built their own pipe
11 line out there originally from our main.

12 Q You didn't put in \$10,000 for it?

13 A No, we didn't put in anything. It was something new.

14 Q You say you put in \$10,000?

15 A Yes.

16 Q To supply the domestic supply there?

17 A Yes; a part of that \$10,000 is to replace old mains
18 on El Cajon avenue.

19 Q Who owned that?

20 A The Flume Company owned that, and then Mr. Murray.

21 Q What did that supply?

22 A That supplied the so-called water contract rights
23 clear to the city limits on both sides of El Cajon avenue
24 going down, so that is the new main or a part of it.

25 Q Now, this extension, so far as it supplies this Ken-
26 sington Park, it ^{is} really an extension of the domestic supply
27 above the contracts?

28 A No, it is not.

29 Q Why not?

1 A I was just telling you that they put in--

2 Q No, no. I am speaking of Kensington Park.

3 A The Kensington Park is outside of the so-called
4 water right contracts.

5 Q And you are getting howmuch a thousand gallons?

6 A Twenty-five cents from the twenty or thirty houses
7 there.

8 Q Was that done in deference to the tendency to
9 expend domestic supply at the expense of irrigation?

10 A The facts exist as they are that the houses were
11 built and they wanted water, and we let them have a domestic
12 supply.

13 Q And that tendency is still in force?

14 A It is not a tendency. As long as we are furnishing
15 water, we will furnish it to any one that has a house and
16 wants to use it for domestic purposes.

17 MR HARRIS. This \$10,000, as I understand it, was not
18 expended at the time this complaint was filed, and that is the
19 reason it is not asked to be considered by the Commission;
20 is that correct?

21 A We put in about a thousand dollars into meters, and
22 we put in this money for this distributing system, and it is
23 not included in our statement which only goes up to June 1,
24 1912.

25 Q In other words, it is since this complaint was filed?

26 A Yes.

27 Q Now, one other question. Will you also produce
28 the contract with City Heights or the Columbia Realty Company
29 with City Heights?

Ed Fletcher Papers

1870-1955

MSS.81

Box: 57 Folder: 4

**Business Records - Water Companies - Cuyamaca
Water Company - State Railroad Commission -
Application #118, Decision #2529, to raise rates**



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