

Murray  
[1915]

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of City of San Diego, an incorporated city, for an order of the Railroad Commission fixing and determining the just compensation to be paid to James A. Murray, Ed Fletcher and William G. Henshaw, co-partners doing a public utility water business under the firm name and style of Cuyamaca Water Company, for their lands, property and rights.

DECISION NO. 2527

APPLICATION NO. 1482.

PETITION FOR REHEARING.

Your petitioners, James A. Murray, Ed. Fletcher and Wm. G. Henshaw, co-partners doing a public Utility water business under the firm name and style of Cuyamaca Water Company respectfully petition the Honorable Railroad Commission of the State of California that the opinion and findings of fact in the above entitled matter be set aside and that a rehearing of said matter be granted your petitioners.

1. In and by said opinion and findings the value of property described and set out in the exhibit attached to the findings and made a part thereof and marked Exhibit No. 1 is valued at \$745,000 and that sum is fixed as the just compensation to be paid for said property by the City of San Diego. The property so set out and described in Exhibit No. 1 is the identical property involved in Decision No. 2531 in Application No. 1432 and the value fixed in the findings herein is the same as that fixed in said Decision No. 2531. Your petitioners have this day filed a petition for a rehearing in said Application No. 1432 wherein the grounds upon which said rehearing is asked for are fully set out. Inasmuch as the values found in said Application No. 1432 and in the opinion and findings in this case are identical and cover the same property it would seem

idle to repeat here the grounds, arguments and authorities set out in the petition for rehearing in Application No. 1423. Petitioners therefore hereby refer to said petition for a rehearing in said Application No. 1432 and hereby make the same a part hereof and base this petition for a rehearing so far as the just compensation fixed in the first finding upon the property described in said Exhibit No. 1 is concerned upon the grounds, arguments and authorities set out in said petition for a rehearing in said Application No. 1432.

2. As to the properties described in Exhibit No. 2 attached to said findings and upon which the just compensation to be paid by the city of San Diego is fixed at \$644,669, and the severance damage at \$32,966.12, making a total of \$677,635.12 your petitioners respectfully submit that the amount fixed as such compensation is entirely inadequate and unfair to your petitioners.

The opinion accompanying said findings says: "The dismemberment of the system of the Cuyamaca Company as contemplated in this second schedule of properties will leave the properties remaining in the ownership of the Cuyamaca Company of considerable less value than their value as a portion of the Company's entire system. In fact, certain of these properties, if segregated from the remaining portions will have no value whatsoever."

A very brief consideration of the items mentioned in Exhibit No. 2 attached to the opinion and findings in this matter will, we believe, serve to demonstrate that not only will "certain of these properties" if segregated from the system but practically all of the properties "have no value" whatsoever and that the consideration of \$664,669, plus \$32,966.12 for severance value, or a total of \$677,635.12 fixed as the consideration to be paid by the City of San Diego for the portion of the property described in said Exhibit No. 2 is not only utterly inadequate of itself but is absolutely insufficient when compared with the consideration of \$745,000 fixed as

the price for the whole system.

Items Nos. 1, 2, 3, 24 and 30 include certain reservoir and reservoir sites which are of value as a part of the entire system but which when severed from the system have no value at all except the value of the land covered by such reservoirs and reservoir sites. If the balance of the system is taken away from them, they will have not only no water in the reservoirs but no consumers to take the water even if such water were available.

One of these reservoir sites, to-wit: The Poverty Gulch Reservoir site, mentioned in item No. 1, is rough mountain land valuable only when used as a part of the entire system, but of no value except the mere value of the land if standing alone. This site contains 120 acres, and the valuation claimed for it by the Company was \$1450.

The Webster Reservoir site mentioned in Item No. 2 contains 14/100ths of an acre, valued at \$79.

Miles No. 1 Reservoir Site mentioned in Item No. 3 contains 3 and 42/100ths of an acre, valued at \$250.

The Miles Reservoir No. 2 mentioned in Item No. 24 was valued \$715.

The Webster Reservoir mentioned in Item No. 3 was valued by the Railroad Commission's engineers at \$248.

Items Nos. 4, 10, 11 and 20 described certain permits which were obtained by these petitioners in connection with the development of their entire system.

Item No. 4 described a permit issued by the Forestry Service for a canal upon Boulder Creek. This canal was to be built in connection with the development of the waters of Boulder Creek and of the Boulder Creek power project. If the rest of the system is taken away from these petitioners they certainly can not go on

with this development and the permit becomes absolutely valueless.

Item No. 10 is a permit for the use of public lands for reservoir purposes in Howenty Gulch Reservoir site. This reservoir site is only valuable in connection with the development of the whole system, and standing alone the permit has no value whatsoever.

Item No. 11 is a permit to occupy lands within the El Capitan Indian Reservation for pumping purposes. If the rest of the system is taken away from petitioners, they certainly would have no occasion to pump water in El Capitan Indian Reservation and the permit would become absolutely valueless.

Item No. 20 is a permit from the State Water Commission for appropriation of water for power purposes on Boulder Creek. With the rest of the system taken away these petitioners could never make any use whatsoever of this permit and the same would become valueless.

Item Nos. 5 and 9 describe certain applications for permits.

Item No. 5 is an application to the Forestry Service for final power permit on Boulder Creek.

Item No. 9 is an application for the use of public lands in connection with Conejos Reservoir.

Neither of these applications standing alone and without the possibility of using them in connection with the rest of the system have no value whatsoever.

Items Nos. 6, 7, 8 and 12 describe certain rights of way for flume and pipe lines. Without the rest of the system petitioners would have no possible use for these rights of way and left on their hands the same would be of no value whatsoever.

Item No. 13 describes the distributing system in the City of El Cajon, partly installed and partly under construction. The cost of the pipe in this system is \$4,028. With the rest of the system taken away from these petitioners the distribution system in El Cajon would become of no value for there would be no water to put through the system. The pipe, if dug out, might be sold for something, but certainly the entire system so left would not be worth to these petitioners more than the cost of the pipe and probably they could not realize from it even that sum.

Item No. 14 is the Grossmont tract system, consisting of two reservoirs and distributing lines. This Grossmont system is given a present value of \$6,712 by the engineers of the Railroad Commission. This value, however, is a value placed upon it in connection with the rest of the Cuyamaca Water System. If this Grossmont system were severed from the rest of the water system, it would be absolutely valueless.

Item No. 15 and Item No. 16 describe two water systems, being the Murray Hill pipe system and the Hawley Heights water system. In this connection we desire to call the attention of the Commission to the fact that all of the pipe included in Item No. 16, and being the Hawley Heights system, and a great part of the pipe included in Item No. 15, being the Murray Hill pipe system, are also included in Item No. 18. The Commission's engineers place a value of \$1056 on all the Murray Hill pipe system and as all of the pipe in the Hawley Heights water system is included in Item No. 18, no separate valuation is given to that. If both of these pipe systems, however, were severed from the rest of the water system, they would have little value.

Item No. 17 described approximately 8,000 feet wood stave

pipe supplying North La Mesa. The Commission's engineers give this pipe a probable value of \$1469. Severed from the rest of the system, however, the pipe would have no value as nothing could be realized from it if the same were dug up.

Item No. 18 describes a large amount of pipe now laid in the main distribution system of the Company. If the rest of the system were taken away from petitioners they would have no use for this pipe, and the pipe if taken out of the ground could not be sold for enough to pay for the cost of taking it up. Therefore all of this pipe would be an added loss to your petitioners, if the rest of the system were taken and this pipe was left on their hands.

Item No. 19 included wagons and tools, which are probably worth, in connection with the rest of the system, \$6,000. Petitioners, however, would have no use for these wagons and tools if the rest of the system were taken away from them and they could only be sold and disposed of as second hand property.

Items Nos. 21 and 22 are two pumping plants, numbered respectively pumping plants Nos. 4 and 5.

The Railroad Commission's engineers give a present value of \$537 for pumping plant No. 4, and \$1196 for pumping plant No. 5.

Item No. 23 is the Grossmont pumping station, which the engineers of the Railroad Commission give a present value of \$1725.

Items Nos. 25 and 26 are two measuring stations, one below the diverting dam and one at the Old Mission dam. These measuring stations are used in connection with the data which the Company is collecting in reference to water for use in connection with the system, and severed from the system they are valueless.

Item No. 27 is Boulder Weir. If the rest of the system is taken this weir becomes of no value at all to petitioners.

Item No. 28 is the Sand Creek cement shed used for storing material in connection with water at Sand Creek. Standing alone, severed from the system, it would be of no value to petitioners.

Item No. 29 is certain meteorological apparatus which is valued by the Commission's engineers at \$229.

Item No. 31 is the South Fork cook shack. This shack is only of use in connection with the work of the Company at South Fork and if it were left on the Company's hands, severed from the rest of the system, would have no value whatsoever.

The price fixed in the finding for the whole system as heretofore pointed out is \$745,000. The price fixed for the portion of the system described in Exhibit No. 2 plus severance value is \$677,735.12, or \$67,364.88 less than the price found for the whole system.

Excluding the items described in Exhibit No. 2 which have no possible value at all to these petitioners, and allowing to the other items which might have some value the values of the physical properties fixed by the Railroad Commission's engineers and on the lands by the Cuyamaca Company itself, gives a total value of property left of \$23,979. In other words, under the finding as to a portion of the property your petitioners lose \$43,385.88. That is to say, if the decision shall stand and the city of San Diego shall elect to leave in the hands of petitioners the properties described in Exhibit No. 2, your petitioners would actually be \$43,385.88 worse off than if the City elected to take all of the properties belonging to their water system, at the valuation fixed for the system as a whole.

It is respectfully submitted that your petitioners should not be compelled to lose over \$43,000 by reason of the fact that the city elects only to take a part of the property rather than the whole of it, and yet that is the result which will follow if the

opinion and findings in this matter are allowed to stand. As a matter of fact the loss will be considerably more than that because many of the properties which had the values placed upon them by the Railroad Commission's engineers in connection with the whole system would be worth very much less than that if severed from the system. We believe it is safe to say that the result of this opinion and findings in this case would be that if the City of San Diego elects to take only a part of the system your petitioners would be considerably over \$50,000 worse off than if the city should elect to take the whole system at what we believe to be an utterly inadequate value of \$745,000 placed upon the system as a whole by findings in this matter.

It is respectfully submitted that such a result is entirely unfair and unjust to these petitioners and that a rehearing of this matter should be granted.

Respectfully submitted,

James A. Murray  
Wm. G. Henshaw  
Ed. Fletcher  
Petitioners.

Sweet, Stearns & Forward  
Attorneys for Petitioners.



**Ed Fletcher Papers**

**1870-1955**

**MSS.81**

**Box: 58 Folder: 3**

**Business Records - Water Companies - Cuyamaca Water Company - State Railroad Commission - Application #1482, Decision #2527. regarding just compensation to Murray and Fletcher for their Cuyamaca properties**



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