

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 2279

In the matter of the application of MARIN MUNICIPAL WATER DISTRICT, a municipal water district, for an order of the Railroad Commission fixing and determining the just compensation to be paid to MARIN WATER AND POWER COMPANY, a public utility, for its lands, property and rights.

Application No. 1141.

ORIGINAL

George H. Harlan and Curtis E. Lindley  
for Marin Municipal Water District.  
Joseph Haber, Jr., and Jared How  
for Marin Water and Power Company.

THELLEN, Commissioner.

O P I N I O N.

This is a proceeding to fix and determine the just compensation to be paid by Marin Municipal Water District for the lands, property and rights of Marin Water and Power Company, a public utility engaged in the business of selling water for domestic, municipal and irrigation purposes in the southern portion of Marin county. This proceeding is brought under the provisions of Section 47 of the Public Utilities Act. This section is too long to be set out here in full. It provides, in part, that any municipal water district may file with the Railroad Commission a petition setting forth the intention of the district to acquire under eminent domain proceedings, or otherwise, any existing public utility, and the lands, property and rights of any character whatsoever connected with such existing public utility, or any part of portion thereof; that said petition shall give a full and complete description of the property which it is intended to acquire; that the Railroad Commission shall thereupon proceed to fix and determine the just compensation that should be paid to the owner of the public utility for the lands, property and rights thereof, or any part of portion

thereof, in the manner and in accordance with the provisions of Section 70 of the Public Utilities Act; that the compensation fixed by the Railroad Commission in such proceeding shall be conclusive upon any court in which a proceeding for condemnation may be thereafter brought; that the Railroad Commission's findings shall be subject to review by the Supreme Court of this State in the same manner and within the same time as other orders and decisions of the Railroad Commission; and that if the Supreme Court shall decide that in any manner the Commission has not lawfully pursued its power, the Court shall make its findings and refer the matter back to the Railroad Commission for correction or further action.

The procedure to be followed in such proceeding is set forth in Section 70 of the Public Utilities Act.

On November 3, 1914, the people of California added to their Constitution a new section, to be known as Section 23 (a) of Article XII, and reading as follows:

"The Railroad Commission shall have and exercise such power and jurisdiction as shall be conferred upon it by the Legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the state or any county, city and county, incorporated city or town, or municipal water district, and the right of the Legislature to confer such powers upon the Railroad Commission is hereby declared to be plenary and to be unlimited by any provision of this Constitution. All acts of the Legislature heretofore adopted, which are in accordance herewith, are hereby confirmed and declared valid."

While it was probably unnecessary to enact this constitutional provision, its effect is to remove all possible doubt concerning the validity of Sections 47 and 70 of the Public Utilities Act, at least in so far as the Constitution of California is concerned.

The petition filed by Marin Municipal Water District, hereinafter referred to as the Water District, alleges, in effect, that the Water District is a public corporation organized under the act of May 1, 1911, providing for the incorporation and organization and management of municipal water districts, and the amendatory act of December 24, 1911; that the boundaries of the

Water District are as specifically set forth in the petition; that Marin Water and Power Company, hereinafter referred to as the Water Company, has at all times been a corporation organized and doing business under the laws of California, and engaged in the supply of water for domestic, culinary and other purposes, to inhabitants of Marin county within the boundaries of the Water District as now organized; that the Water Company owns and is in possession of certain franchises, water rights, rights of way, easements, reservoirs, tunnels, water pipes, water mains and distributing plant, water system and other property within the boundaries of the Water District, and used or intended to be used by the Water Company in the conduct of its business as a public utility; that attached to the petition and marked "Schedule A" is a full and complete description of the lands, property and rights of the Water Company which the Water District intends to acquire under eminent domain proceedings; that the board of directors of the Water District duly passed a resolution declaring the intention of the Water District to acquire under eminent domain proceedings the Water Company and all its lands, property and rights, and authorizing and directing the attorneys for the Water District to prosecute the necessary proceeding before the Railroad Commission; and that it is the Water District's intention to acquire under eminent domain proceedings, or otherwise, the public utility and the lands, property and rights of the Water Company, as set forth in said Schedule A. The Water District thereupon asks the Railroad Commission to fix and determine the just compensation which shall be paid by the Water District for said public utility and its lands, property and rights of way.

During the trial of this proceeding, the Water District filed without objection an amendment to said Schedule A, so as to describe with greater particularity certain of the property of the Water Company.

Public hearings on this application were held in

San Francisco on July 27th, 28th, and 29th, August 19th, 20th, 21st, 22nd, 26th, 27th and 28th, September 4th, 5th, 8th, 10th, 11th, 14th, 15th, 16th, 17th, 18th and 19th, and October 2nd, 1914. Counsel asked permission to file briefs, the Water District's reply brief having been filed on February 4th, 1915. Careful consideration has been given to all the evidence, exhibits and briefs. On April 3, 1915, the Commissioner who heard the evidence made a personal inspection, together with representatives of both parties, of the property of the Water Company sought to be acquired. Thereafter, on April 5th, 1915, the Railroad Commission made its order submitting this proceeding, and it is now ready for decision.

The Water Company supplies water to the municipalities of San Rafael, San Anselmo, Ross and Larkspur and the inhabitants thereof, and to the residents of intervening and adjacent unincorporated territory, and also to the municipal water plant of Sausalito, the State's Prison at San Quentin, the United States Military Post at Fort Baker and the United States Immigration Station at Angel Island.

The Water Company owns water shed lands on the northerly slope of Mt. Tamalpais, on which lands are located two dams and reservoirs, known respectively, as Phoenix Gulch and Lagunitas. From these reservoirs transmission mains lead to two equalizing and distributing reservoirs, known as Forbes Hill Reservoir and Moore Hill Reservoir, from which reservoirs and the Water Company's mains a distributing system takes the water for distribution to the Water Company's customers. The Coleman Reservoir in San Rafael is fed from springs and supplies water to a few houses in San Rafael. The Water Company has extended a main from Corte Madera to the town of Sausalito, where the water is sold to the municipality for distribution in the municipal water system, and also to Northwestern Pacific Railroad Company. The Sausalito pipe line has been extended to the entrance of the United States Military post at Ft. Baker, where

the Federal government has tapped the pipe for the purpose of carrying water inside the Reservation gate. Water from this main is also transported by the Federal government to Angel Island by barge. The Water Company also owns a tract of land located below the Lagunitas Reservoir tract, and known as Lagunitas Dairy Tract, on which tract the Water Company expects hereafter to construct a dam and reservoir, to be known as the Bon Tempe or Samalpais Reservoir. The Water Company also owns riparian rights on the lower portions of Lagunitas and Paper Mill Creeks, which rights have never been used, but which the Water Company claims are of value in connection with the possible construction hereafter of a dam at San Geronimo. The Water Company also owns certain other property which is in part used and in part not used at the present time in the service of water to the public. A full description of the Water Company's property will be found in Schedule A of the petition herein, as amended, and also in "Exhibit A" attached to and made a part of the findings herein.

Counsel for the Water Company make the preliminary objection that the statutory provisions under which these proceedings were brought are unconstitutional on the ground that they deny to the Water Company due process of law. This Commission must assume that the constitutional and statutory provisions under which it acts are valid. If any of them are to be declared invalid, this must be done by the courts and not by this Commission. If this Commission were called upon to decide this question, on the arguments as presented by counsel, we would say without hesitation that there is no merit in these contentions..

Before proceeding to discuss in detail the problems presented by this application, I shall rule on two motions made by counsel for the Water Company, on which motions a ruling was deferred.

Counsel for the Water Company objected to the consider-

ation of the testimony and exhibits of Edwin Duryea, Jr., a witness for the Water District, for any purpose other than as specified in the objection. This objection will be sustained and the consideration of the testimony and exhibits of this witness will be limited as thus specified.

Counsel for the Water Company also moved to strike out the entire testimony and exhibits of W. M. Wells, a witness ~~xxxxx~~ called by the Railroad Commission. Mr. Wells presented testimony concerning the value of the Water Company's lands. The motion made no segregation as between the facts testified to by Mr. Wells and his opinions, but was an omnibus motion directed to his entire testimony and exhibits. No objection was made until Mr. Wells had completed his entire testimony, at which time counsel for the Water Company made their motion, specifying a number of grounds of objection. The principal grounds, and the only ones which it is necessary to consider, are as follows:

1. That the witness was not qualified to testify.
2. That the witness was called by the Railroad Commission.
3. That the theory on which the witness testified differed from that presented by the witnesses for the Water Company and for the Water District.

Counsel for the Water Company contend, in the first instance, that Mr. Wells was not competent to testify concerning land values in Marin county for the reason that he has not been a dealer in real estate in that county, and does not bring himself within counsel's definition of an expert. As I understand the law, it is not necessary that a witness testifying concerning land values shall have been engaged in the real estate business or that he shall be a so-called expert in the strict sense of the term. As was said by the late Judge De Haven in Spring Valley Water Works vs. Drinkhouse, 92 Cal. 528, 534.

"All that it is necessary to be shown to entitle a witness to give an opinion is that he has some peculiar means of forming an intelligent judgment as to the value of the property in question, or the effect of a particular improvement, beyond what is presumed to be possessed by men generally."

So, too, it is said in Lewis -- Eminent Domain, Third Edition, Section 654, that a witness may testify concerning land values if the court can see that the witness has some peculiar advantage in forming a correct opinion. The author continues that it is not necessary that the witness should have been engaged in the real estate business. To the same effect see: City of Santa Ana vs. Harlin, 99 Cal. 538, 545; San Diego Land and Town Co. vs. Neale, 78 Cal. 63, 76; Reed vs. Drais, 67 Cal. 491, 493. The rule is the same in other leading jurisdictions. See Shattuck vs. Stoneham Branch Railroad, a Massachusetts case, reported in 6 Allen 115, 117; Robertson vs. Knapp, 45 N.Y. 91; Pennsylvania & New York Railroad and Canal Co. vs. Bunnell, 81 Pa. St. 414, 426; and Leroy and W. Ry Co. vs. Hawk, 39 Kans. 638, 18 Pac. 943.

The question as to who is competent to give an opinion concerning land values is generally left to the discretion of the trial judge. Lewis -- Eminent Domain, Third Edition, Section 654. A very recent case in which the principle was strikingly applied in California is Vallejo and Northern Railroad Company vs. Reed Orchard Co., et al., decided on March 5, 1915. In this case, the Court first quotes Section 4 (a) of Article VI of the Constitution of California, as amended on November 3, 1914, as follows:

"No judgment shall be set aside, or new trial granted, in any case, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice."

The court then referred to the action of the court below in refusing to receive the evidence of a witness named Johnson,

who was presented by the defendant, and who was not permitted to testify concerning the value of certain land, although other witnesses called for the plaintiff and having qualifications apparently not very different from those of Mr. Johnson, were allowed to testify. The appellant contended that the court below must have been in error either in receiving the testimony of the witnesses for the plaintiff or in rejecting the testimony of the witness Johnson for the defendant. The Supreme Court of California, however, after a careful analysis, sustained the action of the court below in both respects. In discussing this general question, the court said:

"The question whether or not a witness is qualified to give his opinion, as evidence upon a matter in issue, is submitted to the trial judge in the first instance, and is to be determined by him before such opinion may be given. (Fairhawk vs. Hushon, 58 Cal. 314) It is, in itself, in the nature of a trial of a question of fact, by evidence addressed to the judge alone, and, as in other decisions on questions of fact by a trial court, his ruling thereon is a matter of discretion and will not be overturned on appeal unless there is an actual want of evidence to support it or a clear abuse of discretion in ruling upon the evidence given on the subject. (Howland vs. Oakland, etc. Co., 110 Cal. 513, 521; Mabry vs. Randolph, 7 Cal. App. 427) If there is any substantial evidence to sustain the ruling, the exception thereto will be disallowed. (Conness vs. Commonwealth, 184 Mass. 544; Klaus vs. Commonwealth, 188 Mass. 152; Omaha, etc. Co. vs. Douglass Co., 62 Neb. 7; 1 Wismore - Evidence, 16th edition, Section 430f; 2 Elliott - Evidence, Section 1036, 1037; 17 Cyc 317"

After referring to the qualifications of the witness Johnson, the court then continues as follows:

"It may be admitted that if the court had decided the other way, the decision would in like manner be sustained, but we must sustain the decision unless an abuse of discretion appears and we cannot say that it is here shown."

The testimony here shows that the witness Wells received a degree as civil engineer from the University of Washington; that he was formerly employed by the Railroad Commission of Oregon and that he had charge of the valuation of all the lands and terminal grounds of the steam railroads of Oregon; that he has, since January, 1912, been continuously employed by the Railroad Commission of California in valuing the real estate of various



classes of public utilities in this state; that he has valued a considerable portion of the real estate of the steam railroads of California, including property worth about six million dollars in the San Francisco Bay region; and that he has also in certain instances investigated the actual cost and the value of the real property of certain electrical and water companies, including the lands and waters used in generating hydro-electric energy by Pacific Gas & Electric Company. The exhibits offered by him in this proceeding show that he made a most careful investigation into the recent sales of land, both with and without water rights, in southern Marin county, and they present to this Commission a record of numerous recent transactions involving land values in the vicinity of the property of the Water Company, in addition to the transactions referred to by any other witness on land values. The testimony of witness Wells and the exhibits prepared by him show that he is carefully trained in the ascertainment of land values and that he has peculiar means of forming an intelligent judgment concerning the value of real estate in addition to that possessed by most men. What counsel have said concerning the testimony of this witness, will, of course, be carefully considered in determining the weight to be given to his testimony, but the motion that his entire testimony and exhibits be stricken out on the ground that he was not qualified to testify will be denied.

Counsel next moved to strike out the testimony of the witness Wells on the ground that he is an employee of the Railroad Commission and was instructed by the Commissioner conducting the hearing to prepare and present a report on the value of the lands of the Water Company. Counsel contend, first, that witnesses are naturally biased in favor of the party calling them. If this is true, the witnesses for the Water Company in this proceeding were naturally biased in favor of the Water Company and the

witnesses for the Water District were biased in favor of the District. The witness Wells, however, was not called by the Water Company or by the Water District. He was called by the Railroad Commission, representing the State of California, which has no interest in this matter other than to see ~~for~~ that exact justice is meted out as between the contending parties appearing before it. If the contention of counsel in this respect is true, there is all the more reason why the Railroad Commission should have the power to call witnesses who are not biased in favor of either contending party. Counsel further argued that the Railroad Commission in this proceeding sits as a court or jury, and that neither court nor jury in an ordinary condemnation suit has any power to call a witness. In other words, the contention is that the witnesses called by both sides are naturally biased but that the tribunal charged with the administration of justice in this case is precluded from calling witnesses who owe their sole allegiance to the State of California and who are presumed to be fair and impartial as between the contending parties. If this contention prevails and the Railroad Commission is to be precluded in cases of this kind from calling its own trained employees, the result will be more to encourage the playing of a game in a certain way than to incur the presentation of the truth to this tribunal.

If this were the law it would be most unfortunate. However, the Supreme Court of California, in Faulkner vs. Joshua Hendy, 79 Cal. 265, clearly intimated that a court does have the right to call witnesses in matters requiring careful or detailed investigation. This is the law in England (Badische Anilin und Soda Fabrik vs. Levinstein, Law Reports, 24 Ch.Div. 156; Mellin vs. Monico, 3 C.P.D. 142,) and quite a number of the states of this Union are now giving consideration to the matter. In O'Donnell vs. Henry Forrest & Company, 44 La. Ann. 845, the Supreme Court of Louisiana sustained the action of the court below in referring certain matters to an investigator to report.

That the courts in this country have the right, at least when authorized by statute, to refer questions to investigators or experts, seems to show conclusively that such procedure does not deny to a party any of his constitutional rights. <sup>ever</sup> What the law may be elsewhere, the Public Utilities Act of this State, passed under the authority of Section 23 of Article XII of the Constitution, and validated, if necessary, with reference to the statutory provisions under which this proceeding is brought, by *here* Section 23 (a) of Article XII of the Constitution, as adopted on November 3, 1914, specifically provides in Section 70 thereof that the Railroad Commission shall have the right in proceedings of this character to ~~not~~ resort to any source of information available. This right certainly includes the right of calling witnesses to testify at hearings, subject, of course, to cross-examination by all sides. It is well known that one of the chief reasons which prompted the amendment to Section 47 of the Public Utilities Act and the submission and adoption of Section 23 (a) of Article XII of the Constitution of this State, was to secure the services in the condemnation of the property of public utilities not only of Commissioners who were supposed to be particularly qualified along these lines, but also of the trained employees of the Commission, who might testify in cases of this character, and thus give to the Commission the very great advantage of having testimony presented not by either party but in behalf of the state, which stands as the impartial arbiter between the owner of the public utility property and the municipality or district which is seeking to acquire it. The evils of professional expert testimony are now the subject of serious consideration by leading judges and lawyers in all parts of the United States and it is unnecessary for me to comment thereof. The motion of counsel for the Water Company, based on these contentions, will likewise be overruled.

Counsel for the Water Company further contend that the testimony and exhibits of the witness Wells should be stricken

out for the reason that the method used by him in ascertaining the value of the lands of the Water Company differs from the method employed by other witnesses. The method employed by Mr. Wells was to give consideration to all the uses to which the land of the Water Company can reasonably be devoted now and in the immediate future, including the use for the catchment and storing of water, and then to assign a value to the land in view of all of these possible uses. Acting under this method, Mr. Wells refused to assign a separate value for any so-called "water rights" in connection with the water shed lands of the Water Company, but gave consideration to the adaptability of the land for the purpose of catching and storing water in giving his opinion on the ultimate question of the fair value of the land. The mere fact that the method used by one witness differs from the method used by all the other witnesses is, of course, no reason for excluding the testimony of the one. He may be correct and all the others may be wrong. Whether Mr. Wells was correct in his method will hereinafter be discussed. The Railroad Commission is certainly entitled to consider his evidence and his methods and then to give to his testimony the weight to which it seems entitled. It goes without saying that the fact that Mr. Wells was called by the Railroad Commission will not result in giving to his testimony any weight in addition to the weight to which it is entitled under the established rules.

The motion to strike out the testimony and exhibits of the witness Wells will be denied.

I shall now pass on to a consideration of the value of the property of the Water Company.

While it will be necessary, for the purpose of analysis, to give consideration to various portions of this property separately, I shall bear in mind that this property is to be acquired as a whole and that the finding on the question of value in this proceeding must be a finding of the value of the entire

lands, property and rights of the Water Company as a unit. The necessity of making this single ultimate finding of value is not only proscribed by Section 47 of the Public Utilities Act but is also in accordance with the decisions elsewhere. As was said in the leading case of Brunswick and Toosham Water District vs. Maine Water Company, 99 Me. 377, 59 Atl. 537, at page 539 of the Reporter:

"There is only one value. It is the value of the structure as being used. That is all there is of it."

See also Norwich Gas & Electric Co. vs. City of Norwich, 76 Conn. 565, 57 Atl. 746, and Matter of Board of Water Commissioners, 71 App. Div. 544, 76 N.Y.S. 11.

The usual inquiry in cases of condemnation is, as stated by Justice Field in the leading case of Boom Company vs. Patterson, 98 U. S. 403, 408,

"What is the property worth in the market, viewed not merely with reference to the uses to which it is at the time applied, but with reference to the uses to which it is plainly adapted, that is to say, what is it worth from its availability for available uses?"

The following authorities further establish the doctrine that the usual inquiry is to ascertain the market value of the property, in view of all the uses to which it is adapted:

United States vs. Chandler - Dunbar Water Power Co.,  
229 U. S. 53.

Sacramento Southern Railroad Co. vs. Heilbron,  
156 Cal. 408.

Kishlar vs. Southern Pacific Railroad Company,  
134 Cal. 636.

City of Santa Ana vs. Harlin, 99 Cal. 538.

San Diego Land and Town Company vs. Neale, 88 Cal. 50.

San Diego Land and Town Company vs. Neale, 78 Cal. 63.

Lewis - Eminent Domain, 3rd Edition, Sec. 706.

It must be perfectly evident, however, as pointed out by counsel of both sides in this proceeding, that ~~the~~ property such as that owned by the Water Company in this proceeding does

not have a market value, in the usual sense in which those words are used. It is not bought and sold on the market like a bushel of wheat, but is a property devoted to a particular use and subject only to occasional sale. This fact was clearly pointed out by Justice Van Fleet in San Diego Water Company vs. City of San Diego, 118 Cal. 556, 568; with reference to a public utility water company in the City of San Diego, as follows:

"The judicial test of market value depends upon the fact that the property in question is marketable at a given price, which in turn depends upon the fact that sales of similar property have been and are being made at ascertainable prices. But such property as this is not so sold, at least, not often enough to furnish a fair criterion; and the very fact of governmental regulation would necessarily control the price. Until the rates are fixed, no one can say how much the property would sell for, and therefore that price cannot be ascertained as a basis for fixing those rates."

As is said by Lewis-Eminent Domain, Third Edition,

Section 706:

"If property has no market value, then it is a question of real or actual value and every fact bearing upon such value may be shown."

Or, in the language of Section 47 of the Public Utilities Act, the problem is to ascertain "the just compensation that should be paid."

For the sake of convenience, I shall consider the property of the Water Company under the following three heads:

- (1) Physical structures.
- (2) Land and water.
- (3) Franchises and going business.

#### 1. PHYSICAL STRUCTURES.

Estimates of the cost to reproduce the physical structures of the Water Company and of the estimated depreciated reproduction value thereof were presented as follows: for the Water Company by J. T. Ryan, of the engineering firm of J. G. White & Company and P. E. Harroun; for the Water District, by J. E. Dockweiler and A. R. Baker, with testimony on certain features affecting the

physical structures by William Malholland; and for the Railroad Commission by R. W. Eawley and H. F. Clark, two of the Commission's hydraulic engineers.

The methods used by these engineers vary in important respects. A detailed discussion of the various points of difference would lead to almost endless refinement and to a decision beyond all reason in point of length. Suffice it to say that I have given careful consideration both at the hearing and subsequent thereto, to the method used by each engineer and to the weight to which his testimony is entitled.

In estimating depreciation, all the engineers used the straight line method, and Mr. Ryan, in addition thereto, also presented an estimate on the sinking fund method. There were important differences as between the engineers with reference to so-called functional depreciation, especially as applied to the Phoenix Gulch Dam and the Lagunitas Dam.

One of the important questions which must be decided in connection with the value of the physical structures is the allowance to be made by reason of the fact that certain of the streets and highways in which the Water Company's mains and pipes are laid are now paved or macadamized. Counsel for the Water Company contend that the Water Company must be allowed the cost of cutting through and replacing all the pavement which now exists, even though the Water Company's mains and pipes were laid in the streets before the pavement was laid, so that the Water Company was not compelled to make any payment with reference to the pavement and was not compelled to undergo the increased expense in laying mains and pipes which obtains when it is necessary to cut through the pavement for the purpose of laying the mains and pipes and thereafter to replace the pavement. Of course, there is no claim made that the Water Company owns any of the pavement. The pavement belongs to the public. Counsel's claim for an allowance

of added value by reason of the existence of the pavement, results from the application of the reproduction <sup>value</sup> theory in one of its branches only, without the consideration of any other element which enters into the fair value of the property. Counsel contend that the Water District must pay what it would cost to duplicate the Water Company's system in its present condition. Whether this claim should be allowed, even under the reproduction theory, depends on whether the existing plant is to be reproduced exactly as it now stands or whether a plant is to be constructed which will hereafter perform the service of the existing plant, even though it may be constructed in another manner. It may well be that if a new plant were being constructed, the mains could to a large extent be laid in unpaved streets or alleys, so as to save a considerable portion of the expense of laying them in paved streets. The chief difficulty, however, with this contention of counsel is the confusion between a particular theory and the ultimate question of the fair value of the property. It seems absurd to say that a water system is of greater value because the streets over its mains are paved. As Mr. Hawley clearly pointed out, a water system has, if anything, a diminished value if the streets in which its mains are laid are paved, both because it will cost more to dig through the pavement and take care of the mains than would otherwise be the case, and because the expense of replacing the mains at the end of their useful life will be greater unless such replacement is made when the pavement has been worn out and it needs replacement. The question of paving over mains illustrates clearly the difficulties into which we run if we confuse the results of a particular theory with the ultimate question of the fair value of the property. I consider that Mr. Hawley is entirely correct in allowing nothing for pavement over mains, in estimating the fair value to be assigned to mains which were placed without the expense of cutting through the pavement.



The decisions of the courts and commissions, while not entirely consistent, in general, favor the view herein expressed. In Consolidated Gas Company vs. Willcox, 157 Fed. 849, the court allowed an increased value to the mains because of the pavement which was installed subsequent to the laying of the mains. The general principles announced by the court with reference to estimated reproduction value new were sustained by the Supreme Court of the United States in 212 U. S. 19, but nothing was said in the opinion with reference to the particular question of pavement over mains. On the other hand, the Supreme Court of Iowa, in Cedar Rapids Gas Light Company vs. Cedar Rapids, 144 Ia. 426, 120 N. W. 966, refused to make an allowance for such pavement over mains, and this decision was also sustained by the Supreme Court of the United States in Cedar Rapids Gas Light Company vs. City of Cedar Rapids, 223 U. S. 655, although in this decision the Supreme Court of the United States again makes no specific reference to the question of pavement over mains. Thus, the highest tribunal in this country has indirectly passed upon this question each way, although without mentioning it. In People vs. Willcox, 141 N. Y. S. 677, 681, the lower court, relying on the decision in 157 Fed., made an allowance for pavement over mains, but the decision in this regard was specifically overruled by the New York Court of Appeals in People vs. Willcox, 210 N.Y. 479, 104 N. E. 911, decided on March 24, 1914. At page 915 of the Reporter, Justice Miller, speaking for the court, says:

"The new pavement in fact added nothing to the property of the relator. Its mains were as serviceable and intrinsically as valuable before as after the new pavements were laid."

The Railroad Commission of Wisconsin, in a number of well reasoned cases in which the Commission was ascertaining the value of the property of public utilities for the purpose of acquisition by public authorities in proceedings very similar to the proceeding now pending before this Commission, took the same position as that which has been taken by the highest courts

of New York and Iowa. In In re Fond du Lac Water Company,  
the  
5 W.R.C.R. 482, the commission, in refusing an allowance for paving  
over mains where the mains were laid before the streets were paved,  
quotes with approval its decision in the earlier case of City of  
Ripon vs. Ripon Light & Water Company, 5 W.R.C.R. 1, 10, as  
follows:

"Every legitimate expenditure in adapting the utility to the demands of progress and community growth is a proper charge to construction and as such the investment therefor is entitled to participate in the distribution of the earnings from operation. Obviously, expenditure for pavement incurred by the utility in response to assessments levied therefor by the city, or the cost of cutting through such pavement for construction purposes and its replacement, are proper capital charges. It does not necessarily follow that the utility is to capitalize expenses for municipal betterment in which it has not participated and where such accruing benefits to the utility are remote and incidental, and thus compel the subscribers for utility service to pay increased rates because of public improvements. The improvement is not a proper element of value where the pavement has not been paid for by the utility, nor any expense in connection with it directly incurred, in determining the value which shall serve as the basis for an adjustment in rates. The item of 'paving' in the tentative valuation is for this reason excluded."

The same conclusion was reached by the Wisconsin Commission in two other cases of valuation of public utility property -- In re Appleton Water Works Company, 6 W. R. C. R. 97, 120; In re Manitowoc Water Works Company, 7 W. R. C. R. 71, 88.

I am of the opinion, both on reason and authority, that no allowance should be made, in valuing the mains, for pavement unless the pavement was laid prior~~xxx~~ to the laying of the mains, for the reason that such pavement does not in any way make the property more valuable.

The following table shows the estimated reproduction ~~xxxxx~~ cost, the estimated depreciation and the estimated depreciated reproduction value of the structural properties of the Water Company as presented on behalf of the Water Company by J.G. White & Company and P. E. Harroun, on behalf of the Water District by A. R. Baker and J. H. Dockweiler and on behalf of the Railroad Commission by R. W. Hawley and E. F. Clark:

T A B L E N O . 1 .

STRUCTURAL PROPERTIES - MARIN WATER AND POWER COMPANY.

D I V I S I O N	MARIN WATER AND POWER COMPANY ENGINEERS					MARIN MUNICIPAL WATER DISTRICT ENGINEERS					RAILROAD COMMISSION ENGINEERS				
	J. G. WHITE & COMPANY Revised Report - Straight Line Dep'r.		P. E. HARROU (a)			A. R. BAKER Revised Report		J. H. DOCKWILSR			R. V. HAWLEY and H. F. CLARK				
	Cost	Reproduction Value	Depreciated Cost	Reproduction Cost	Depreciated Value	Cost	Reproduction Value	Depreciated Cost	Reproduction Cost	Depreciated Value	Cost	Reproduction Value	Depreciated Cost	Reproduction Cost	Depreciated Value
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
GENERAL STRUCTURES	12,787.00	3,091.00	9,696.00	15,128.00	4,604.00	10,524.00	11,969.00	4,103.00	7,866.00	11,074.39	2,525.52	8,548.87	11,573.00	3,414.00	8,159.00
MISCELLANEOUS EQUIPMENT (b)	24,972.00	352.00	24,620.00	25,364.00	601.00	24,583.00	23,701.00	309.00	23,392.00	23,591.00	309.00	23,382.00	25,000.00	0.00	25,000.00
COLLECTION SYSTEM															
Lagunitas Reservoir	102,619.00	907.00	101,712.00	98,165.00	775.00	97,410.00	72,337.00	28,199.00	44,138.00	79,444.94	29,053.14	50,391.80	82,010.00	2,067.00	79,923.00
Phoenix Gulch Reservoir	95,383.00	1,243.00	94,140.00	85,797.00	2,146.00	83,549.00	65,920.00	13,970.00	51,950.00	68,841.59	9,609.66	59,231.93	71,834.00	12,076.00	59,758.00
Bill Williams Dam	1,229.00	1,229.00	0.00	1,699.00	1,699.00	0.00	919.00	919.00	0.00	1,820.48	1,120.48	700.00	1,140.00	1,140.00	0.00
Susde George Dam	190.00	160.00	30.00	356.00	306.00	50.00	545.00	456.00	89.00	447.11	126.52	320.59	176.00	151.00	25.00
Tom Spring Pipe Line	637.00	65.00	572.00	675.00	58.00	617.00	491.00	45.00	446.00	630.12	105.99	524.13	586.00	40.00	546.00
Lagunitas Pumping Plant	1,926.00	1,516.00	410.00	2,280.00	1,463.00	817.00	1,764.00	1,418.00	346.00	1,675.37	1,172.72	502.65	1,736.00	1,492.00	244.00
Lower Pumps at Phoenix Gulch	2,396.00	575.00	1,821.00	3,767.00	1,081.00	2,686.00	2,278.00	931.00	1,347.00	2,248.46	644.58	1,603.88	2,209.00	679.00	1,530.00
Roads and Trails	32,872.00	11,150.00	21,722.00	36,909.00	587.00	36,322.00	22,822.00	8,950.00	13,872.00	28,870.06	12,237.35	16,632.71	38,600.00	10,982.00	27,618.00
Fences	9,302.00	3,627.00	5,775.00	11,387.00	4,215.00	7,172.00	6,602.00	5,468.00	1,134.00	12,632.96	5,287.20	7,345.76	12,531.00	5,209.00	7,322.00
Buildings	36,084.00	12,722.00	23,362.00	41,708.00	17,925.00	23,783.00	34,218.00	15,925.00	18,293.00	34,906.47	14,904.25	20,002.22	34,664.00	11,390.00	23,274.00
Furniture and Fixtures	1,975.00	196.00	1,779.00	2,055.00	411.00	1,644.00	Included in Misc. Equipment.	Included in Misc. Equipment.	Included in Misc. Equipment.	Included in Misc. Equipment.	Included in Misc. Equipment.	Included in Misc. Equipment.	2,000.00	0.00	2,000.00
T O T A L	284,613.00	33,312.00	251,301.00	284,818.00	30,668.00	254,150.00	208,096.00	76,283.00	131,813.00	280,017.56	74,262.09	205,755.47	47,466.00	45,246.00	202,240.00
TRANSMISSION SYSTEM															
Sausalito Pipe Line	254,790.00	27,901.00	236,889.00	325,907.00	37,236.00	288,671.00	238,667.00	29,559.00	209,108.00	231,577.69	21,399.99	209,977.90	33,725.00	22,274.00	211,451.00
Lagunitas Pipe Line	75,376.00	47,239.00	28,137.00	67,379.00	40,578.00	26,801.00	66,218.00	30,965.00	35,253.00	66,282.22	28,652.16	37,630.06	68,461.00	26,825.00	41,636.00
Susde George Pipe Line	19,857.00	14,693.00	4,964.00	17,134.00	14,735.00	2,399.00	13,936.00	11,965.00	1,971.00	13,474.13	11,318.13	2,156.00	16,616.00	14,291.00	2,327.00
Bill Williams Pipe Line	6,398.00	4,798.00	1,600.00	6,394.00	3,528.00	2,866.00	4,908.00	4,146.00	762.00	4,813.87	4,313.87	0.00	5,208.00	4,517.00	691.00
San Quentin Pipe Line	23,696.00	14,338.00	9,558.00	24,075.00	8,235.00	15,840.00	19,034.00	5,638.00	13,396.00	18,516.13	4,752.67	13,563.26	18,621.00	7,643.00	10,978.00
Phoenix Lake Pumping Plant	13,450.00	4,644.00	8,806.00	18,444.00	5,455.00	12,989.00	12,205.00	5,013.00	7,192.00	12,746.09	4,461.15	8,284.94	13,357.00	4,969.00	8,388.00
Tom. Line around Phoenix Lake	1,534.00	0.00	1,534.00	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line	Included in Lagunitas Pipe Line
T O T A L	405,301.00	113,813.00	291,488.00	479,333.00	109,767.00	369,566.00	354,968.00	87,506.00	267,462.00	346,610.33	74,798.17	271,712.16	66,010.00	60,519.00	275,491.00
DISTRIBUTION SYSTEM															
Forbes Hill Reservoir	38,550.00	9,212.00	29,338.00	48,146.00	3,226.00	44,920.00	24,765.00	6,168.00	18,597.00	23,532.25	4,000.03	18,732.22	31,268.00	7,878.00	23,390.00
Moore Hill Reservoir	18,858.00	1,701.00	17,157.00	21,265.00	651.00	20,614.00	13,131.00	4,669.00	8,472.00	12,332.10	4,417.83	7,914.27	14,330.00	5,410.00	8,920.00
Coleman Reservoir	4,601.00	1,668.00	2,933.00	4,956.00	834.00	4,122.00	2,884.00	2,775.00	109.00	3,893.50	2,632.45	561.05	3,837.00	3,042.00	795.00
Distribution Mains															
San Rafael	154,148.00	51,650.00	102,498.00				109,720.00	30,421.00	79,299.00	125,562.69	32,984.16	92,378.53	116,491.00	31,453.00	85,038.00
San Anselmo	79,467.00	15,696.00	63,771.00				56,316.00	11,970.00	44,346.00	62,613.02	15,125.58	47,487.44	59,998.00	12,361.00	47,637.00
Ross	48,134.00	9,954.00	38,180.00	343,347.00	82,794.00	260,553.00	28,618.00	6,438.00	22,300.00	35,83.91	7,653.65	28,330.06	35,332.00	7,519.00	27,813.00
Larkspur	9,570.00	1,120.00	8,450.00				7,797.00	1,471.00	6,326.00	8,25.41	1,430.03	6,825.38	7,782.00	1,433.00	6,349.00
Outside Incorporated City	56,996.00	10,490.00	46,506.00				45,681.00	10,430.00	35,151.00	45,14.47	9,817.91	35,296.56	46,262.00	11,240.00	35,122.00
Sausalito	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	14.00	0.00	14.00
T O T A L	410,324.00	101,890.00	308,434.00	417,714.00	87,505.00	330,209.00	289,012.00	74,332.00	214,660.00	316,257.35	79,061.84	237,195.51	316,414.00	60,336.00	235,078.00
WORK UNDER CONSTRUCTION															
Tualpais Dam	33,665.00	0.00	33,665.00	42,404.00	0.00	42,404.00	24,950.00	0.00	24,930.00	26,107.84	0.00	26,107.84	17,060.00	0.00	17,060.00
SUMMARY-GRAND TOTAL	1,171,662.00	252,458.00	919,204.00	1,264,761.00	233,345.00	1,031,416.00	912,696.00	242,533.00	670,163.00	953,568.47	230,956.62	723,001.65	972,543.00	209,615.00	763,028.00

(a) Totals in Harroun's filed Report do not include Bill Williams Dam. Figures in this table are therefore \$1,699.00 greater.  
 (b) This item is subject to change at time of purchase.

In Table No. I the depreciation as estimated by J. G. White & Company is given on the straight line basis, so as to make the valuation comparable with the valuations presented by the other engineers. The accrued depreciation as estimated by J. G. White & Company on the sinking fund basis and shown in the Water Company's Exhibit "E", amounts to only \$172,658.00, as contrasted with the sum of \$252,458.00 on the straight line basis. The estimated depreciated reproduction value as presented by Mr. R. W. Hawley and Mr. E. F. Clark, totalling \$763,028.00, includes an item of \$14,060.00 for pavement over mains, in case the Commission should rule that such allowance must be made where the mains were laid before the pavement. These engineers were of the opinion that the proper allowance to be made would exclude this sum and would amount to \$748,968.00.

## 2. LAND AND WATER

I come now to a discussion of the valuation of the Water Company's land and of such water or water rights as the Water Company owns. These questions will be discussed under the three following heads:

- (a) Water shed lands and water.
- (b) Urban real estate.
- (c) Rights-of-way.

### (a) WATER SHED LANDS AND WATER.

Testimony concerning the value of portions or all of the Water Company's water shed lands and water was presented in behalf of the Water District by Fred W. Dickson, J. H. Dockweiler, A. R. Baker and W. L. Courtright; in behalf of the Water Company by Frederick Croker, George M. Dodge, Carl J. Rhodin and Luther Wagoner; and on behalf of the Railroad Commission by W. M. Wells. The witness Dickson gave an estimate of the value

of the Water Company's water shed lands from the point of view solely of their adaptability as ranch lands. He did not take into consideration their adaptability for reservoir purposes, residence purposes or any other purpose. The witness Dockweiler did not undertake to give any testimony with reference to the value of the Water Company's water shed lands at the present time. He testified that, in his opinion, the Water Company has water rights in connection with the water shed lands now in use, to which rights he assigned a value of \$77,400.00 for each one million gallons daily flow of water used by the Water Company's consumers. In reaching this conclusion, the witness assumed a value of the lands for general purposes, other than their use for the purpose of catching and storing water, and then added a value of \$77,400.00 for each one million gallons daily flow, which value, in his judgment, absorbed the added land value due to the fact that the lands can be and are used for the purpose of catching and storing water. The estimate of \$77,400 for each one million gallons daily flow of water was based almost entirely on what has been paid for water under entirely different conditions in Southern California, and for that reason can have but little weight in this proceeding.

The estimate of the value of the Water Company's water shed lands presented by A. R. Baker will have but little weight, for the reason that Mr. Baker frankly stated that he was not familiar with land values in Marin county. His estimate of \$77,400 for each one million gallons daily flow of water was apparently taken from Mr. Dockweiler's estimate and is not entitled to serious consideration.

W. L. Courtright, testifying for the Water District, and Frederick Croker and George M. Dodge, testifying for the Water Company, testified to the value of the water shed lands of the Water Company for sub-division purposes only. These witnesses did not take into consideration the adaptability of this land for

the purpose of catching and storing water or for any other purpose except sub-division. The witnesses were not asked and did not testify as to the value of the property in view of all the uses to which it is reasonably adaptable. Formerly it seems to have been the rule in this state that the witnesses would be permitted to testify to the value of the land in dollars and cents for a specified purpose as distinguished from the market value of the land in view of all the uses to which it is adaptable. San Diego Land and Town Company vs. Keale, 78 Cal. 63; Spring Valley Water Works vs. Drinkhouse, 92 Cal. 528. In the more recent decisions, however, the Supreme Court of this state has adopted the prevailing rule, which is that the proper inquiry is not what is the value of the property for any particular use, but what is its worth in the market in view of its ~~adaptability~~ adaptability to all reasonable uses. Lewis-Eminent Domain, Third Edition, Section 706. The prevailing rule seems first to have been stated by the Supreme Court in City of Santa Ana vs. Harlin, 99 Cal. 538, and later to have been clearly affirmed in Sacramento Southern Railroad Company vs. Heilbron, 156 Cal. 408. In the latter case, Justice Henshaw, after reviewing the earlier cases, at page 412, says:

"It is seen, therefore, that this court by its latest utterances has definitively aligned itself with the great majority of the courts in holding that damages must be measured by the market value of the land at the time it is taken, that the test is not the value for a special purpose, but the fair market value of the land in view of all the purposes to which it is naturally adapted, that therefore, while evidence that it is 'available' for this or that or the other purpose may always be given and should be freely received, the value in terms of money, the price, which one or another witness may think the land would bring for this or that or the other specific purpose is not admissible as an element in determining the market value. For such evidence opens wide the door to unlimited vagaries and speculations concerning problematical prices which might under possible contingencies be paid for the land and distracts the mind of the jury from the single question--that of market value--the highest sum which the property is worth to persons generally, purchasing in the open market in consideration of the land's adaptability for any proven use."

While evidence concerning the value of the Water Company's water shed lands in dollars and cents for some one particular

purpose was presented by both sides without objection, I shall bear in mind the rule laid down by the Supreme Court of this state in the Sacramento Southern Railroad Company case and shall be guided by it.

W. M. Wells, called on behalf of the Railroad Commission, prepared a valuation of the lands of the Water Company in view of all the uses to which they are reasonably adaptable, including the catchment and storage of water. While I am of the opinion, on all the evidence in this proceeding, that the value assigned by Mr. Wells is somewhat low, it would also appear that he is the only one of the witnesses so far named who applied the correct principles of valuation in reaching a conclusion as to the value of the land. Neither Mr. Wells nor any other witness presented a valuation of the storm waters which the Water Company has caught and impounded in its reservoirs.

The following table shows the valuation placed by the witnesses Courtright, Dodge, Croker and Wells on the different parcels of real property included in the water shed lands of the Water Company, on the bases hereinbefore indicated, together with the original cost of the property. It goes without saying that evidence of the cost of land many years ago is not persuasive evidence of its value at the present time:

TABLE II.

Value of Water Shed Lands of Marin Water and Power Company

Item	Courtright	Dodge & Crocker	Wells	Original Cost
Worn Spring 134.54 A, includes 4 springs purchased in 1871	102.14 A \$ 5,691.00	\$ 28,600.00 includes springs	\$ 15,617.00	\$ 12,000.00
Porteous Tract 1005.54 A Purchased in 1908	59,140.00	62,440.00	55,596.55	55,000.00 includes improvements.
Phoenix Gulch Reservoir 92.67 A	9,330.00	included below	27,661.00	10,000.00 includes 3 tracts
Coleman Tract ( 783.73 A ( 10.40 A ( 7.26 A Purchased in 1886, 1871, and 1873	783.73 A 16,908.30	71,700.00	783.63 A 16,907.20	5,000.00 420.00
Lagunitas Dairy or Bon Tompe 1161.37 A Purchased 1878	40,235.00	67,025.00	50,204.00	20,500.00
Lake Lagunitas 295.12 A Purchased 1871	12,843.00	11,125.00	11,667.70	included above with Phoenix Gulch.
Fish Gulch 123.17 A Purchased 1871	1,232.00	3,057.00	2,102.25	15,000.00 includes water rights on Howard Shafter lands.
Total	\$ 153,579.30	\$ 243,947.00	\$ 179,956.40	\$ 117,920.00

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Carl J. Rhodin, a witness called by the Water Company, presented a method for ascertaining the value of lands, water rights, if any, and water, altogether in one lump sum with respect to the water shed lands at present used by the Water Company, the Bon Tempe or Tamalpais lands and the San Geronimo situation. The method employed by Mr. Rhodin is, in effect, as follows. He first ascertains the lowest average wholesale price of water which obtains in the vicinity of San Francisco Bay for specific aggregate outputs of water. He assumes that the Water Company's water is worth these prices for delivery at wholesale. He assumes that the construction of the Bon Tempe or Tamalpais dam will result in adding to the Water Company's regulated flow of water an amount of three million gallons daily and by adding this amount to the two million gallons daily which he estimates is the supply from the Water Company's existing developed sources, he secures a total of five million gallons daily flow. He makes an allowance of 5 per cent for leakage in the transmission of the water from the reservoirs to the distributing systems. He then estimates how much it would cost to ~~construct~~ build the Tamalpais or Bon Tempe Dam and to install a transmission system in connection therewith. He then takes 8 per cent of the total capital which he estimates would be invested for the storage and transmission of water if Tamalpais or Bon Tempe Dam were completed and adds thereto an amount which he estimates would be expended annually for operating expenses and taxes, and adds to this amount the sum which he estimates would be expended annually for depreciation and repairs if the Tamalpais or Bon Tempe Dam were constructed and if it were operated in the manner contemplated by him. He then subtracts the total of all these charges from the revenue which he estimates would be secured if the amount of water which he estimates were sold at the wholesale price which he assumes and then capitalizes the difference. He concludes that the <sup>difference</sup>

as thus capitalized represents the value of the lands, water rights and water of the respective units of this system. He estimates that this value when the present water supply has been augmented by the construction of the Tamalpais or Bon Tompe Dam, is \$846,200.00. By the same method, he concludes that the present discounted value for the Tamalpais or Bon Tompe rights alone is \$377,000.00 and that on the assumption that the San Geronimo Dam is commenced in 1930, the present day value of the Water Company's rights in connection with that dam is \$168,600.00.

Luther Wagoner, a witness called by the Water Company, using a method of computation similar to that of Mr. Rhodin's, reaches a conclusion that the present value of the lands, water rights and water in connection with the Phoenix Gulch, Lagunitas and Tamalpais projects is \$749,666.00, and that by a similar method of computation, the present value of the water rights in connection with the San Geronimo project is \$436,620.00. The value of the San Geronimo rights, as estimated by the witness Rhodin, was \$168,600.00 and the money actually paid by the Water Company for these water rights was \$20,900.00. I shall later discuss the value to be given to these estimates, but have confined myself so far to a general statement of the results reached and the methods used.

It now becomes necessary to discuss the principles of law applicable to the valuation of the Water Company's lands, water rights and water.

At the outset, counsel for the Water District urged that as the Water Company's lands are devoted to a public use, the usual principles of valuation cannot be applied, and counsel intimate that the value to be found by this Commission can be only a value for the present use of these lands. It is also pointed out that these lands were just as valuable for catching and storing water when they were originally acquired as they are now, and it

is intimated that this Commission can allow as value of these lands only what they originally cost. For instance, if these lands had originally cost the Water Company \$50,000.00, and if the value of similar property not devoted to the public use located in the vicinity of these lands had increased to \$200,000.00, the claim is made that the Commission should allow only the original cost of the lands. I have given considerable thought to this contention, but am of the opinion that the Supreme Court of the United States has answered this question contrary to the views advocated by counsel for the Water District. In the famous Minnesota Rate Case, 230 U.S. 352, Justice Hughes had under consideration, among other questions, the reasonable value to be allowed for the right of way and terminal grounds of certain railroads in Minnesota. These lands had been devoted to a public use just as much as the lands of the Water Company in this proceeding. Various methods of valuing these lands were suggested, but the Supreme Court held that the railroads could have no just cause of complaint if they were allowed "the fair average of the normal market value of land in the vicinity having a similar character." At page 455, Justice Hughes says:

"The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity, without additions by the use of multipliers, or otherwise, to cover hypothetical outlays."

While this was a rate case, and while Justice Hughes states the maximum which should be allowed, I am of the opinion that the rule as thus established by Justice Hughes will be of value in the present proceeding.

I am next confronted with the question as to whether the Water Company has any water right which should be valued separately from the land. In order to answer this question, it will be necessary to consider separately (a) the water shed lands in connection with Phoenix Gulch Lake and Lagunitas Lake; (b) the

Bon Tompe or Tamalpais development; and (c) the Lower Lagunitas or San Geronimo rights. In order to escape the confusion which has to a considerable extent pervaded the testimony of the witnesses in this proceeding, and, to some extent, the arguments and briefs of counsel, it will be necessary to examine carefully the facts in connection with each of these three situations.

The Water Company claims and the Water District in its reply brief, in effect, admits that the waters which flow into Phoenix Gulch Lake and Lagunitas Lake are simply storm waters which fall on the land and which run down the hillsides into these two lakes. The waters which are gathered in Phoenix Gulch Lake fall entirely on the lands of the Water Company. The waters which are accumulated in Lake Lagunitas fall partly on the lands of the Water Company and in part flow down over the Water Company's Fish

The evidence offered on behalf of the Water Company shows that Gulch tract from the Shafter-Howard lands. there is here no live stream. There is no appropriation of water from the banks of a stream. There is no room for the application of the doctrine of either appropriation or of riparian rights, for the simple reason that neither of those doctrines can have application unless there is a natural stream of water. The Water Company's contention, based on San Joaquin and Kings River Canal & Irrigation Company vs. County of Stanislaus, 233 U. S. 454, that it owns a water right separate and apart from the land and that it is entitled to a separate valuation of such right, is not borne out by that case. The County of Stanislaus case was a case of the appropriation of water from the banks of a natural stream by an appropriator who did not own land in connection with such appropriation. The Supreme Court of the United States held that by virtue of the appropriation the Canal Company had secured a separate property right which it was entitled to have valued in a rate fixing case. The County of Stanislaus case can have no application to the facts now under consideration where it appears, as contended by the Water Company

itself, that there is no natural stream and that the waters impounded by the Water Company are exclusively storm waters. The Water Company here owns land which is adapted, among other uses, to the catchment and storage of storm waters. In ascertaining the value of this land, the Water Company is entitled to have consideration given to this use, among others, but it is not entitled to a separate valuation for any so-called "water right", which right the Water Company does not own, as a separate and distinct property right.

An analogous situation was presented to the District Court of the United States for the District of Nevada, in the case of Water Company of Tonopah vs. Public Service Commission of Nevada, in which case an application for a temporary injunction on behalf of the Water Company against the enforcement of rates prescribed by the Public Service Commission of Nevada was denied on August 13, 1913. This was a case of percolating waters, with apparently no evidence to show that the water was flowing in defined channels. The Water Company made a claim of \$500,000 for an alleged water right, which sum was considerably in excess of the value of all its remaining property. In this respect there seems to be but little difference between the claims made in Nevada and those now so frequently presented in California. Judge Morrow refers to the Water Company's claims as follows:

"The water which it (the Company) claims as a water right is percolating water running through its lands. I do not understand that percolating water passing under or through the soil is anywhere recognized as a water right, having a valuation separate and distinct from the land. It is not in any sense surface water. It is not water appropriated from running streams; nor is it water the right to which is the same as that of a riparian owner. Percolating water is part and parcel of the soil, and it is as much a constituent element of the land as the mineral therein contained. Its value, if it has any, is, therefore, in the land and cannot be separated from the land. It follows that in this case the value which the water has must be in the land. It may be that the complainant's development of water upon this land has given it a largely increased value, but if that is so, it appears to me that that should be the valuation of the land with its water content as a whole and

not as land with a water right attached. This may not make a great difference in the result; but it will enable the commission and the court to make a comparison with other land of like character and similarly situated."

Again, in the conclusion of his opinion, Judge Morrow says:

"It seems to me that it would be difficult to establish an absolutely independent water value aside from the value of the land; but the value of the water with the land may be ascertained in the view of its available uses."

While the Tonovah case was a case of percolating water not flowing in definite channels, and the present case, in so far as we are now considering it, is a case of storm waters, the analogy of the Tonovah case bears strongly on my conclusion that in the present case the Water Company is not entitled to a separate value for any so-called "water right," but is entitled simply to a value for its land in view of all the uses to which it may reasonably be devoted, including the use of catching and storing ~~the~~ water. The only separate value to which the Water Company is entitled is the value of the water which it has reduced to possession, as I shall shortly show.

Storm waters, like ferae naturae, belong to a landowner only when he has captured them and reduced them to possession. When this has been done they are personal property which belong to him and which may have value. In his dissenting opinion in Sorins Valley Waterworks vs. Schottler, 110 U.S. 347, Justice Field aptly states the doctrine of storm waters, at page 373, as follows:

"The water itself is the property of the company. It was not taken from a running stream; nor from any lake; nor from any source where the government could assert that it alone had the right to control and use it. It was collected by the company as it descended from the heavens. Whatever may be the difference of opinion as to the ownership of running waters, or of waters of navigable streams, or of lakes, it has never been doubted that water collected by individual agency, from the roof of one's house, or in hogsheads, barrels or reservoirs, as it descends from the clouds, is as much private property as anything else that is reduced to possession, which otherwise would be lost to

the use of man. Indeed, it is a general principle of law, both natural and positive, that where a subject, animate or inanimate, which otherwise could not be brought under the control or use of man, is reduced to such control or use by individual labor a right of property in it is acquired by such labor. The wild bird in the air belongs to no one, but when the fowler brings it to the earth and takes it into his possession it is his property. He has reduced it to his control by his own labor, and the law of nature and the law of society recognize his exclusive right to it."

So in the present case the Water Company is the owner of lands which have a value, among other purposes, for the catchment and storage of water; and when the Water Company has accumulated storm waters in its reservoirs and has thereby reduced these waters to possession, it is also the owner of this water as personal property. The Water Company owns no so-called "water rights" but it owns land capable of certain uses and water reduced to possession and impounded in its reservoirs. If I own land which is adapted to the raising of wheat, and that is its highest present use, a purchaser of that land will pay me for it in view of this use. If I have not sown the land to wheat, I will receive payment only for the land, in view of its uses. On the other hand, if I have sown the land to wheat and there is a crop of wheat standing on the land at the time of its sale, I expect to be paid not merely for the land but also for the crop which I have raised thereon. So in the present case, the Water Company is entitled to compensation for its water shed lands, and also for the crop of water which it has reduced to possession and stored on those lands at the time the Water Company parts with its title. No valuation of the water so stored as a separate item has been presented in this proceeding. Mr. Dockweiler's estimate of \$77,400.00 for each one million gallons daily flow of water was reached by valuing the lands only for general purposes and apart from their use for the purpose of catching and storing water and was apparently based on analogy to appropriated waters, besides being subject to the criticism already hereinbefore indicated.

One method of ascertaining the maximum value to be assigned to the crop of water reduced to possession by the Water Company, which was not referred to in the evidence or arguments of counsel, suggests itself to me. If I have grown a crop of wheat to maturity and proceed to sell it, I expect to receive a price sufficient to pay interest on the investment plus the cost of sowing the wheat, raising it, cutting it, and possibly transporting it to market. If I sell my land before I have sown my crop, I cannot expect to receive anything for the crop which has not been sown. On the other hand, if I sell my land just after I have sown the crop, I cannot expect compensation for the crop based on what it would have cost me if I had grown it to maturity, harvested it and brought it to market. When the Water Company sells its land it has thereon a certain crop of water. If it were left in possession of the property it would sell that crop during the ensuing year and would be obliged to incur the expense of operating and maintaining its plant for a year and would expect to receive interest on its investment during a year and to lay aside a sum for depreciation. These expenses, however, while they have been incurred in connection with the crop which was gradually sold during the preceding year, have not as yet been incurred in connection with the crop which is now on hand. Hence, it may be suggested that the maximum value which can attach to the crop of water now on hand is the difference between the revenue which would be derived from its sale during the ensuing year and the sum total of interest on a fair value of the property for one year, operation and maintenance expenses for one year, and depreciation for one year. While it may be said that the revenue to be derived of course involves the rates and that the rates depend upon the value of all the property, including the stored water, the problem becomes less difficult when we find, as we do here, that the rates now in effect and charged by the Water Company have;



in general, with the exception of a few years, been in effect since the early 80's. Under those circumstances, it would seem reasonable in the absence of affirmative proof to the contrary, to assume that the revenue derived from the sale of one year's water, which is the normal year's accumulation, is a reasonable revenue and that the value of the stored water, as water, cannot reasonably exceed the difference between one year's revenue and the sum total of a reasonable allowance for interest on the fair value of the property, operating and maintenance expenses and depreciation.

In connection with the Phoenix Gulch and Lagunitas water shed lands, I shall give consideration to the rights of the Water Company to the flowage of water over its Fish Gulch Tract, its right to divert water from Cataract Gulch, and its right to divert water from Swede George. These rights were all acquired by Marin County Water Company, the predecessor of the Water Company, by deed dated September 15, 1871, from Oscar L. Shafter, James McK. Shafter and Charles Webb Howard, together with the Water Company's Fish Gulch Tract and other rights, all for the sum of \$15,000.00 in non-assessable capital stock of Marin County Water Company. The deed grants to Marin County Water Company, its successors and assigns, the Fish Gulch Tract "and all waters flowing or to flow therefrom"; also, "the right for the said term of fifty years from the date hereof to intercept, store, use, divert and appropriate the water flowing and hereafter to flow in the Cataract Gulch or creek so-called upon the said Rancho at points upon said Gulch respectively situated <sup>at</sup> 680, 810, 925 and 990 feet above mean low tide in the Bay of San Francisco"; also, "the right to use the waters of certain other streams," including Swede George. Considerable water flows down over the Fish Gulch Tract from the Shafter-Howard lands, but there is no evidence as to the exact amount. Value must, of course, be assigned to this right. The rights with reference to Cataract Gulch and Swede George expire

in 1921. The waters of Cataract Gulch have never been used and no witness has assigned any value to them. Mr. Rhodin places a value of \$4,000.00 on the Swede George flow.

Referring now to the Lagunitas Dairy Tract and to the proposed construction of a dam thereon, to be known as the Tamalpais or Bon Tempe Dam, the evidence shows that the construction of such a dam has been under consideration by the Water Company for many years, but that its construction has been so prevented by injunction suits and other delays that up to the present time nothing further has been done other than the construction of a core wall to the surface of the ground and the acquisition of the right to abandon a county highway which formerly ran through the bottom of the proposed reservoir. J. G. White & Company reported that the total sum so far spent on this dam has been \$33,665.00. Mr. Hawley estimated the cost of reproducing the work which has been performed at \$17,060.00. The right to abandon the county highway cost the Water Company some \$12,500.00. The Water Company made a formal offer at the hearing to continue the construction of a dam at this point, if the Water District would agree that the money so expended should be added to the compensation fixed by this Commission for the existing properties, but the Water District was unwilling to accept this offer, for the reason that its plan of development contemplates the construction of the so-called Alpine Dam on the Shafter-Howard lands and the elimination of the Tamalpais project.

As already stated, Mr. Rhodin and Mr. Wagoner present elaborate computations to show the value of the water shed lands, water rights and water of the Water Company when the Tamalpais Dam shall have been constructed. The method used by Mr. Rhodin was an earnest method to arrive at the value of the lands, water rights and water, but is subject to criticism in a number of respects, which detract very seriously from the value of his testimony. In the first place, Mr. Rhodin assumes that the

Water Company owns water or water rights in connection with its Tamalpais project. The fact, as contended by counsel for the Water Company, is that there is no running stream in connection with the Tamalpais project, any more than in connection with the Phoenix Gulch and Lagunitas developments, and that with reference to the Tamalpais project also, there is no application either of the doctrine of appropriated waters or of riparian waters. The waters to be impounded by the Tamalpais Dam would be entirely storm waters and the Water Company would have no property therein until such waters had actually been impounded and reduced to possession. The proper method to value the Water Company's property in connection with the Tamalpais project would seem to be to follow the usual rule of valuing the land in view of all the uses to which it may reasonably be devoted, including a proper allowance for the construction work actually performed and the acquisition of the rights in the county highway. There are no so-called "water rights" which the Water Company may claim in connection with its Tamalpais lands other than as the adaptability of the land for the catchment and storage of water enters into the value of the land, and the Water Company has no right to a <sup>separate</sup> value for water in connection with this ~~the~~ development for the simple reason that it has not reduced to possession a single drop of water in connection with this project.

Mr. Rhodin's method is further subject to criticism for the reason that the prices taken by him for water sold at wholesale in communities ~~around~~ <sup>around</sup> San Francisco Bay are all, with the exception of the water sold by North Coast Water Company for use in Belvedere, taken from companies which, according to Mr. Rhodin's own testimony, cannot sell water in Marin county. It would be just as logical to go to San Diego county to ascertain the price

of water to be sold at wholesale in Marin county. If this were done, it would be found that at the rates established by this Commission for water sold by the city of San Diego in wholesale quantities, the value of the lands, water rights and water of the Water Company in this proceeding would be very materially less than those assigned by Mr. Rhodin. In answer to the contention that it is reasonable to use the wholesale prices charged for water by other water companies in the general vicinity of San Francisco Bay, for the reason that the conditions are geographically almost the same, it might be contended with equal logic that if a spot could be found in Kentucky in which the geographical and climatic conditions were similar to those in Marin county, it would be permissible to go to Kentucky to ascertain a reasonable price to be charged for water at wholesale in Marin county. The contention of the Water Company that this method may be employed for the reason that the rates charged by the different water companies to which reference is made, establish an average price for water at wholesale in this vicinity, is based on the false analogy of the sale of commodities in a market in which they compete with one another. The price charged for water by Water Company "A" is no criterion of the price to be charged by Water Company "B" if these water companies cannot compete with one another and if they serve water in different communities.

It may further be suggested that the rates used by Mr. Rhodin to ascertain an average minimum wholesale rate for water, in a number of instances include the very elements which Mr. Rhodin is trying to value. For instance, the rate of 20 cents charged by North Coast Water Company for water consumed in Belvedere must be presumed to include a return on the lands, water rights and water of North Coast Water Company, these being the very elements which Mr. Rhodin is trying to value. The same is true with reference to the rate established by this Commission

for the San Jose Water Company, and a number of other rates referred to by Mr. Rhodin.

One of the most serious objections which must be made to Mr. Rhodin's method is the fact that his computations are based upon the cost of structures which have not been constructed, an estimate of operating and maintenance expenses which have not been incurred, an estimate for depreciation on structures which do not exist, and a calculation as to revenues which is based on mere conjecture with reference to the future population of Marin county, and which when it comes to the San Geronimo Dam, is dependent to a large degree on the consumption of water by children as yet unborn. Evidence of this character was before the Supreme Court of this State for its consideration in the case of San Diego Land and Town Company vs. Neale, 88 Cal. 50. In that case, in order to determine the value of land which the Land and Town Company was seeking to acquire for the purpose of flooding its reservoir, certain witnesses gave testimony based upon speculative improvements, increases in population, extension of water systems and profits which might result from the sale of water. In holding that this evidence should not have been received, the Supreme Court, at page 63, says:

"It clearly appears that the witnesses referred to based their estimate of the value of the property upon an anticipated investment of a large amount of money in an extensive system of water works, and founded their opinion largely upon hypothetical expenditures and receipts of money, and an increased demand for water; the court, too, adopted the same erroneous rules, and under its instructions the jury must have found such price as in the opinion of the witnesses the land might bring, or probably would bring at some future period, if plaintiff or another in its situation should extend the works as contemplated by the witnesses."

Again, at page 66, the court says:

"The condition of the property, the uses to which it may be put, having regard to the existing advantages for making a practical use of the property, and such advantages as may be reasonably expected in the immediate future, are all matters for consideration in estimating the value of the lands (Boom Co. vs. Patterson, 98 U.S. 403); but to attempt to ascertain the value by estimating the cost of works necessary for its use for a particular purpose, the cost of operation, prospective sales and estimated profits, increased demands through growth of population, etc., requires 'a degree of refinement in the measure of values which seems to us totally incompatible with the gross estimates of common life--- The gross estimates of common life are all that the courts and juries have skill enough to use as a measure of value. All other measures are necessarily arbitrary and fanciful.' (Soarls vs. L. and B.R.R.Co., 53 Pa. St. 44.)"

Mr. Rhodin made no inquiries whatsoever with reference to the actual sale prices of land adaptable for the collection and storage of water in the vicinity of the Water Company's property in Marin county, nor did he consider the fact that the entire Lagunitas Dairy Tract when acquired in 1878, at which time it was just as valuable as it is at the present time for the purpose of catching and storing water, cost only \$20,500.00.

In 1872, the predecessor of the Water Company acquired for the sum of \$20,900.00 certain rights from the landowners on the lower portion of the Lagunitas River. The parcels of land with reference to which these rights were acquired are designated Parcels 3 to 15, inclusive, on Water Company's Exhibit "A" in this proceeding. From the owners of Parcels 4 to 14, inclusive, being S. P. Taylor, Pacific Powder Company, Omar Jewell, G. Cheda, Codoni & Cotta, J. Garcia, J. McM. Shafter, Mazza Brothers, M. Hilaria Garcia, Felipe S. Garcia, and M. Loretta Garcia, the predecessor of the Water Company acquired the right "to construct and maintain such dams, reservoirs and places of storage of water as they (Marin County Water Company) may deem proper, and to divert and appropriate said waters for the purposes and in the ways aforesaid forever." The deeds recite that the grantee "is desirous of diverting the waters of the streams called 'Lagunitas' and the

"Cataract Gulch", their sources, branches and tributaries above the lands belonging to the said party of the first part, and to build and maintain such dams, reservoirs and places of storage of water as they may deem proper."

It would thus appear that from all these parties the predecessors of the Water Company acquired their riparian rights. These rights have been severed from the land of which they were formerly part and parcel and must now be separately valued. If the Water Company were now condemning these rights it would be obliged to pay the depreciation in the value of these respective parcels of land caused by the taking of the riparian right.

Hercules Water Company vs. Fernandez, 5 Cal. App. 726, 91 Pac. 401; Lee vs. Springfield Water Company, 176 Pa. St. 223, 35 Atl. 184; City of Syracuse vs. Stacey, 169 N. Y. 251, 62 N. E. 354. From the Black estate, being the owner of Parcel 15, Marin County Water Company seems to have acquired the right to construct its dams at Phoenix Gulch and Lagunitas, but not the right to construct a dam at San Geronimo.

There is considerable disagreement between the parties as to the rights conferred in the deed from Adolph Maillaire.

The deed reads in part as follows:

"Whereas, the said party of the first part is the owner of certain tracts of land in Marin county and state aforesaid and through which or along which flows streams of water known as the Lagunitas and the San Geronimo or Paper Mill Creek and the second party being a company duly incorporated under the laws of the state aforesaid for the purpose of supplying the cities, towns and inhabitants of Marin county with pure and fresh water, is desirous of diverting the waters of the streams called Lagunitas and the Cataract Gulch from their natural courses and of appropriating them for the purpose aforesaid by means of pipes and other suitable means, the waters to be taken from the beds of said Lagunitas and the Cataract Gulch, their sources, branches and tributaries above or along the land belonging as aforesaid to the said party of the first part, and to build, repair, reconstruct and maintain such dams, reservoirs and places of storage of said waters as they may deem proper."

"Now therefore, this indenture witnesseth, that the party of the first part, for and in consideration of the sum of twelve hundred dollars in United States Gold Coin to him in hand paid by the ~~party~~ second party, has and does hereby grant, bargain, sell and convey unto the said party

of the second part, its successors and assigns, the right to construct and maintain dams, reservoirs and places of storage of water, and to divert and appropriate said waters for the purposes and in the way aforesaid forevermore."

If the proposed San Geronimo Dam is constructed, it will have to be built in part on the lands of Mailliard and in part on the Shafter-Howard lands. Entirely irrespective of the proper construction of the Mailliard deed, it is clear that before a dam can be constructed at San Geronimo, the party undertaking such a project would be compelled to acquire from the Shafter-Howard people the site for by far the larger portion of the reservoir as well as the right to divert the water riparian to the extreme westerly portion of the Shafter-Howard lands, and possibly also the riparian rights of the Black property. The Water Company at present owns no lands whatsoever at the proposed San Geronimo Site, and the right only to build half a dam on the Mailliard property, if it owns that right. Based on the acquisition of lands and rights which the Water Company does not own, on the construction of a dam on which no money has as yet been expended, on the operation, maintenance and depreciation of structures not yet erected, and on the sale of water to persons most of whom are as yet unborn, Mr. Rhodin estimates the rights of the Water Company in connection with the San Geronimo project to be worth at present \$168,600.00 and Mr. Wagoner \$436,620.00. Mr. Rhodin estimates that the construction of the San Geronimo Dam would begin in 1930, and Mr. Wagoner places the initial construction subsequent to 1940. The valuations presented by these two engineers on practically the same theory not merely vary tremendously, but also show the remarkable conclusions to which the application of theories at times lead. The evidence shows that if the rights which the Water Company now owns in connection with the Lagunitas and Paper Mill creeks were being condemned to-day, they could be acquired for a relatively small amount of money by reason of the fact that the detriment suffered by the lands of which these rights were formerly part and parcel would be very small.



The detriment would not be materially greater to-day than it was in 1871 and 1872, at the time of the original acquisition of these rights.

(b) URBAN REAL ESTATE.

Testimony concerning the value of scattered parcels of real estate located in or adjacent to the incorporated cities served by the Water Company and used for reservoir sites, storage and office lands and kindred purposes, was presented by the witnesses Baker and Courtright for the Water District and Dodge, Croker and Ryan for the Water Company. The following table shows the estimates of these witnesses:

TABLE NO. III.  
APPRAISAL OF URBAN REAL ESTATE.

ITEM	BAKER	COUNTRIGHT	DODGE & CROKER	J. T. RYAN
Forbes Hill Res. Lots	\$ 8,600.00	\$ 8,000.00 Includes Rights of way	\$ 3,000.00	\$ 3,000.00
Moore's-Hill Res. Lots	2,957.50	3,500.00	2,500.00	2,500.00
Coleman Res. Lots	17,700.00	12,000.00	25,000.00 Includes water	25,000.00
San Quentin Lot	100.00	150.00		
Office & Stable Lots	4,600.00	4,800.00	4,800.00	4,800.00
Storage Lot	2,000.00	2,000.00	2,000.00	1,000.00
Baltimore Park Lots	1,200.00	1,500.00	1,500.00	1,500.00
Lagunitas Tract Lot	500.00	500.00	500.00	500.00
Fairfax Tract Lots	625.00	1,000.00	900.00	900.00
Total	\$ 38,482.50	\$ 33,450.00	\$ 40,200.00	\$ 39,200.00

(c) RIGHTS-OF-WAY.

William Barr, the Water Company's superintendent, presented an estimate of the value of the Water Company's rights-of-way totalling \$29,090.86. Whatever the order of presenting testimony may be, I assume that the burden of showing the value of the property sought to be condemned rests in the first instance on its owner. Lewis - Eminent Domain, Third Edition, Sections 645 and 651. The testimony of Mr. Barr seems to have been presented by the Water Company in accord with this usual rule and is the only evidence on this point. The valuation of rights-of-way such as those owned by the Water Company is at best a difficult matter, and the Water Company did the best it could in the premises without unreasonably prolonging the hearing in this proceeding.

3. FRANCHISES AND GOING CONCERN.

The Water Company owns certain franchises for the laying of its mains and pipes in the public streets and highways, which franchises were granted by the State in perpetuity under the provisions of Section 19 of Article XI of the Constitution of this State as it read at the time the mains and pipes were laid. The Water Company also owns the franchise of collecting rates or compensation for the use of the water supplied by it, as provided by Section 2 of Article XIV of the Constitution of this State.

A separate value should not be assigned to franchise value or to going concern, but these elements of value, in so far as they exist, should be considered as enhancing the value of the

utility's tangible properties. Spring Valley Waterworks vs. City and County of San Francisco, 192 Fed. 157, 167; Brunswick and Tonsham Water District vs. Maine Water Co., 99 Me. 371, 59 Atl. 537, 539.

In this proceeding, the witness Dockweiler testified on behalf of the Water District that, in his opinion, the sum of \$100,000.00 would represent a reasonable allowance to be made for going concern value. The witness Rhodin, testifying for the Water Company, made an estimate based on the difference between the rate of interest paid by a utility in its earlier stages on money borrowed by it and the lower rate of interest for which it can later secure its funds. He concluded that there is a difference of 33-1/3 per cent, but in this proceeding estimated the going concern value by adding 20 per cent to the value of the properties of the Water Company used and useful, as estimated by him, the total amount thus estimated by him being \$305,135.00. He testified that he would not make this allowance in a rate case. He further testified that he would make a minimum allowance for this item of \$135,000.00, based on the cost of building up the business of the Water Company.

There is no element in public utility valuation as to which there is greater vagueness and confusion than this so-called going concern value. The courts recognize that some value ought to be added to a going concern over the bare bones of its physical structures, but they do not seem to be clear as to how much should be added or on what basis the amount to be added should be ascertained. The view now most frequently urged is that there should be added to the value of the physical properties a reasonable sum representing the cost of actually building up the business. This amount includes the cost of securing the utility's

customers and connecting them up with the plant, and at times an allowance for deficiency of return during the early years of the company's operations. Great care, however, must be exercised in making allowance for deficiencies of return lest the absurd conclusion be reached that the business which has been least profitable is most valuable. In any event, if an allowance is made for deficiencies during the early years of the utility's operations, such allowance should not extend beyond a reasonable time for building up the business of the company, if the properties have been planned and constructed with reasonably sound judgment in view of the locality in which the business is conducted and all the facts and circumstances surrounding its inception and prosecution.

In this connection, C. W. Gillespie, of the engineering firm of J. G. White & Company, presented a historical review of the finances of the Water Company showing, among other things, the cost of developing the business. This exhibit shows that during the years 1871 to 1878, the stockholders invested \$100,000.00 of their own money and borrowed \$100,000.00 by reason of the sale at a discount of 20 per cent of bonds bearing interest at the rate of 8 per cent per annum. No dividends were declared during these years, but the money earned in excess of operating and maintenance expenses was re-invested in the property. Mr. Gillespie testified that the Water Company made a profit of \$68,229.78 in the years 1871 to 1878, and also presented estimates showing how much money the Water Company would <sup>have been</sup> compelled to make in order to pay operating and maintenance expenses and 12 per cent on the investment. The earnings of \$68,229.78 were made on an investment of \$180,000.00, plus the sum re-invested from earnings. The Water Company declared a dividend of \$11,250.00 in 1879, a dividend of \$17,250.00 in 1880 and each year subsequent thereto has declared a dividend of \$18,000.00, being 3 per cent on the par

~~10~~ 45

value of the preferred stock and 6 per cent on its value as assumed at the time of its issue. In addition to declaring these dividends, the Water Company has accumulated a surplus during the years 1871 to 1913, inclusive, which is stated by Mr. Gillespie to be \$93,761.84.

The Water Company also presented a statement of the money which it claims to have expended on its property, together with the value of property donated to the Water Company and the estimated value of paving laid by the public authorities. This statement appears in the following table:

Table No. IV.

MONEYS EXPENDED, PROPERTY DONATED and PAVEMENT  
OVER MAINS.

Real estate and construction charges.....	\$	949,722.00
Additional moneys which Mr. Gillespie believes were expended in construction but which cannot be accounted for.....		42,024.73
Donated pipe to end of 1913.....		26,762.00
Donated pipe, 1914.....		3,479.81
Donated service connections.....		17,504.00
Donated hydrants.....		4,673.00
Donated sprinklers.....		930.00
Pavement over mains.....		60,899.00
		-----
Total,.....	\$	1,105,994.54

By subtracting the sum of..... 60,899.00

which represents the estimated cost of paving which the Water Company does not own and for which it expended nothing, we find a total of.....\$1,045,095.54 as representing the moneys claimed to have been expended by the Water Company on the properties now owned by it, plus the value of the property donated by others.

The sum of \$949,722.00 consists of \$735,337.20 derived from the sale of stock and bonds, \$93,761.84 expended on the property from earnings, \$36,300.71, which represents the value of pipe donated to the Water Company up to the end of the year 1908, \$15,830.14 which represents a portion of the value of pipe donated in the years 1909 to 1912, inclusive, \$40,287.06 being construction expenses included under the head of operating and

maintenance expenses, plus certain additional items.

As the property donated to the Water Company now belongs to it, the Water Company is, of course, entitled to have this property valued in this proceeding.

In this opinion I have stated only a portion of the testimony presented. Nevertheless, all the testimony presented, including all the exhibits, has been carefully considered and to each part of the testimony has been accorded the weight to which it seems entitled. I have been materially assisted by the able and elaborate briefs presented by counsel for both sides.

I recommend the following findings:

#### F I N D I N G S.

MARIN MUNICIPAL WATER DISTRICT, a municipal water district, incorporated under the laws of the State of California, having filed with the Railroad Commission a petition setting forth the intention of said Municipal Water District to acquire under eminent domain proceedings, or otherwise, the lands, property and rights of MARIN WATER AND POWER COMPANY, a public utility operating within the boundaries of said Municipal Water District, and asking the Railroad Commission to fix and determine the just compensation to be paid to Marin Water and Power Company for the public utility and land, property and rights thereof, and public hearings having been held, and Marin Municipal Water District and Marin Water and Power Company having been accorded full opportunity to present such evidence as they might desire to submit, and each of said parties having taken full advantage of said opportunity and having presented all the evidence which each party desired to present, and the Commissioner who heard the

evidence having made a personal inspection of the lands and property of said Marin Water and Power Company, and being fully apprised in the premises,

THE RAILROAD COMMISSION HEREBY FINDS AS A FACT that the just compensation to be paid by Marin Municipal Water District to Marin Water and Power Company for all of said company's lands, property and rights, other than the right to be a corporation, is the sum of one million two hundred thousand one hundred and fifty dollars (\$1,200,150.00). The lands, property and rights of Marin Water and Power Company for which said compensation is hereby fixed and determined as just and reasonable are described in the schedule which is hereto attached, marked "Exhibit A," and made a part of these findings.

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

Dated at San Francisco, California, this 9th day of April, 1915.

Max Thelen  
H. J. Cleveland

Edwin D. Edgerton  
Frank R. DeLeon

Commissioners.



"EXHIBIT A."

"SCHEDULE-"A".

FIRST

All those certain lots, tracts and parcels of land situate, lying and being in the County of Marin, State of California, and more particularly bounded and described as follows, to-wit:

BEGINNING at a post marked PQ109 and H11, which said post is the common corner of the Rancho Canada de Herrera, the Rancho Punta de Quentin and the Rancho Tomales y Baulines, and running from said point of beginning on the dividing line between the said Rancho Punta de Quentin and the said Rancho Canada de Herrera North  $83 \frac{1}{4}^{\circ}$  East twenty (20) chains to a post marked LDT2 in a stone mound in said boundary line; thence leaving said boundary line South  $64 \frac{1}{4}^{\circ}$  East twenty-one (21) chains to a live oak tree four (4) feet in diameter marked LDT3; thence South  $64^{\circ}$  East ten (10) chains to a redwood tree five (5) feet in diameter marked LDT4; South  $55 \frac{1}{2}^{\circ}$  East four (4) chains to a live oak tree two (2) feet in diameter marked LDT5; South  $63 \frac{1}{2}^{\circ}$  East four and  $\frac{70}{100}$  (4.70) chains to a post in a stone mound marked LDT6; North  $70 \frac{3}{4}^{\circ}$  East six (6) chains to a post marked LDT7 in a stone mound on a grassy spur; thence South  $65 \frac{1}{4}^{\circ}$  East to the most southeasterly corner of a tract of land belonging to Lucy I. Jory, said corner being located on the Westerly side of that certain right of way granted by William J. Miller to the County of Marin by deed dated February 7th, 1884 and recorded in the office of the County Recorder of said County of Marin in Liber "Z" of Deeds at page 510; thence following the Westerly line of said right of way and the Easterly line of said lands of Lucy I. Jory, as the same are set forth and described in said deed last above referred to until they intersect the boundary line between the Rancho Canada de Herrera and the Rancho Punta de Quentin

hereinabove mentioned; thence following said boundary line between said Rancho Punta de Quentin and the Rancho Canada de Herrera North  $83\frac{1}{4}^{\circ}$  East to the most Northeasterly corner of what is known as the "Hippolyte Ranch", said point being located thereon one hundred and forty-eight and  $\frac{20}{100}$  (148.20) chains North  $83\frac{1}{4}^{\circ}$  East from said post marked LDT2 hereinabove referred to; thence leaving the boundary line of said Rancho Punta de Quentin and running along the Easterly boundary line of the said Hippolyte Ranch South  $45\frac{3}{4}^{\circ}$  East twenty-three and  $\frac{80}{100}$  (23.80) chains; South  $18\frac{1}{2}^{\circ}$  West six (6) chains; South  $13^{\circ}$  West three (3) chains; south  $16\frac{3}{4}^{\circ}$  East thirteen and  $\frac{20}{100}$  (13.20) chains; South  $46\frac{1}{4}^{\circ}$  West twelve and  $\frac{50}{100}$  (12.50) chains; South  $1\frac{1}{2}^{\circ}$  West ten (10) chains more or less to the most Northwesterly corner of that certain tract of land which was conveyed by Annie S. E. Worn and George A. Worn, her husband to the Marin County Water Company by deed dated March 12th, 1881 and recorded in the office of the County Recorder of said Marin County in Liber "V" of Deeds at page 357; thence leaving the boundary line of said Hippolyte Ranch and running along the Northerly boundary line of the tract of land so conveyed as last aforesaid, South  $79\frac{1}{4}^{\circ}$  East twenty-five (25) chains to an oak tree marked AD4, being the Northwest corner of the lands formerly belonging to Albert Dibblee; running thence South  $16\frac{3}{4}^{\circ}$  West fifteen and  $\frac{40}{100}$  (15.40) chains; South  $39\frac{1}{4}^{\circ}$  East twenty-four (24) chains and South  $67^{\circ}$  East fourteen (14) chains to <sup>a post marked "A.D.7" at</sup> the most Southwesterly corner of said lands formerly belonging to said Albert Dibblee; thence following along the Lagunitas Road North  $2^{\circ}$  East five (5) chains and seventy (70) links; North  $27^{\circ} 30'$  East seven (7) chains; North  $18^{\circ} 30'$  East three (3) chains; North  $62^{\circ} 15'$

East three (3) chains, seventy (70) links; north  $83^{\circ} 45'$   
East one (1) chains, forty-five (45) links to the Westerly  
line of the Redwood Tract, so called; thence along said  
Westerly line of said redwood tract South  $0^{\circ} 45'$  East thirty  
(30) chains, fifty-four (54) links to a redwood tree thirty-  
six (36) inches in diameter at the Northwest corner of the  
Cooper House Tract; thence South  $0^{\circ} 13'$  West two thousand  
one hundred and forty-seven (2147) feet; South  $34^{\circ} 35'$  West  
two hundred and ninety-six and two tenths (296.2) feet;  
South  $18^{\circ} 52'$  West two hundred and seventeen (217) feet;  
South  $0^{\circ} 02'$  West one hundred and seventy-eight and four  
tenths (178.4) feet; South  $22^{\circ} 21'$  East one hundred and twenty-  
one and eight tenths (121.8) feet; South  $21^{\circ} 45'$  East four  
hundred and sixty-nine and six tenths (469.6) feet; South  
 $19^{\circ} 11'$  East five hundred and twenty-nine and nine tenths  
(529.9) feet; South  $13^{\circ} 06'$  West three hundred and eleven  
(311) feet; South  $50^{\circ} 52'$  East four hundred and nineteen and  
two tenths (419.2) feet; South  $13^{\circ} 27'$  East three hundred and  
forty-three (343) feet; South  $30^{\circ} 01'$  East two hundred and  
ten and four tenths (210.4) feet; South  $64^{\circ} 29'$  East three  
hundred and forty-six and five tenths (346.5) feet; South  
 $12^{\circ} 20'$  East three hundred and ten and five tenths (310.5) feet;  
South  $50^{\circ} 08'$  East one hundred and fifty-six and seven tenths  
(156.7) feet; South  $17^{\circ} 38'$  East six hundred and six and four  
tenths (606.4) feet; South  $29^{\circ} 11'$  West two hundred and twenty-  
six and six tenths (226.6) feet; South  $1^{\circ} 32'$  East three hundred  
and eleven and seven tenths (311.7) feet; South  $19^{\circ} 45'$  West  
three hundred and eighty-six and four tenths (386.4) feet;  
South  $5^{\circ} 07'$  East two hundred and fifty (250) feet; South  $20^{\circ}$   
 $57'$  West two hundred and seventy-seven and six tenths (277.6) feet;

South  $40^{\circ} 55'$  West one hundred and thirty-six and seven tenths (136.7) feet; to a post marked PQL06, being Station 106 of the final and official survey of the Rancho Punta de Quentin; running thence along the boundary line of the said Rancho Punta de Quentin North  $67^{\circ} 07'$  West three thousand seven hundred and twenty-nine and  $0/10$  (3729.0) feet to an unmarked post at the Southeast corner of the Fish Gulch Tract; thence along the Southerly boundary line of said Fish Gulch Tract North  $85^{\circ} 30'$  West five thousand three hundred and twenty-nine and fifty one-hundredths, (5329.50) feet; to an unmarked post; thence North  $39^{\circ} 30'$  West seven hundred and sixty-four and ninety-four one-hundredths (764.94) feet to an unmarked post; thence North  $20^{\circ} 0'$  East one thousand three hundred and twenty and  $0/100$  (1320.00) feet to an unmarked post on the boundary line of the Rancho Punta de Quentin, being the Northerly corner of said Fish Gulch Tract; thence following the said boundary line of the said Rancho Punta de Quentin North  $67^{\circ} 07'$  West three thousand four hundred and sixty-five and  $0/10$  (3465.0) feet to a post marked PQL07TB; thence North  $34^{\circ} 0'$  West six thousand one hundred and forty-four and six tenths (6144.6) feet to post marked PQL08; and thence North  $1^{\circ} 45'$  West three thousand seven hundred and ninety-five and  $0/100$  (3795.00) feet to the said post marked PQL09ELL, and the point of beginning, and containing within said boundaries the Lagunitas Dairy Tract, the Hippolyte Ranch, the Bald Hill Tract, Phoenix Lake Tract, Bill Williams Gulch Tract, Lagunitas Lake Lands and the Fish Gulch Tract of the Marin Water and Power Company, together with all rights appurtenant to said Lagunitas Lake or Lagunitas Dairy Tract lands or the Fish Gulch Tract lands, or otherwise acquired by the Marin Water and Power Company through its predecessors in interest, to develop water and receive the flow of the same from

the adjoining lands of the Rancho Tomales y Baulines, acquired under a certain deed from Oscar L. Shafter, James McL Shafter and Charles Webb Howard to the Marin County Water Company, dated September 15th, 1871, and recorded in the office of the County Recorder of said Marin County in Liber "L" of Deeds at page 84.

SECOND

All that certain tract of land in the City of San Rafael, County of Marin, State of California, described as follows, to-wit:

BEGINNING at a point in the Westerly line of the land of Matilda C. Moore where the fence dividing the lands of the Shorts from the lands of I. Jessup connects with the fence on said land of said Moore; thence running North  $14\frac{1}{2}^{\circ}$  East 182.4 feet along said Westerly line; thence South  $68\frac{1}{4}^{\circ}$  East 340 feet; thence South  $14\frac{1}{2}^{\circ}$  West 154.7 feet; thence South  $83^{\circ} 24'$  West 225 feet; thence North  $68\frac{1}{4}^{\circ}$  West 88.4 feet; thence North  $14\frac{1}{2}^{\circ}$  East 80 feet, and thence North  $68\frac{1}{4}^{\circ}$  West 40 feet to the place of beginning.

Together with a right of way for the use of Persons on foot and on horseback, and with wagons and vehicles of every description, passing to and from the land above described over the following strip of land, and the whole thereof, to-wit:

BEGINNING at the South east corner of the tract of land above described, running thence North  $68\frac{1}{4}$  degrees West and parallel with the Southerly line of the land of Matilda C. Moore 300 feet, thence North  $14\frac{1}{2}$  degrees East 80 feet, said last line being parallel with the Westerly line of the land of said Matilda C. Moore; thence North  $68\frac{1}{4}$  degrees West 40 feet; thence South  $14\frac{1}{2}$  degrees West along the said Westerly line of the land of said Matilda C. Moore 125 feet, to the South West corner of the land of Matilda C. Moore; thence along the Southerly

line of the land of Matilda C. Moore South  $68 \frac{1}{4}$  degrees East 340 feet; thence North  $14 \frac{1}{2}$  degrees East 45 feet to the place of beginning.

THIRD.

All those certain lots, pieces or parcels of land situate, lying and being in the City of San Rafael, State of California, particularly described as follows, to-wit:

First: Commencing at a stake driven at the point of intersection of the center line of Fourth street with the westerly corporate limit line of the said City of San Rafael and running thence south  $79^{\circ}$  and  $8'$  east along the said line of Fourth street 535.9 feet thence north  $12^{\circ}$  and  $27'$  east four hundred and twenty three feet, thence north  $20^{\circ}$  and  $51'$  east 607.1 feet to the south westerly corner of the tract intended to be described hereby and running thence north  $17^{\circ}$   $24'$  east 290.4 feet thence south  $72^{\circ}$  and  $36'$  east 600 feet thence south  $17^{\circ}$  and  $24'$  west 290.4 feet and thence north  $72^{\circ}$  and  $36'$  west 600 feet to the point of commencement of the fourth course hereinbefore given being the southwesterly corner of the tract hereinbefore described and containing four (4) acres of land.

Second: Commencing at a point in the northerly line of the tract of land hereinbefore described distant south  $72^{\circ}$  and  $36'$  east 218 feet from the north westerly corner of the said tract firstly hereindescribed and running thence north  $37^{\circ}$  and  $02'$  east 610 feet more or less to the southerly line of Culloden Avenue, thence southeasterly along said southerly line of Culloden Avenue 12 feet, thence south  $37^{\circ}$  and  $02'$  minutes west 610 feet more or less to the said northerly line of the tract of land herein firstly described and thence north  $72^{\circ}$  and  $36'$  west along said line 12 feet to the point of commencement being a strip of land 12 feet wide by about 610 feet long

connecting said 4 acre tract hereinbefore described with Culloden Avenue.

Third: Commencing at the south westerly corner of the four acre tract of land hereinbefore described and running thence south  $20^{\circ}$  and 51' west 607 feet more or less to the northerly line of a certain street or roadway now open and which was laid out by the late Alexander Forbes across his land lying between Fourth street and Culloden Avenue in said San Rafael and which road extended in a north easterly direction across said lands from a point in the northerly line of said Fourth street distant about 536 feet south easterly thereon from the point where said northerly line of Fourth street intersects the present westerly boundary line of the City of San Rafael, thence easterly along the northerly line of said Roadway to a point from which if a line be drawn at right angles to the first course herein the distance thereon will be 12 feet, thence north  $20^{\circ}$  and 51' east and in a course parallel with the first course herein 607 feet more or less to the southerly line of the 4 acre tract firstly described and thence westerly along the said southerly line of said 4 acre tract 12 feet to the point of beginning. Being a strip of land 12 feet wide by about 600 feet long extending from the 4 acre tract firstly described to the northerly line of said road laid out by the said Alexander Forbes now deceased.

Also the right of way at all times hereafter along through and over a certain roadway extending from the north side of Fourth street to the strip of land thirdly above described for the purpose of laying down and maintaining water pipes therein and of passing and repassing along and over so much thereof with horses, wagons, men and materials as may be necessary for maintaining and repairing reservoirs

pipes and other improvements upon the land hereby described, and such other improvements thereon as the purposes of the water works system may hereafter require.

FOURTH.

All that certain lot or parcel of land located in the City of San Rafael, County of Marin, State of California and described as follows, to-wit:

BEGINNING at a point in the Southerly line of Fifth Street 100 feet Easterly from the corner formed by the intersection of the Easterly line of "B" street with the Southerly line of Fifth street; running thence Southerly at right angles to Fifth street 130 feet to the Northerly line of an alley; thence Easterly along the Northerly line of said alley 80 feet; thence Northerly parallel with "B" street 130 feet to the Southerly line of Fifth street; and thence Westerly along said line of Fifth street 80 feet to the point of beginning.

FIFTH

All that certain lot and parcel of land situate, lying and being in the City of San Rafael, County of Marin, State of California and bounded and particularly described as follows:

BEGINNING at a point on the northerly line of Second street distant one hundred (100) feet westerly from the northwest corner of Second street and Tamalpais avenue, thence northerly and parallel with Tamalpais Avenue one hundred and ten (110) feet thence westerly and parallel with Third street one hundred and ninety five (195) feet to a point on the easterly line of Petaluma Avenue, distant one hundred and forty (140) feet southerly from the southerly line of Third street, thence southerly along the easterly line of Petaluma Avenue forty three and 8/10 (43 8/10) feet to the northerly line of the Turnpike Road,



thence southeasterly along said northerly line of the Turnpike Road one hundred and fifty two (152) feet to the northerly line of Second street, thence easterly along said northerly line of Second street fifty seven (57) feet to the point of beginning.

SIXTH.

All that piece of land situate at San Quentin in the County of Marin, State of California, described as follows:

BEGINNING at the North Easterly corner of the 1 acre lot of ground conveyed by David Porter to the State of California by deed dated the 15th day of February 1879 recorded in the office of the County Recorder of said County of Marin, in Liber "T" of Deeds, page 210, & , thence running by the true meridian (the magnetic variation being 16 degrees 35' East) South 65 degrees East 200 feet to the northerly line of the State Prison grounds, thence along said Northerly line South 87 3/4 degrees West 87 feet thence North 75 3/4 degrees West 108 feet to the South Easterly corner of said one acre lot; and thence North 4 1/2 degrees East along the Easterly line of said 1 acre lot 73 feet to the place of beginning.

Containing about one eighth of an acre of land. And also the right of way in and along which to lay and maintain water pipes for the purpose of supplying water to the houses or buildings now erected or hereinafter to be erected on the land heretofore owned by said Porter adjacent to and lying between the State prison grounds at Point San Quentin, the Bay of San Francisco and the lands of William T. Coleman which line is as follows:

BEGINNING at an oak tree North 50 degrees East 22 feet distant from the North Easterly corner of the small reservoir built upon the lot of ground hereinabove described, thence by the true meridian (the magnetic variation being as above

stated) North  $64 \frac{1}{2}$  degrees East 245 feet to an oak tree 2 feet in diameter, thence North 87 degrees East 90 feet to a stake, thence North 61 degrees East 95 feet to a stake on a rock point, thence South 87 degrees East 111 feet to a buckeye tree, thence North  $80 \frac{1}{2}$  degrees East 839 feet to a stake along side of a bunch of rocks, thence South  $77 \frac{1}{2}$  degrees East 700 feet to a point in the center of the County Road in front of Mrs. Buckalew's Stable and at the West end of the cause-way leading to the Steamer landing at Point San Quentin. The right of way hereby described may be exercised and used within 10 feet of said described line, as may be necessary in order to make proper turns in the pipe at such point where one of above courses meets another course, and shall include only, so much ground as may be covered, by the pipe and such right of way shall include the right to repair and relay such pipe when necessary, and to enter upon said premises for such purposes and for examination.

Also a piece of ground fifty feet square at the place where the above described course North  $80 \frac{1}{2}$  degrees East meets the course South  $77 \frac{1}{2}$  degrees East, to be used for the erection of a distributing reservoir.

#### SEVENTH

The lot of ground in the said town of San Rafael beginning at the southwest corner of the lot known as the McCrea 10 acre lot, thence running by the true meridian along the westerly line of said McCrea lot north  $14^{\circ} 45'$  East 4.54 chains thence ascending the easterly slope of the hill known as the San Rafael Hill and along a line north  $75^{\circ}$  west 13.80 chains, thence descending the southerly slope of said hill along another line of fence south  $4^{\circ} 45'$  West 528 feet to the northerly line of that lot 25 feet square known as Smiths spring lot; thence running north  $86^{\circ} 30'$

east 10 feet to the northeasterly corner of said spring lot thence south 3° 30' east 25 feet to the southeast corner of said spring lot; thence south 86° 30' west along the south line of said lot 13 feet to a continuation of the line of fence last above mentioned thence south 4° 55' west along the line of land formerly owned by S. P. Taylor to a point distant on said last named course 342 feet from the northerly line of Sixth street, thence south 84° 30' east 301 feet to the westerly line of land known as the Saunders 17 acre tract, thence along said last named line north 7° 15' east to the northwest corner of said 17 acre lot and to a wire fence at said corner thence along said wire fence and on the north line of said 17 acre lot north 81° 30' east 130 feet, south 71° 15' east 385 feet to the southwest corner of a lot known as the Saunders 1 acre lot, and thence along the Westerly line of said 1 acre lot north 18° 45' east 200 feet to the place of beginning, Magnetic variation being 16 1/2° east.

Also the right of way at all times hereafter along, through and over a strip of ground 10 feet in width extending from the Northerly line of Sixth Street aforesaid along the Westerly line of said Saunders 17 acre lot to the most Southerly line of the land hereby described (the ten feet herein mentioned being the most Easterly ten feet of the lot of ground conveyed by William T. Coleman to Carrie M.P. Coleman by deed dated June 1st, 1874, recorded in the Recorder's Office in Liber "Q." of Deeds, page 370. Marin County Records) for the purpose of laying down and maintaining water pipes therein and of passing and repassing over and along so much thereof with horses, wagons, men and materials as lies between the Southerly line of Laurel Avenue and the land hereby described, as may be necessary, for maintaining and repairing the reservoirs, springs, pipes and improvements upon the land hereby described, and such other improvements

thereon as the purpose of the water works system may hereafter require.

EIGHTH.

BEGINNING at a point in the wire fence which divides the lands of Wm. T. Coleman from Saunders 17 acre tract distant 200 feet in a northeasterly direction from northwest corner of said tract thence north 18° 45' east about 600 feet to the fence dividing lands of said Coleman from lands of Alexander Forbes, thence along said fence in a northwesterly direction 300 feet thence south 4° 45' West to the line of wire fence first mentioned and thence in a northeast direction along said fence to the point of beginning.

NINTH.

All that certain lot and parcel of land situate, lying and being in the County of Marin, State of California, and bounded and particularly described as follows:

Being lots numbers sixty six (66) and sixty seven (67) as per map of Fairfax Tract filed on the eighth day of April 1908 in map Book number two (2) page 114; in the office of the County Recorder of the County of Marin, State of California.

TENTH

All that certain lot and parcel of land situate, lying and being in the County of Marin, State of California and bounded and particularly described as follows:

Lots eleven (11) and twelve (12) in Block "D" as said lots and block are laid down, designated and delineated on the map of Baltimore Park dated July 9th 1907 filed and recorded in the office of the County Recorder of the County of Marin, State of California in Book Two (2) of Maps at page 90.

ELEVENTH.

All that certain lot and parcel of land situate, lying and being in The Lagunitas Tract, County of Marin, State of California and bounded and particularly described as follows:

Lot number eighty (80) as shown and designated on the "Map of the Lagunitas Tract Subdivision Three portion of the Mailliard Estate Rancho San Geronimo Marin Co. Cal" filed in the office of the Recorder of Marin County, State of California, on the 28th day of June A.D. 1905 in Map Book 2 page 26.

TWELFTH.

Also all the waters, water rights, water privileges, rights of way, easements, franchises, reservoirs sites, reservoirs, pipes, flumes, aqueducts mains, service pipes, fittings, connections, pumping plants, riparian rights leasehold rights, distributing plants, storage plants, filter and straining plants, stables shops, store houses, buildings, improvements and other property, real or mixed, now owned or controlled by the Marin Water and Power Company. Together with all and singular the tenements hereditaments and appurtenances belonging to the properties or any thereof, hereinbefore described or intended so to be or in anywise appertaining thereto, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, with all the right, title, interest, estate, property, possession, claim or demand in law or in equity of the Marin Water and Power Company of, in or to the same, or any and every part and parcel thereof with the appurtenances.

The structural and physical properties other than land and the water rights referred to in the preceding paragraph are more particularly described as follows:

1. - General structures consisting of office building, garage, stables, work shop and shed upon the property "Fourth" described in said schedule A in the City of San Rafael, together with storage building situated on the storage or pipe lot, which is "Fifth" described in said schedule A.

2. - Miscellaneous equipment consisting of tools and appliances, materials and supplies on hand, furniture and office fixtures and a private telephone line; also all maps, map books, block books, records, pipe lists, inventories and all data and equipment pertaining to the construction and operation of the water plant of said Marin Water and Power Company which is the result of the surveying, planning or other office work which was necessary for, or actually engaged in for the construction and maintenance of said work.

3. - A COLLECTION SYSTEM, consisting of the following:

a. Lake Lagunitas Reservoir, located upon the parcel of land "First" in said schedule A described, with the following appurtenances: An earthen Dam with a Spillway and 1621 feet of 3" Syphon pipe, on which are 10 - 3" Gate Valves, 2 - 2" Gate Valves and 4 - 1" Air valves and an Auxillary flume with 95 feet of 6" Riveted Pipe.

b. Phoenix Gulch Reservoir with the following appurtenances: An earthen Dam with Spillway and 390 feet of 30" Cast Iron (c) outlet pipe and Valve Tower and appliances.

c. Bill Williams Dam with Spillway; 40 feet of 3" Screw Pipe, and 32 feet of 12" Cast Iron Pipe.

d. Swede George Dam with 20 feet of 12" Screw Pipe.

e. Worn Spring Pipe Line consisting of 400 feet of 6" casing and 150 feet of 10" X 12" Redwood Flume.

f. Lagunitas Pumping Plant consisting of the following: Fairbanks-Morse Horizontal Gas Engine, 25 Horse-power, 8" Price Centrifugal pump; 60 feet of 8" Flange Pipe; 80 feet of 10" Screw Pipe, 1 - 8" Gate Valve and Auxillary Flume.

g. Lower Pumping Plant at Phoenix Gulch consisting of the following: Fairbanks-Morse  $4\frac{1}{2}$ " X 10" Pump; Fairbanks-Morse Gas Engine, 25 Horse-power, Portable, with fittings; 120 feet of 4" Screw Pipe; 477 feet of 3" Screw Pipe; 30 feet 6" Drains; 500 feet of  $1\frac{1}{2}$ " Galvanized gas pipe and a concrete Sump in which there is 260 feet of 3" Screw Pipe.

h. The following buildings;: At the Marshall place: ~~Residence~~: Dwelling, barn, milk house and bunk house. At Deer Park: barn and corral. At Tamalpais Dam: cement shed, cabin and stable. At Bon Tempe Ranch: dwelling and three bunk houses; at Lagunitas Dam: Pump house, bunk house, wood-shed, chicken-house, cellar, cottage, store-house, old barn and dwelling; at Phoenix Dam: Pumping station, lower pump-house, cabin, bunk-house, cook-house, dwelling, gasoline shed, garage, bunk-house, stable and shed, barn and chicken-house and a fire protection system; At Porteous Place: a two story residence, wood-shed, stable, chicken-house, hunting lodge, rough log cabin, winery and fire protection for same.

i. The following roads and trails: Old Fish Grade, (abandoned) 3530 feet; 5300 feet of road from North Gate to foot of Fish Grade; 9410 feet of road from foot of Fish Grade to Bon Tempe; Old County Road, 8150 feet; 6500 feet of road Tamalpais Dam to Lagunitas Dam; New Fish Grade, 5900 feet; Road to Deer Park 3900 feet; Eldridge Grade 14,500 feet; road around Phoenix Lake 2300 feet; trail at Phoenix Lake 2300 feet; road around Lagunitas Lake 800 feet.

j. The following border fences: 31,544 feet of Elwood fences; 24,619 feet of barbed wire fencing; 5845 feet of barbed wire fencing with rail.

k. The following pasture fences: 186 ft of split redwood picket fence; 1380 feet of pine board fencing; 6505 feet of barbed wire fence with rail; 17,799 feet of barbed wire fence.

4. A TRANSMISSION SYSTEM, which includes the following:  
a. The Sausalito pipe line consisting of: a wooden hooper  $14'.3" \times 12'.0 \times 10'.0$  with appurtenances; 254 feet of 10"

Screw Pipe; one 10" Gate Valve; 60 feet of 2" Black Pipe; 30,477 feet of 18" Converse Pipe, 1/4" thick; 1642 feet of 18" converse pipe 3/8" thick with trestles; seven 18" heavy geared vales; 437 feet of tunnel; 1824 feet of 16" Cast Iron pipe, Class D; one 16" geared valve; 32290 feet of 12" cast iron pipe, class D, with trestles; ten 12" geared valves; connection to N.W.Pacific R.Ry shops including 200 feet of 6" standard screw pipe and one 6" Gate Valve; connection to the Ferry Building at Sausalito including 125 feet of 4" Cast Iron pipe; one 4" Gate Valve; Connection to Fort Baker; 12 feet of 6" screw casing; 276 feet of 6" Standard Screw pipe; 182 feet of 6" converse pipe; four 6" Gate Valves; meter house; meter house at Sausalito.

b. The Lagunitas Pipe Line, consisting of 26083 feet 12" Kalamined pipe with trestles; twenty-one 12" heavy gate valves; 20 feet 2" black pipe; an aerator; a screen house; 404 feet of 12" #11 Riveted pipe; a flume from dam to aerator.

c. The Swede George Pipe Line, consisting of: 16870 feet 6" converse pipe; two 6" gate valves; 1185 feet of 4" screw pipe; seven 1" air valves.

d. The Bill Williams Pipe Line, consisting of: 4225 feet of 6" Casing; one 6" gate valve; 3137 feet of 4" converse pipe; one 4" gate valve.

e. The San Quentin Pipe Line, consisting of: 1342 feet of 6" converse pipe; two 6" gate valves; 18301 feet of 5" converse pipe; one 5" gate valve; 200 feet of 4" screw pipe; one 4" gate valve; one 3/4" air valve; four 1/2" air valves and 2 - 1" blow offs.

f. Phoenix Lake Pumping Plant, consisting of: two Fairbanks-Morse Duplex Power Pumps 10" X 12"; two Fairbanks-Morse 60 Horse-power engines (1902); one 5" Price pump also fittings; incline tramway; gasoline tank; discharge pipe and 1700 feet of 8" screw pipe.



5. A DISTRIBUTION SYSTEM, which includes the following:

a. The Forbes Hill Reservoir with appurtenances, namely: one 12" inlet valve; 71 feet of 8" Cast Iron pipe; 754 feet of 8" riveted pipe; one 8" gate valve; 71 feet 16" cast iron pipe; 1543 feet 12" converse pipe; one 12" Garrett valve; 656 feet of 10" converse pipe with one 10" Eddy valve.

b. The Moore Hill Reservoir, with appurtenances as follows: 286 feet of 8" Riveted pipe with one 4" Coffin gate valve; 370 feet 8" Cast Iron pipe with one 8" Coffin valve.

c. The Coleman Reservoir, with appurtenances as follows: 400 feet 3" Black Screw pipe; 438 feet of 3" Black Screw pipe with one 3" valve with float; 463 feet of Black screw pipe with one 4" Garratt valve; also all wells and springs connected to the Reservoir by the following pipe: 79 feet of 4" casing; 167 feet of 2½" casing; 60 feet of 3" screw pipe; 618 feet of 2" screw pipe.

d. The San Rafael Distributing Mains, consisting of the following: pipe, valves, meters, services, fire hydrants, connections and sprinkling standards.

	911 ft 3/4" Wrought Iron Pipe			
2957	" 1 "	"	"	"
1602	" 1 1/4"	"	"	"
7346	" 1 1/2"	"	"	"
7284	" 2 "	"	"	"
14446	" 3"	"	"	"
27011	" 4"	"	"	"
5987	" 6"	Casing		
8740	" 10"	"		
8456	" 3"	Cast Iron Pipe		
6163	" 4"	"	"	"
1025-	" 6"	"	"	"
4126	" 8"	"	"	"
1;045	" 10"	"	"	"

400 ft	4"	Lock joint	Converse				
575 "	5"	"	"	"			
9395 "	6"	"	"	"			
4230 "	10"	"	"	"			
31	3"	Gate Valves,	Iron Bodies,	Hub Ends.			
171	4"	Gate Valves,	Iron Bodies,	Hub Ends			
3	5"	"	"	"	"	"	"
47	6"	"	"	"	"	"	"
5	8"	"	"	"	"	"	"
20	10"	"	"	"	"	"	"
6	1"	Brass Screw valves					
11	1½"	"	"	"			
19	2"	"	"	"			
40-	5/8"	Wash Meters					
21-	5/8"	Trident	"				
7	5/8"	Lambert	"				
7. 126	5/8"	Keystone Meters					
174	5/8"	Crown	"				
363	5/8"	Empire	"				
6	3/4"	"	"				
10	3/4"	Crown	"				
2	1"	Trident	"				
2	1"	Empire	"				
1	1½"	Crown	"				
1	2"	Empire	"				
1	2"	Gen	"				
1481	1/2"	Services					
113	3/4"	"					
15	1"	"					
1	1½"	"					
8	2"	"					
108	4"	Hydrant Connections					
15	1½"	Sprinkling Standards.					

e. The San Anselmo Distributing Main, consisting of the following pipe, valves, meters, services, fire hydrant connections and sprinkling standards.

230	ft	1"	Wrought Iron Pipe
9036	"	2"	" " "
2478	"	3"	" " "
26957	"	4"	" " "
2943	"	6"	" " "
999	"	6"	Casing "
2252	"	4"	Cast Iron "
1429	"	6"	Converse "
6		3"	Gate Valves, Iron Body, Hub end.
111		4"	" " " " " "
16		6"	" " " " " "
15		2"	Brass Screw Valves
18		5/8 "	Wash Meters
3		5/8"	Trident Meters
46		5/8"	Keystone "
52		5/8"	Crown "
1		1"	" "
12		5/8"	Empire "
1		3/4"	" "
826		1/2"	Services
1		3/4"	"
3		1"	"
1		3"	"
31		4"	Hydrant Connections
11		1 1/2"	Sprinkling Standards.

f. Ross Distributing Mains, consisting of the following pipe, valves, meters, services, fire hydrant connections and sprinkling standards.

413	ft	1"	Wrought Iron Pipe				
1689	"	2"	"	"	"	"	"
794	"	3"	"	"	"	"	"
30,599	"	4"	"	"	"	"	"
5079	"	6"	"	"	"	"	"
870	"	4"	Cast Iron				
3820	"	4"	Converse Pipe				
1		3"	Gate Valve, Iron Body, Hub end.				
74	-	4"	" Valves,	"	"	"	"
12	-	6"	"	"	"	"	"
1	-	1"	"	"	Brass		
1		1½"	"	"	"		
6		2"	"	"	"		
2		5/8"	Wash Meters				
2		5/8"	Trident meters				
4		5/8"	Lambert	"			
37		5/8"	Keystone Meters				
32		5/8"	Crown	"			
4		3/4"	"	"			
98		5/8"	Empire	"			
12		3/4"	"	"			
1		1"	"	"			
245		1/2"	Services				
23		3/4"	"				
3		1"	"				
36		4"	Fire Hydrant Connections				
4		1½"	Sprinkling Standards				

g. Larkspur Distributing Mains, consisting of the following pipe, valves, meters, fire hydrant connections and sprinkling standards.

7268	ft	4"	Wrought Iron Pipe
1320	"	6"	" " "

546	ft	6"	Casing Pipe
20	-	4"	Gate Valves, Iron body, Hub end.
6	-	6"	" " " " " "
56	-	5/8"	Empire Meters
12	-	5/8"	Keystone Meters
3	-	5/8"	Lambert "
1	-	5/8"	Trident "
4	-	5/8"	Wash "
86	-	1/2"	Services
1		4"	"
1		4"	Hydrant Connection.

h. The Mains outside of incorporated towns consisting of the following pipes, valves, meters sprinkling standards and services.

In Fairfax:

485	ft	2"	Wrought Iron Pipe
10768	"	4"	" " "
400	"	6"	" " "

In Kentfield:

1100	ft	1 1/2"	" " "
5690	"	2"	" " "
19810	"	4"	" " "
877	"	3"	Cast Iron "
183	"	4"	" "

In San Rafael Suburbs:

7850	ft	2"	Wrought Iron Pipe
5695	"	3"	" " "
2832	"	4"	" " "
673	"	6"	" " "
4721	"	10"	Converse "

In Marin Heights:

765 ft 4" Wrought Iron Pipe  
883 " 6" " " "

In San Quentin:

365 - 1½" Wrought Iron Pipe  
4640 2" " " "  
7 - 3" Gate Valves, Iron Body, Hub. end.  
35 - 4" " " " " "  
21 - 6" " " " " "  
2 - 8" " " " " "  
4 - 10" " " " " "  
11 - 2" " Brass  
1 - 2" Empire Meter  
3 - 3" Gen "  
1 - 1" Empire "  
1 - 1" Keystone Meter  
1 - ¾" Empire "  
138 - 5/8" " "  
47 - 5/8" Crown "  
32 - 5/8" Keystone "  
3 - 5/8" Lambert "  
5 - 5/8" Wash "  
328 - 1/2" Services  
2 - ¾" "  
2 - 1" "  
1 - 1½" "  
5 - 2" "  
5 - 3" "  
1 - 4" "  
1 - 6" "  
33 - 1½" Sprinkling Standards.

The foregoing are all included in a certain report of the J. G. White Engineering Corporation to the Marin Water and Power Company, dated February 23d, 1914, to which reference is hereby made for a more complete description of said properties.

6. Together with all properties built and building or to be built subsequent to the making of the list by the above engineering firm up to the date of the Findings and Judgment of the Railroad Commission in the above entitled matter.

7. Also all of the following water rights and rights connected with the use of water which are conveyed to the Marin County Water Company, the predecessors in interest of the Marin Water and Power Company, by the following deeds, to-wit:

a. Deed from Adolph Mailliard, Dated December 28, 1871, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 113.

b. Deed from Pacific Powder Company, dated January 8, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "J" of Deeds at page 436.

c. Deed from Samuel P. Taylor, dated February 20, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "J" of Deeds at page 479.

d. Deed from Grandenzio Cheda, dated March 18, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "J" of Deeds at page 528.

e. Deed from Jose Garcia, dated April 6, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 176.

f. Deed from M. Hilaria Garcia, dated April 15, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 178.

g. Deed from Loretta Garcia, dated April 15, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 180.

h. Deed from Felipe J. Garcia, dated April 15, 1872 and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 182.

i. Deed from G. Godoni and G. Gotta, dated June 26, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 312.

j. Deed from Omar Jewell, dated June 26, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 314.

k. Deed from Luigi Mazza, dated June 26, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 316.

l. Deed from James M. Shafter, dated July 11, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "K" of Deeds at page 306.

m. Deed from Maria L. BlackEst, dated September 14, 1872, and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber "J" of Deeds at page 592.



RIGHTS OF WAY.

Group 1.

First: An easement and right of way to lay down a line of water pipe and forever maintain the same, across a certain tract or parcel of land near the Town of San Rafael, more particularly described as follows, to-wit:

BEGINNING at a point 41 feet East of the N.W. corner of Lot 1, Block 3 in what is known as Ross Addition to the Town of San Rafael, running thence South 67 degrees East 166 feet, thence S. 64 1/2 degrees E. 132 feet; thence S. 69 1/4 degrees E. 436 feet; thence S. 54 1/2 degrees E. 60 feet thence S. 40 1/4 degrees E. 40 feet; thence S. 29 1/2 degrees E. 147 feet, thence S. 41 degrees E. 158 feet, thence S. 43 1/2 degrees E. 521 feet, thence S. 48 3/4 degrees E. 340 feet, thence S. 60 3/4 degrees E. 223 3/4 feet; thence S. 60 1/2 degrees E. 132 feet; thence S. 54 degrees E. 131 1/2 feet; thence S. 51 3/4 degrees E. 132 feet; thence S. 47 1/2 degrees E. 105 1/2 feet, thence S. 45 1/4 degrees E. 361 feet thence S. 57 1/4 degrees E. 92 1/2 feet; thence S. 72 1/4 degrees E. 248 3/4 feet; thence S. 65 1/2 degrees E. 246 feet, thence S. 65 1/4 degrees E. 604 1/2 feet; thence S. 66 1/2 degrees E. 278 feet thence S. 78 degrees E. 247 1/2 feet; thence S. 76 degrees E. 594 feet; thence S. 73 1/2 degrees E. 99 feet, thence S. 64 3/4 degrees E. 91 3/4 feet; thence S. 56 degrees E. 89 feet; thence S. 45 1/2 degrees E. 100 feet; thence S. 32 degrees E. 876 1/2 feet; thence S. 37 degrees E. 30 1/4 feet; thence S. 50 1/4 degrees E. 413 feet; thence S. 60 1/4 degrees E. 832 1/4 feet thence S. 59 1/4 degrees E. 198 feet; thence S. 57 1/4 degrees E. 62 3/4 feet; thence S. 45 1/4 degrees E. 647 feet; thence S. 45 3/4 degrees E. 33 feet; thence S. 64 degrees E. 132 feet; thence N. 85 degrees E. 123 1/2 feet; thence S. 81 degrees E. 66 feet, thence S. 65 1/2 degrees E. 82 1/2 feet thence S. 76

3/4 degrees E. 216 feet, thence S. 82 1/4 degrees E. 46 1/4 feet; thence S. 69 1/2 degrees East 42 1/2 feet; thence S. 47 1/4 degrees E. 49 1/2 feet; thence S. 35 degrees E. 29 feet; thence S. 21 3/4 degrees E. 392 3/4 feet; thence S. 42 1/4 degrees E. 132 feet; thence S. 35 1/2 degrees E. 89 feet; thence S. 53 1/4 degrees E. 128 3/4 feet, thence S. 55 1/2 degrees E. 299 1/2 feet; thence S. 62 1/4 degrees E. 221 1/4 feet; thence S. 69 degrees E. 580 feet; thence S. 59 1/2 degrees E. 118 feet thence S. 60 1/4 degrees E. 81 1/4 feet; thence S. 67 1/4 degrees; E. 122 3/4 feet; thence S. 58 3/4 degrees E. 102 1/4 feet; thence S. 47 degrees E. 282 1/2 feet; thence S. 43 1/2 degrees E. 130 3/4 feet, thence S. 44 1/4 degrees East 132 feet thence S. 60 3/4 degrees E. 115 1/2 feet; thence South 51 3/4 degrees E. 326 3/4 feet; thence S. 40 3/4 degrees E. 150 1/2 feet to the Easterly line of the property purchased by said Coleman from David Porter; also the right of way free ingress, egress and regress to and for the said Marin County Water Company, its successors and assigns forever, and their Servants and employees and workmen to repair, reconstruct, clean or inspect said line of water pipe forever.

Second: An easement and right of way to lay down a line of water pipe and forever maintain the same, across a certain tract or parcel of land near the Town of San Rafael more particularly described as follows:

BEGINNING at a point three feet Easterly from the S.W. corner of lot No. 7 of Hughes addition to San Rafael, thence running N. 9 1/2 degrees West Three Hundred and Twenty feet to the South line of the Olema and San Rafael Road. Also the right of way, free ingress, egress and regress to and for the said Marin County Water Company, its successors and assigns and their servants, employees and workmen to repair, reconstruct, clean or inspect said line of water pipe forever.

Third: All the right of way for laying and maintaining a water pipe through the Fern Hill Tract so called in the said County of Marin, along a line described as follows, to-wit:

BEGINNING at a point 512 feet from the South West corner of said tract, thence running North  $8 \frac{1}{2}$  degrees West 377  $\frac{1}{2}$  feet; thence running North  $18 \frac{1}{4}$  degrees East 314 feet; thence North 23 degrees East 48 feet, thence North  $22 \frac{1}{4}$  degrees East 122 feet; thence North  $20 \frac{3}{4}$  degrees East 255 feet to the line dividing said Fern Hill Tract from the lands now or heretofore belonging to the Ross Estate, and the right of way hereinbefore set forth or granted.

Fourth: An easement and right of way to keep and forever maintain a water pipe upon and along the line on which it is now laid across that piece or parcel of land situated in the State of California, County of Marin, bordering on Fourth Street and in the Town of San Rafael, described as follows:

BEGINNING at a point in the South line of the property formerly belonging to Isaac Jessup, distant 194  $\frac{1}{2}$  feet from the S.E. corner thereof thence N. 72 degrees E. 73 feet, thence N. 35 degrees E. 73 feet thence N.  $23 \frac{1}{4}$  degrees E. 101  $\frac{3}{4}$  feet; thence N. 2 degrees E. 218 feet, thence N.  $11 \frac{1}{2}$  degrees W. 269  $\frac{1}{2}$  feet to the dividing line between the lands of Isaac Jessup and one W. S. Hughes.

Fifth: Grant of right of way over all lands of J.O.B. Short as the same was used and enjoyed by the Marin County Water Company on the 24th day of May 1878, for the use of said company for pipe lines as contained in deed dated May 24th, 1878 and recorded in the office of the County Recorder of the County of Marin, in Liber "R" of Deeds at page 485.

Sixth: An easement and right of way to keep and forever maintain a water pipe upon and along the line which it is now laid across that certain tract of land in said Town of San

Rafael, which was conveyed to David Warden by Matilda C. Moore by a deed dated April 12th, 1889 and recorded in Book "9" of Deeds at page 502 of Marin County records said line of water pipe being more particularly described as follows:

BEGINNING at a point in the Northerly line of the tract of land which was conveyed to the said Marin County Water Company by Matilda C. Moore by a deed dated May 25th, 1878, and recorded in Book "R" of Deeds at page 482 of Marin County Records said point being about three feet Easterly from the North West corner of said tract so conveyed to said Water Company, thence in a Northerly direction practically in a straight line to a point in the Northerly line of the tract of land conveyed to David Warden and first herein above mentioned said point being about twenty five feet Easterly from the North West corner of said tract.

Seventh: A right of way upon and over the lands of Henry C. Campbell, in Marin County, State of California, for the purpose of laying down and forever maintaining a line of water pipes, which said line or course is described as follows, to-wit:

BEGINNING at a stake marked "A" driven in the Easterly line of the County Road leading from San Rafael to Petaluma distant thereon 2030  $\frac{8}{10}$  feet Northerly from the Northerly corporate limits of the City of San Rafael, and distant South 42 degrees 26' East 133  $\frac{7}{10}$  feet from Station post No. 31 of the survey of the exterior boundary line of the property of Henry C. Campbell, dated April 1888, thence parallel with and distant 14 feet northerly at right angles from the center line of a proposed street 60 feet wide, North 56 degrees 53' East, 327  $\frac{7}{10}$  feet and North 66 degrees 58' East 779  $\frac{7}{10}$  feet crossing said proposed street to a stake marked "C", thence parallel with and distant 14 feet Southerly at right angles from the center line of said proposed street 60 feet wide, North 36 degrees 44' East

317  $\frac{9}{10}$  feet and North 44 degrees 01' East 133  $\frac{9}{10}$  feet to a stake marked "E", thence parallel with and distant 6  $\frac{5}{10}$  feet Westerly at right angles from the center line of a proposed street 45 feet wide, South 34 degrees 39' East 423  $\frac{4}{10}$  feet to a stake marked "F", thence parallel with and distant 4 feet Northerly at right angles from the center line of a proposed street 40 feet wide, South 84 degrees 09' East, 23 feet crossing the Point San Pedro road as now traveled to a stake marked "G".

Eighth: A right of way upon and over the land of Mary Agnes Forbes, in Marin County, State of California, for the purpose of laying down and forever maintaining a line of water pipes, which said line or course is described as follows, to-wit:

BEGINNING at a stake driven in the Westerly side of the County Road leading from San Rafael to Petaluma distant thereon 2025 feet Northerly from the Northerly Corporate limits of the City of San Rafael; thence South Westerly curving to the left on the arc of a circle having a radius of 146  $\frac{2}{10}$  feet (40 degree curve) 143  $\frac{5}{10}$  feet to a stake from which a white oak tree three feet in diameter blazed and marked with a spike bears South 46 degrees 08 minutes East 99  $\frac{4}{10}$  feet distant; thence South 21 degrees 19 minutes East 342  $\frac{1}{10}$  feet to a stake driven in the North Easterly line of the right of way of the San Francisco and North Pacific Railway, distant 15 feet North Easterly at right angles from the center of the track of said Railway.

Ninth: A right of way extending from the Lagunitas Road running in front of the land of Mrs. Anna S. Ross which lies Westerly of the land occupied by the North Pacific Coast-Rail Road and which is described in a deed from Ann S. Ross to the North Pacific Coast Railroad dated the Sixteenth of March 1882, and recorded on page 630 of Volume W. of deeds of Marin County, State of California, to the new road through the Cole Tract.

Tenth: A right of way over and through the lands of the NORTH PACIFIC COAST RAILROAD COMPANY, situated in the County of Marin, State of California, for the purpose of laying and maintaining a water pipe in said County and described as follows:

BEGINNING at a point in the Westerly line of the County Road known as the "Red Hill and Ross Landing Road" distant Southerly thereon 120 feet from the point of intersection of said line with the Southerly line of the San Rafael and Olema Road, said point of beginning being also Southerly twenty two feet from the South East corner of the Car House recently erected at San Anselmo Junction, running thence parallel with the Southerly side of said Car House North 77 degrees 43 minutes West 230 2-10 feet; thence South 59 degrees 12' West, crossing main tract to Duncans Mills 86-6~~10~~ feet thence South 27 degrees 38' West 22 5-10 feet to a point in the line fence dividing the lands of the North Pacific Coast Rail Road Company from the lands of Sidney V. Smith, said last named point being distant North 59 degrees 17' East 136 4-10 feet from the most Easterly corner of Lot Number 42, as said lot is shown on the Map of "Ross Valley Park" filed in the Recorder's office of Marin County, State of California, on the 21st day of November 1900.

Eleventh: A right of way to lay and forever maintain a water pipe or main over and across a portion of the lands of Sidney V. Smith, near San Anselmo, Marin County, California, described as follows, to-wit:

BEGINNING at a point in the line dividing the lands of the North Pacific Coast Railroad Company from the lands of Sidney V. Smith, said point being distant North 59 degrees

17' East 136.4 feet from the most easterly corner of lot No. 42 as said lot is shown on the Map of "Ross Valley Park," filed in the Recorder's office of Marin County, California, on the 21st day of November 1900, running thence South 27 degrees 38' West, crossing the Arroyo San Anselmo over a bridge, 71.8 feet; thence South 71 degrees 36' West 102.6 feet to a point in Ross Valley Avenue, as delineated upon the map aforesaid, distant Southerly at right angles to the Northerly line of said Avenue 16 feet from the most Easterly corner of Lot No. 42 aforesaid.

Also to lay and forever maintain a water pipe or main over and along Ross Valley Avenue, Tamalpais Avenue, San Rafael Avenue and Marin Avenue as designated upon said map aforesaid, at a uniform distance of Sixteen feet from the Northerly, Easterly, Southerly and Westerly lines of said Avenues respectively as above named. Also the right to lay and forever maintain service pipes connecting with said mains and running to any and all lots into which said Valley Park is now or may hereafter be divided.

Twelfth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Poplar Avenue and Redwood Drive, and also along a strip of land six feet wide running along the southerly line of Lot 28, as all of the foregoing are designated and delineated on that certain map entitled "Map of the "Bosqui Tract near Ross, Marin County, California" and recorded on the 13th day of March, 1905 in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over across and from said premises all necessary or useful pipes connecting with said waterpipes, or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenue, Drive or strip, for the purpose of supplying said lands with water.

Thirteenth: The right to lay, maintain, repair and remove water pipes and mains over and along an open driveway thirty feet wide, whose center line is described as follows:

BEGINNING at a point in the Southerly line of First Street distant, measured thereon, North  $68^{\circ} 10'$  West 111.3 feet from the Northwest corner of Lots 5, Block 10 of "Short's Addition to the Town of San Rafael", thence South  $1^{\circ} 20'$  East 273.7 feet, also along a strip of land eight feet wide, whose center line is South  $21^{\circ} 45'$  West 255 feet from the terminus of the last course hereinabove mentioned. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running leading to any and all lots or parcels of land fronting upon said Driveway or strip for the purpose of supplying said lands with water.

Fourteenth: The right to lay, maintain, repair, remove and relay a water main together with the necessary valves, gates, and fixtures along across and through the lands of Mrs. A. E. Kent at Kentfield, Marin County, California along the following described lines, to-wit:

First: Beginning at a point in the Northerly line of the said lands of the said Mrs. A. E. Kent at the South end of Kent Avenue distant fifteen (15) feet Westerly from the right of way of the North Shore Railroad Company, thence crossing said lands running parallel with and fifteen (15) feet Westerly from the Westerly line of the Right of Way of the North Shore Railroad Company South  $21^{\circ} 50'$  East Six hundred and eighteen (618) feet to the West line of the County Road known as the Ross Landing and Sausalito Road.

Second: Beginning at a point in Kent Avenue at the intersection of the lane known as the "Entrance" as said Kent Avenue and "Entrance" are shown and delineated upon that certain map entitled "Map of the Raymond Tract Rose



Valley Marin County Subdivision One" and filed for record in the office of the County Recorder of Marin County in Map Book No. 2 at page 30, said point of beginning being fifteen (15) feet Westerly at right angles from the Westerly line of the right of way of the North Shore Railroad Company, and fifteen (15) feet Northerly at right angles from the northerly line of the said lands of Mrs. A. E. Kent at the South end of Kent Avenue, thence Northeasterly parallel with the fifteen (15) feet Northerly from the South line of said "Entrance" three hundred and fifty two (352) feet to the Westerly line of said County Road.

Fifteenth: The right to lay, maintain, repair and remove water pipes and mains upon, over, across and from that certain piece or parcel of land near Corte Madera, Marin County, California described as follows, to-wit:

A strip of land of the uniform width of ten (10) feet; lying five (5) feet on each side of a certain line beginning at a point in the westerly line of Lot thirty three (33) B of Chapman Park as said lot is shown and delineated upon Map No. 2 thereof, filed in the office of the County Recorder of Marin County, in Volume 2 of Records of Maps page 73 distant thereon eighty six (86) feet north of the southwest corner of said lot, said point of beginning being station 265+20.5/10 of the survey of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stakes set in the ground at intervals of one hundred (100) feet; thence along said center line crossing said lot thirty three (33) B South  $37^{\circ} 29'$  East one hundred and twenty (120) feet to the northerly line of the County Road leading from Corte Madera to Alto. All courses given by the true meridian the magnetic declination being  $17^{\circ} 30'$  East. And also the right to lay, maintain, repair and remove over, across and from said strip of land all necessary or

useful services pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said strip of land for the purposes of supplying said lands with water.

Sixteenth: The right to lay, maintain, repair and remove water pipes and mains in, over, along and upon that certain strip of land situate in Corte Madera County of Marin, State of California bounded and described as follows, to-wit:

A strip of land bounded as follows: On the north by the southerly boundary line of the land of the Bradbury Estate Investment Company on the east by the right of way of the Northwestern Pacific Railroad on the south by the Northerly boundary line of the lands of Mary Agnes Bosman and others being a portion of the Tierney Tract and on the west by a line described as follows, to-wit:

BEGINNING at a point in the Southerly line of that tract of land which was conveyed by Edgar J. Malmgren to the Bradbury Estate Investment Company by a deed dated January 18th, 1906 and recorded in the office of the County Recorder of Marin County in Book "97" of Deeds at page 302 distant thereon twenty five and  $\frac{8}{10}$  (25.8) feet west of the east corner thereof, said point of beginning being station 247+69  $\frac{6}{10}$  of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stakes set in the ground at intervals of one hundred (100) feet surface measurement, thence along said pipe line south  $19^{\circ} 01'$  East thirty and  $\frac{4}{10}$  (30.4) feet to a stake marked 248 one hundred and five and  $\frac{1}{10}$  (105.1) feet to a stake marked 248+ 74  $\frac{7}{10}$  feet driven in the southerly line of the lands of Edgar L. Malmgren, distant thereon twenty-

eight and  $5/10$  (28.5) feet west of the southeast corner thereof. And also the right to lay, maintain, repair and remove, over upon across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land adjoining said strip of land aforementioned for the purpose of supplying such adjoining lands with water.

Seventeenth: The right to lay, maintain, repair and remove water pipes and mains over all that certain property situated in the County of Marin, State of California bounded and particularly described as follows:

Tract A. A strip of land of the uniform width of ten (10) feet lying five (5) feet on each side of the proposed pipe line from Corte Madera to Sausalito and first hereinafter described from Station C  $248 \times 773/10$  thereof to station  $265 \times 20 \ 5/10$  thereof.

Tract B. A strip of land of the uniform width of ten (10) feet lying five (5) feet on each side of the proposed pipe line from Corte Madera to Sausalito and Second hereinafter described from Station  $267 \times 87$  thereof to Station D  $299 \times 44 \ 7/10$  thereof. Said proposed pipe line from Corte Madera to Sausalito is described as follows, to-wit:

First: Beginning at a point in the southerly boundary line of that tract of land near Chapman Park which was conveyed by Mary Agnes Forbes and others to Edgar J. Malmgren by a deed dated November 28th 1905 and recorded in the office of the County Recorder of Marin County in Book 97 of Deeds at page 270, distant thereon  $20 \ 2/10$  feet west of the south east corner of said tract, said point of beginning being Station C  $248 \times 77 \ 3/10$  of the survey of the proposed pipe line from Corte Madera to Sausalito as said line is

now located and marked by stakes set in the ground at intervals of 100 feet surface measurement; thence along said pipe line crossing the "Tierney Tract" south  $20^{\circ} 37'$  East 435  $\frac{4}{10}$  feet to a stake marked C 253 + 12  $\frac{7}{10}$  thence south  $14^{\circ} 06'$  East 335  $\frac{3}{10}$  feet to a stake marked C 256 + 48, thence south  $27^{\circ} 14'$  East 857 feet to a stake marked 265 and thence south  $37^{\circ} 29'$  East 20  $\frac{5}{10}$  feet to the boundary line between the "Tierney Tract" and the lands of Henry G. Meyer.

Second: Beginning at a point in the easterly line of the County Road leading from Corte Madera to Alto distant thereon 19 feet south of the southwest corner of that tract of land which was conveyed by Edgar C. Chapman to Frank J. Baker by a deed dated August 8, 1903 and recorded in the office of the Recorder of Marin County in Book 83 of Deeds at page 288, said point of beginning being station 267 x 87 of the survey of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stake set in the ground at intervals of 100 feet surface measurement, thence along said pipe line crossing the Cummings tract south  $37^{\circ} 29'$  East 149  $\frac{7}{10}$  feet to a stake marked C 269 + 36  $\frac{7}{10}$  thence south  $15^{\circ} 07'$  East 1300  $\frac{7}{10}$  feet to a stake marked D 282 + 37  $\frac{4}{10}$ ; thence parallel with and distant twenty (20) feet at right angles from the Westerly line of the right of way of the Northwestern Pacific Railroad Company south  $7^{\circ} 33'$  West 104  $\frac{6}{10}$  feet to a stake marked D 283 + 42 thence south  $16^{\circ} 00'$  West 558 feet to a stake marked D 289, thence south  $19^{\circ} 46'$  West 600 feet to a stake marked D 295, thence south  $17^{\circ} 40'$  West 100 feet to a stake marked D 296, thence south  $16^{\circ} 35'$  West 100 feet to a stake marked D 297, thence south  $14^{\circ} 02'$  West 100 feet to a stake marked D 298 and thence south  $12^{\circ} 02'$  West 144  $\frac{7}{10}$  feet

to a point in the northeasterly line of said County Road. The portion of the above described line from Station D 282 + 37  $\frac{4}{10}$  feet to station D 299 + 44  $\frac{7}{10}$  in the north easterly line of said County Road is parallel with and twenty feet westerly at right angles from the westerly line of the right of way of the Northwestern Pacific Railroad Company. All courses given by the true meridian the magnetic declination being  $17^{\circ} 30'$  East. And also the right to lay, maintain repair and remove over and across said premises all necessary or useful service pipes connected with said water pipes or mains and running or leading to any or all lots or parcels of land adjoining or in the vicinity of the right of way hereinbefore granted for the purpose of supplying said lands with water.

Eighteenth: The right to lay, maintain, repair and remove water pipes and mains, in, over, along and upon that certain strip of land situate in Corte Madera, Marin County, State of California bounded and described as follows, to-wit:

BEGINNING at a stake marked 245 + 83  $\frac{8}{10}$  driven in the southerly boundary line of the Colony Park Tract as shown on the map thereof filed January 19th, 1897 in the County Recorder's office of Marin County in Records of Maps Vol. 1, page 95 distant thereon 15 feet west of the south east corner of said tract said place of beginning being station 245 + 83  $\frac{8}{10}$  of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stakes set in the ground at intervals of 100 feet surface measurement thence south  $19^{\circ} 01'$  East 16  $\frac{2}{10}$  feet to a stake marked 246 + 116  $\frac{2}{10}$  feet to a stake marked 247, and 185  $\frac{8}{10}$  feet to a point in the southerly line of the lands

of the Bradbury Estate Investment Company, distant thereon 25  $\frac{5}{10}$  feet west of the southeast corner of said lands.

And also the right to lay, maintain, repair and remove over, upon, across and from said premises all necessary or useful pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land adjoining said strip of land aforementioned for the purpose of supplying such adjoining lots with water.

Nineteenth: The right to lay, maintain, repair and remove water pipes and mains over, along and from a strip of land of the uniform width of ten (10) feet lying five (5) feet on each side of the following described center line to-wit:

Commencing at a point distant south  $1^{\circ} 30'$  West one hundred seventy eight and  $\frac{2}{10}$  (178.2) feet from the southwest corner of Lot "I" as delineated on that certain map entitled "Section Map A being portion of Map entitled "Plan of Villa Lots near San Rafael, as filed in the Recorder's office of Marin County, State of California, September 10, 1887 being subdivisions of Lots twenty nine, thirty, and thirty one as shown upon said Map; thence running south  $84^{\circ} 57'$  East one hundred and seventy nine and  $\frac{35}{100}$  (179.35) feet south  $81^{\circ}$  East eighty one and  $\frac{80}{100}$  (81.80) feet south  $76^{\circ} 34'$  East one hundred and forty seven and  $\frac{10}{100}$  (147.10) feet south  $89^{\circ} 20'$  East seventy one (71) feet, more or less to the westerly line of the County Road. And also the right to lay, maintain, repair and remove over, across and from said strip of land all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon or adjacent to said strip of land for the purpose of supplying said land with water.

Twentieth: The right to lay, maintain, repair and remove water pipes and mains in along and from the following described premises, to-wit:

BEGINNING at the point of intersection of the center lines of Mission Street and Mission Avenue as the same are laid down and delineated upon Map No. 1 San Rafael Development Company which map was filed in the office of the Recorder of Marin County Cal on the 25th day of April 1908 in Map Book No. 2 at page 116, thence running along the center line of Mission Avenue as shown on said Map and as extended easterly (said avenue being sixty feet wide) the following courses and distances North  $51^{\circ} 37'$  East 408.1 feet south  $89^{\circ} 07'$  East 50 feet south  $74^{\circ} 58'$  East 200.2 feet south  $57^{\circ} 01'$  East 216.4 feet south  $45^{\circ} 19'$  East 100 feet south  $0^{\circ} 09'$  East 200 feet south  $32^{\circ} 04'$  East 99.3 feet south  $40^{\circ} 11'$  East 99.6 feet south  $47^{\circ} 08'$  East 217.5 feet south  $79^{\circ} 32'$  East 56.7 feet North  $76^{\circ} 30'$  East 290.1 feet north  $62^{\circ} 57'$  East 83.9 feet north  $47^{\circ} 34'$  East 127.9 feet north  $78^{\circ} 31'$  East 217.1 feet north  $64^{\circ} 14'$  East 91 feet north  $38^{\circ} 36'$  East 216.8 feet, north  $53^{\circ} 38'$  East 151.4 feet north  $49^{\circ} 48'$  East 238.3 feet north  $65^{\circ} 41'$  East 58.5 feet thence leaving Mission Avenue and along the center line of a strip of land ten feet wide, north  $60^{\circ} 13'$  East 567.7 feet to the center of a graded road forty feet wide, thence along the center line of said graded road, north  $66^{\circ} 58'$  East 219.5 feet north  $85^{\circ} 23'$  East 65.8 feet south  $77^{\circ} 34'$  East 100.5 feet, north  $81^{\circ} 31'$  East 69.9/north  $52^{\circ}$  East 49.5 feet north  $29^{\circ} 39'$  East 68.5 feet thence leaving said graded road and along the center line of a strip of land ten feet wide north  $45^{\circ} 04'$  East 519.1 feet thence

north  $49^{\circ} 55'$  East 168.8 feet to a stake "W.C." (to be referred to hereafter herein) thence continuing on the same course and along the center line of a graded road forty feet wide, 881.5 feet to a stake "W.C.1" (to be referred to hereafter herein) thence along the center line of a strip of land ten feet wide, south  $61^{\circ} 43'$  East 406.6 feet to a point in the center of the San Pedro Road.

Also beginning at the stake "W.C.1" above mentioned and running along the center line of a road forty feet wide, north  $4^{\circ}$  West 319.3 feet south  $87^{\circ} 43'$  West 283.7 feet and north  $89^{\circ} 58'$  West 344.8 feet.

Also beginning at the stake W.C. above mentioned and running along the center line of a strip of land ten feet wide, north  $43^{\circ} 09'$  West 126.2 feet north  $46^{\circ} 58'$  West 190.9 feet north  $18^{\circ} 20'$  West 435.3 feet (at 365 feet line intersects and crosses a water gate) north  $33^{\circ} 52'$  West 132.5 feet north  $9^{\circ} 02'$  West 188.1 feet north  $1^{\circ} 57'$  East 150.7 feet north  $29^{\circ} 23'$  East 102.5 feet north  $3^{\circ} 30'$  East 175.1 feet north  $13^{\circ} 40'$  East 147.2 feet north  $16^{\circ} 40'$  West 164.3 feet thence along the center line of a graded road forty feet wide south  $36^{\circ} 07'$  West 76.9 feet north  $82^{\circ} 07'$  West 270. feet north  $21^{\circ} 24'$  West 150.4 feet south  $29^{\circ} 36'$  West 78.3 feet south  $6^{\circ} 24'$  East 210.1 feet south  $20^{\circ} 01'$  West 60.6 feet and south  $61^{\circ} 37'$  West 47.3 feet to a point opposite the lands of Cook.

Also over and along all streets, avenues and lands laid down and delineated upon Map No. 1 of the lands of the San Rafael Development Company filed in the office of the Recorder of said Marin County on April 25th, 1908 in Map Book No. 2 page 116. And also the right to lay, maintain, repair



and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Avenues Roads or strips of land hereinbefore mentioned for the purpose of supplying said lands with water.

Twenty-first: The right to lay, maintain, repair and remove water pipes and mains over, along and from the following described streets, roads, avenues and trails, to-wit:

First: That certain road known and designated as Floribelle Road running across Lots 15 and 16 as the same are laid down and designated on that certain map entitled "Rosenthal Tract, being Subdivision three, Sunnyside Tract" recorded June 4th 1906, in the office of the County Recorder of the County of Marin, State of California in Book 2 of Maps at page 58.

Second: That certain Avenue known and designated as Claire Avenue and being a continuation of said Floribel Road, which said Claire Avenue runs through Lots 17 and 18 of said Rosenthal Tract aforementioned.

Third: That certain road known as Redwood Road running through Lots 15, 16, 17 and 18 of said Rosenthal Tract aforementioned.

Fourth: That certain road known and designated as Savannah Road leading from Redwood Road in a Northerly direction and the trail connecting said Savannah Road with Floribel Road in Lots 15 and 16 of said Rosenthal Tract.

Fifth: From the Easterly line of Lot 9 at a point thereon about 200 feet westerly from the southerly line of said Lot 9 northerly across Lot No. 12 to that certain road known

as Hilda Avenue, and then along said Hilda Avenue through Lots 13 and 14 of said Rosenthal Tract. And also the right to lay, maintain, repair and remove over, across and from said roads, avenues, streets and trails all necessary or useful service pipes connecting said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roads, avenues, streets and trails for the purpose of supplying said lands with water.

Twenty-second: A right of way to lay and maintain and repair a water pipe for the conducting of water through, over and along a certain right of way now used and occupied by the Marin Water and Power Company, along a strip of land extending from the City of San Rafael to the village of San Quentin in said Marin County and to the reservoir at said village, as the said right of way now is and for many years last past, has been used by the said Marin Water and Power Company and by its predecessors in interest.

RIGHTS OF WAY.

Group 2.

First: The right of way through 4th and 5th Streets E.F. and "G" Streets from 4th to Sixth Street H. Street from 4th Street to Forbes Avenue, Culloeden Avenue from H. to J. Streets Forbes Avenue from H. to J. Streets, I and J. Streets from Culloeden Avenue to Forbes Avenue and Center Street from H to J Street, in the Addition known and called Forbes Addition or Forbes Additions to the Town of San Rafael, for the purpose of laying down water pipes and mains, water gates, service and stop cocks, and all the appurtenances to the laying of water pipes and mains and the care, repair and maintenance of the same, of such length as may be necessary and convenient for the laying down, care, repair and maintenance of such pipe but not exceeding 30 inches in width.

Second: The right at all times hereafter to lay down pipes for the conveyance of water over, along and through all the streets and roads now open or which may hereafter be opened through what is known as Coleman's Addition to the Town of San Rafael.

Third: All the right of way over and along a strip or parcel of land of the equal width of fifty feet in San Rafael, Marin, County, California, bounded on the North and East by the following described line;

BEGINNING at the point in the North line of Ross Street at which said line would be intersected by the West line of Clark Street if continued Northerly running thence Westerly in the course of the North line of Ross Street Two Hundred and fifty (250) feet; thence N. 38 1/4 degrees W 150 feet, thence N. 50 1/4 degrees W 189 feet;

thence N. 33 1/4 degrees W. 115 feet; thence N. 35 1/4 degrees W. 144 feet, thence N. 14 1/2 degrees W 62 feet, thence N. 36 1/4 degrees W. 133 feet, thence N. 62 1/4 degrees East 105 feet to a stake 50 feet Southerly from the line of fence between the land of Isaac Jessup and the lands of the Shorts, thence N 78 1/4 degrees E 99 feet to Mrs. Moore's West line, thence N. 14 1/2 degrees E 56 feet to Jessup's fence bounded on the West and South by a line running parallel with and fifty feet from the line hereinbefore described except the last call thereof. That is to say the whole of the line hereinbefore described from the point of beginning to Mrs. Moore's West line, said West & South line running to the South West corner of Clark Street and Ross Street and the said right of way being further bounded on the East by the West line of Clark Street extended, Northerly to the point of beginning.

Fourth: All that certain lot, piece or parcel of land situate, lying and being in the County of Marin, State of California, and bounded and particularly described as follows, to wit: A right of way for the purpose of laying and maintaining water pipes and water mains, commencing at a point on the line of the present pipe running through the so called Wagner Ranch at a point at or near where said pipe turns toward the Club House of the San Rafael Golf Club, and thence in a generally Easterly direction along the road known as San Pablo Avenue to the line dividing said so called Wagner Ranch from the land of E.G. Stetson.

Fifth: The right of way to lay and forever maintain a water pipe or main in Maple Ave. of Villa Lot No. 21 Marin County, California, along the following described line to-wit:

BEGINNING at a point in the Easterly line of the Red Hill and Ross Landing Road distant thereon N 46 degrees 40' W 161 feet from the most Southerly corner of that tract of land which was conveyed to Patrick Ross and James Gilhuly, by a deed recorded in the office of the Recorder of Marin County in Book 57 of Deeds at page 160; thence along said Maple Ave parallel with and distant 16 feet from the Southerly line thereof, N 44 degrees 40' E 800 feet. Also the right to lay and forever maintain service pipes connecting with said main and running to any and all lots into which said Villa Lot 21 is now or may hereafter be divided.

Sixth: The right to lay and forever maintain water pipes or mains for the purpose of conducting water on, over, along and across that certain strip of land, situate near Ross Valley in Marin County, California, and being known as Willow Ave. and the right forever of going in and upon said strip of land for the purpose of constructing, laying or maintaining said water pipes or mains, or to construct, lay down or maintain water connections or branch pipes connecting with said water pipes or mains for the purpose of supplying water to patrons of said Water Company along the line of said Willow Ave.

Seventh: The right to lay and forever maintain a water pipe or main over and across, a portion of the land of J. D. Hannah and S. P. Blumenberg, near Kent Station, Marin Co. Cal., and more particularly described as follows:- Along the line of Stetson Avenue, Foster Avenue, and Russell Avenue, the full length of such avenues in the Madrone Tract as per Map on file in the County Recorder's office, filed October 11th, 1900; also the right to lay, and forever maintain service

pipes connecting with said mains and running to any and all lots in the said Madrone tract as it is now or may hereafter be divided.

Eighth: The right to lay and forever maintain a water pipe or main over and along Madrone Avenue, Redwood Avenue, Hazel Avenue, Laurel Avenue, Grove Lane, Oak Lane, as said Avenues and Lanes are shown on the map of Ross Valley Park, Subdivision Two, filed in the office of the County Recorder of Marin County, State of California, on the 23d day of November 1903, in Book One of Maps page 130. Also the right to lay and forever maintain service pipes connecting with said mains and running to any and all lots into which said Ross Valley Park Subdivision Two is now or may hereafter be divided.

Ninth: The right to lay, and repair and forever maintain water pipes or mains over and across a portion of the lands of J. H. Gilhuly, near Kent Station, Marin County, California, and more particularly described as follows: - Along the line of Elm Avenue the full length of said Elm Avenue as per Map of Subdivision of Hellman Lot in Ross Valley, Marin County, California, filed in the office of the County Recorder on the 14th day of September A.D. nineteen hundred and three in book 1 of Maps at page 127. Also the right to lay, repair and forever maintain service pipes connecting with said mains and running to any and all lots or parcels of land in said tract as it is now or may hereafter be divided.

Tenth: The right to lay, repair and forever maintain water pipes or mains over and across a portion of the lands of Mrs. William Barber, near San Anselmo Station in Marin County, State of California, and more particularly described as follows:

Along the line of San Anselmo Ave. and along the line of Prospect Ave the full length of said Ave. as per Amended Map Number One of the lands of Mrs. William Barber in Ross Valley, Marin County, California, filed in the office of the County Recorder on the 16th day of July A.D. 1904, in Book 2 of Maps at page 3.

Also the right to lay, repair and forever maintain water pipes or mains over and across a portion of the lands of the said Mrs. William Barber near San Anselmo Station in Marin County, State of California and more particularly described as follows:

Along the lines of Entrara Ave. Ave. del Norte, and Alta Ave. the full length of said Avenues as per Map Number 2 of the land of Mrs. William Barber in Ross Valley, Marin County, California, filed in the office of the County Recorder on the 3rd day of September A.D. 1904, in Book 2 of Maps at page 8. Also the right to lay, repair and forever maintain service pipes connecting with said water pipes or mains running to any and all lots or parcels of land in said tracts of land, as they are now or may be hereafter divided.

Eleventh: The right to lay, maintain, repair and remove water pipes and mains over, along and from Walnut Avenue Olive Avenue and Pearl Avenue as all the foregoing are designated and delineated on that certain map entitled "Map of the Pearl Tract near Ross, Marin County, California" and recorded on the 11th day of November 1904, in Book 2 of Maps at page 11, in the office of the Recorder of said County of Marin. Also the right to lay, maintain, repair and remove over, across and from said premises all necessary or use-

ful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Avenues, for the purpose of supplying said lands with water.

Twelfth: The right to lay, maintain, repair and remove water pipes and mains over, along and from all the roads now in Ross Valley Park Villa Lots as all the foregoing are designated and delineated on that certain map entitled "Map of Ross Valley Park, Villa Lots San Anselmo, Marin California" and recorded on the 11th day of January, 1905, in Book 2 of Maps at page 14, in the office of the Recorder of said Marin County. Also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said roads for the purpose of supplying said lands with water.

Thirteenth: The right to lay, maintain, repair and remove water pipes and mains over, along and from that certain Avenue in Subdivision 1 of Linda Vista Tract at San Anselmo, Marin County, California, known as "Villa Avenue the said "Villa Avenue" being that certain right of way thirty feet wide which is fully described and set forth in that certain deed from Mary Tunstead to Carlo Pietro Pizochero and Emilia Ame Pizochero dated June 2nd, 1900 and recorded on the same day in the office of the County Recorder of Marin County, in Book 63 of Deeds at page 98 and also the right to lay, maintain, repair and remove water pipes and mains over, along and from "Magnolia Avenue" as the latter is designated and delineated on that certain map entitled "Map of Mag-



nolia Tract San Anselmo, Marin County, California" and recorded on the 23rd day of August, 1904, in Book 2 of Maps at page 7, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Avenues for the purpose of supplying said lands with water.

Fourteenth: The right to lay, maintain, repair and remove water pipes and mains over along and from that certain Avenue in subdivision "One of Linda Vista Tract" at San Anselmo, Marin County, California, known as "Villa Avenue", the said Villa Avenue being that certain right of way thirty feet wide which is fully described and set forth in that certain Deed from Mary A. Tunstead to Carlo Pietro Pizochero and Emilia Ame Pizochero dated June 2nd, 1900 and recorded the same day in the office of the County Recorder of Marin County, California, in Book 63 of Deeds at page 98. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting on said Avenues, for the purpose of supplying said lands with water.

Fifteenth: The right to lay, maintain, repair and remove water pipes and mains over, along and from "Hillside Avenue" as the foregoing is designated and delineated on that certain Map entitled "Map of Ross Valley Park Hillside Tract, San Anselmo, Marin County, California", and recorded on the 16th

day of February A.D. 1905 in Book 2 of Maps at page 15, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenue for the purpose of supplying said lands with water.

Sixteenth: The right to lay, maintain, repair and remove water pipes and mains over, along and from all the Roads, Lanes, Avenues, Drives or strips of land as all of the foregoing are designated and delineated on that certain map entitled "Map of the Bush Tract, Marin County, California" and filed on the 27th day of May, 1905, in the office of the Recorder of said County of Marin. And also the right to lay, maintain repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Roads, Lanes, Avenues, Drives or strips of land for the purpose of supplying said lands with water.

Seventeenth: The right to lay, maintain, repair and relay water pipes and mains over, along and from that certain road known as Road No. 5 in Ross Valley, Marin County, California, said road being more particularly described as follows, to-wit:

Commencing at a point formed by the intersection of the center line of that road which lies between the lands of Harrietta De Witt Kittle and the lands of One Eugenia Emanuelita de Santa Marina Rodgers, which road is designated as Road 5 on that certain map of the lands of Harrietta De

Witt Kittle, as surveyed for her by Frank J. Baker, in 1894 with the Northerly line of the public highway known as "Laurel Grove Avenue", from which point an old stake marked K 58 bears S. 71° 22' E. 120 feet distant running thence along said road, the courses and distances of the center line of which road are as follows, to-wit: N. 85° 11' E. 82.2 ft N. 61° 41' E. 145.8 ft N. 46° 18' E. 40.9 ft. N. 16° 25' E. 125.8 ft N. 64° 05' E. 63.2 ft. N. 10° 54' E. 304.8 ft. N. 30° 06' E. 200.7 ft. N. 22° 20' E. 187.1 ft. N. 3° 31' W. 331.4 ft to station 68 in the above mentioned Road 5. And also the right to lay, maintain, repair and relay over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Road No. 5 for the purpose of supplying said lands with water.

Eighteenth: The right to lay, maintain, repair and remove water pipes and mains, over, along and from Kent Avenue, Hillside Avenue, and the Bridge Road, as all of the foregoing are designated and delineated on that certain map entitled "Map of the Raymond Tract" Ross Valley Marin County, California, Subdivision One" and recorded on the 3rd day of August 1905 in Book 2 of Maps at page 30, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenues or Road, for the purpose of supplying said lands with water.

Nineteenth: The right to lay, maintain, repair and remove water pipes and mains, over, along and from Chestnut Avenue, Hillside Avenue, Redwood Avenue and the Bridge Road as all of the foregoing are designated and delineated on that certain map entitled "Map of the Raymond Tract, Ross Valley Marin County Cal. Subdivision Two" and filed on the 15th day of September 1905, in Book 2 of Maps at page 35, in the office of the Recorder of said County of Marin, and over, along and from Allen Avenue as designated and delineated on that certain map entitled "Map of the Raymond Tract, Ross Valley, Marin Co. Cal. Subdivision Three" and filed on the 2d day of October 1905 in Book 2 of Maps at page 38, in the office of the Recorder of said County of Marin. Also over, along and from Kent Avenue, the Bridge Road and Hillside Avenue as designated and delineated on that certain map of the Raymond Tract, Ross Valley, Marin Co. Cal. Subdivision One" and filed on the third day of August 1905 in Book 2 of Maps at page 30, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful pipes connecting with said pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Chestnut Avenue, Hillside Avenue, Redwood Avenue, The Bridge Road, Allen Avenue and Kent Avenue for the purpose of supplying said lands with water.

Twentieth: The right to lay, maintain, repair and remove water pipes and mains over, along and from a graded road thirty (30) feet wide whose center line is described as follows, to-wit:

BEGINNING at a point in the Westerly line of the lands of David Warden, known as the "Moore Tract" distant

Northerly thereon 125 feet from the Northwest corner of the Marin County Water Company's Reservoir lot which was formerly a portion of said "Moore Tract" running thence N. 89 deg. 42' E. 92 feet S. 75 deg. 27' E. 58.5 feet, N. 89 deg. 09' E. 81.8 feet, S. 42 deg. 18' E. 42.1 feet, S. 22 deg. 15' E. 87.1 feet to stake marked "14" in the Easterly line of a graded road 15 feet wide also over, along and from said graded road fifteen (15) feet wide whose Easterly line is described as follows, to-wit:

Beginning at the last mentioned stake marked "14" thence S. 30 deg. 33' E. 69.1 feet, S. 39 deg. 51' E. 48.6 feet. S. 3 deg. 35' E. 35.7 feet, S. 19 deg. 16' W. 65.8 feet S. 1 deg. 46' E. 68.4 feet and S. 1 deg 15' E. 147.6 feet. And also the right to lay, maintain, repair and remove over across and from said premises, all necessary or useful service pipe connecting with said water pipes or mains, and fronting upon said roads, for the purpose of supplying said lands with water. All of said lands being in San Rafael, Marin County, California.

Twenty-first: The right to lay, maintain, repair and remove water pipes and mains over, along and from McAllister Avenue, Rose-bank Avenue, Acacia Avenue and Lilac Avenue, as all the foregoing are designated and delineated on that certain map entitled "Map of Mira Monte Tract, Kentfield Marin County, California" and recorded on the 8th day of June 1906, in Book 2 of Maps at page 60, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenues for the purpose of supplying said lands with water.

Twenty-second: The right to lay, maintain, repair and remove water pipes and mains over, along and from that certain road, Avenue, lane or driveway as the same is designated and delineated, on that certain map entitled "McClungs Subdivision of Lot 9 Barber Tract Ross Valley Cal and recorded on the 15th day of December 1905 in Book 2 of Maps at page 47, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful pipes connecting with said water mains or pipes and running or leading to any and all lots or parcels of land fronting upon said road, avenue, lane or driveway, for the purpose of supplying said lands with water.

Twenty-third: The right to lay, maintain, repair and remove water pipes and mains over along and from what is known as Butler Avenue, in Ross Valley Marin County California, being more particularly described as follows, to-wit: That certain road, lane, driveway or avenue, 50 feet wide running through a portion of the Butler Tract as shown on that certain map entitled "Map of Subdivision of Butler Tract near Kentfield Marin County, California" and recorded on the 5th day of June 1906, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said road, lane, driveway or Avenue for the purpose of supplying said lands with water.

Twenty-fourth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Altimira Avenue

and Geary Avenue as all of the foregoing are designated and delineated on that certain Map Entitled "Map of Altimira Park Ross, Valley, Marin County California" and recorded on the 11th day of June 1906, in Book 2 of Maps at page 61 in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenues for the purpose of supplying said lands with water.

Twenty-fifth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Fairfax Lane, Belle Avenue, Oak Avenue and Railroad Avenue as all of the foregoing are designated and delineated on that certain map entitled "Map of Fairfax Tract, Marin County California" and recorded on the 8th day of April 1908 in Book 2 of Maps at page 114, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenue and Lane for the purpose of supplying said lands with water.

Twenty-sixth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Northroad, West Road, East Road and Hill Road, as all the foregoing are designated and delineated on that certain map entitled "Map of Ross Lagunitas Tract Sub-division of Lot B. Ross Tract Marin County California, and recorded on the 8th day of April 1908, in

Book 2 of Maps at page 115, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Roads for the purpose of supplying said land with water.

Twenty-seventh: The right to lay, maintain, repair and remove water pipes and mains over, along and from Lily Avenue, Rose Avenue, Bella Vista Avenue, as all of the foregoing are designated and delineated on that certain map entitled "Map of Ross Valley Tract, Marin County," and recorded on the 18th day of July 1906 in Book 2 of Maps at page 63, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenue, for the purpose of supplying said lands with water.

Twenty-eighth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Piedmont Road, Magnolia Avenue, Monte Vista Avenue, Baltimore Avenue, ~~Monte Vista Avenue,~~ Baltimore Avenue, Alexander Avenue, La Rosa Way, William Avenue and that certain Lane, Avenue or Driveway running parallel with and adjoining the Right of Way of the Northwestern Pacific Railway Company as all of the foregoing are designated and delineated on that certain map entitled "Map of Baltimore Park, Marin County, Cal. Sub-division 1" and recorded on the 9th day of July 1907, in Book 2 of Maps at page 90



in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Avenue Roads, Lanes or Driveways, for the purpose of supplying said lands with water.

Twenty-ninth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Woodside Way Road as the foregoing is designated and delineated on that certain map entitled "Woodside Tract, Ross Valley, Marin County, California" and recorded on the 14th day of May 1908, in Book 2 of Maps at page 118, in the office of the Recorder of said County of Marin. And also the right to lay maintain repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Woodside Way Road for the purpose of supplying said land with water.

Thirtieth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Sais Avenue, Nokomis Avenue, Calemet Avenue, Bloomingdale Road, as all of the foregoing are designated and delineated on that certain Map entitled "Carrigan Tract Amended Map, San Anselmo", and recorded on the 3d day of March, 1908, in Book 2 of Maps at page 111, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Avenues and Road, for the purpose of supplying said lands with water.

Thirty-first: The right to lay, maintain, repair and remove water pipes and mains, over along ~~xxx~~ from Laurel Avenue, Cedar Avenue and Locust Avenue, as the foregoing are designated and delineated on that certain Map entitled Granton Park Ross Valley, Marin County California and recorded on the 4th day of February 1907 in Book 2 of Maps at page 77, in the office of the Recorder of said County of Marin, and also the right to lay, maintain, repair and remove, over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Laurel Avenue, Cedar Avenue and Locust Avenue for the purpose of supplying said lands with water.

Thirty-second: The right to lay, maintain, repair and remove water pipes and mains over, along and from Center Street from the westerly line of J Street to the westerly line of K Street Forbes Avenue from the westerly line of J Street to the westerly line of K Street K Street from the southerly line of Culloden Avenue as all of the foregoing are designated and delineated on that certain Map entitled "Map of the City of San Rafael, Compiled in 1899, by Geo. L. Richardson, C.E. from official survey". And also the right to lay, maintain, repair and remove over, across and from said streets and avenue all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any or all lots or parcels of land fronting upon said Avenue or streets for the purpose of supplying said land with water.

Thirty-third: The right to lay, maintain, repair and remove water pipes and mains over, along and from Greenfield Avenue, Terrace Avenue, Spring Grove Avenue and Ross Valley Drive as all,

of the foregoing are designated and delineated on that certain map entitled "Map of San Rafael Heights Subdivision 1" and recorded on the seventh day of July 1908, in Book 2 of Maps at page 124 in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenues or drive for the purpose of supplying said lands with water.

Thirty-fourth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Stevens Place as all of the foregoing is designated and delineated on that certain map entitled "Map of the Stevens Tract, San Rafael California and recorded on the 7th day of April 1909, in Book 3 of Maps at page 11, in the office of the Recorder of the County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Stevens Place for the purpose of supplying said lands with water.

Thirty-fifth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Willow Avenue, Laurel Avenue, Live Oak Avenue and Ridgeway Avenue as all of the foregoing are designated and delineated on the certain map entitled "Map of P. E. Jordan Co. Subdivision of Ridgeway Park, Marin Co. Cal." and recorded on the 30th day of March, 1908, in Book 2 of Maps at page 80, in the office of the Recorder of the County of Marin. And also the right to lay, maintain

repair and remove over, across and from said premises, all necessary or useful pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Avenues for the purpose of Supplying said lands with water.

Thirty-sixth: The right to lay, maintain, repair and remove water pipes and mains over along and from Redwood and Olive Avenue as all of the foregoing is designated and delineated on that certain map entitled "Resubdivision of Davidson Tract, San Anselmo, Marin County Cal." and recorded on the 4th day of August 1906, in Book 2 of Maps at page 65, in the office of the Recorder of the County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes and mains, and running or leading to any and all lots or parcels of land fronting upon said Redwood Road and Olive Avenue for the purpose of supplying said lands with water.

Thirty-seventh: The right to lay, maintain, repair and remove water pipes and mains over along and from the following roadways in Larkspur Marin County, California, whose center lines are described as follows, to-wit:

BEGINNING at a point distant N.  $53^{\circ} 02'$  E. 117.50 feet from the north west corner of lot 1 Block 2 Baltimore Park Subdivision one, thence (1) S.  $62^{\circ} 18'$  W. 106 feet (2) S.  $67^{\circ} 46'$  W. 108.30 feet (3) S.  $87^{\circ} 15'$  W. 116.80 feet; (4) S.  $74^{\circ} 19'$  W. 219.70 feet (5) S.  $38^{\circ} 19'$  W. 23.80 feet (6) S.  $17^{\circ} 55'$  W. 88.90 feet (7) S.  $49^{\circ} 49'$  W. 45.25 feet to junction of Shady Lane and Main Road thence (8) N.  $62^{\circ} 21'$  W. 127.20 feet (9) N.  $84^{\circ} 37'$  W. 93.80 feet (10) S.  $82^{\circ} 41'$  W. 47.60 feet (11) N.  $57^{\circ} 04'$  W. 94.30 feet (12) N.  $81^{\circ} 59'$  W. 202.50 feet (13)

N.  $43^{\circ} 59'$  W. 103.00 feet (14) N.  $66^{\circ} 14'$  W. 226.40 feet (15)  
N.  $56^{\circ} 14'$  W. 111.40 feet from end of Course No 7 or Junction  
S.  $22^{\circ} 11'$  E. 94.35 feet; S.  $15^{\circ} 36'$  E. 94.00 feet N. x S. 117.80  
feet. And also the right to lay maintain repair and remove  
over, across and from said premises all necessary or useful  
service pipes connecting with said water pipes or mains and  
running or leading to any and all lots or parcels of land  
fronting upon said roadways for the purpose of supplying  
said lands with water.

Thirty-eighth: The right to lay, maintain, repair and  
remove water pipes and mains over, along and from Ione Avenue,  
Saunders Ave and Yolanda Drive, as all of the foregoing are  
designated and delineated on that certain map entitled "Map of  
Yolanda Court Marin Co Cal" and recorded on the 20th day of  
August 1909, in Map Book Number three at page twenty-five (25)  
in the office of the Recorder of the County of Marin. And also  
the right to lay, maintain, repair and remove, over, across  
and from said premises, all necessary or useful service pipes  
connecting with said water pipes or mains and running or  
leading to any and all lots or parcels of land fronting upon  
said Avenue or Drives for the purpose of supplying said lands  
with water.

Thirty-ninth: The right to lay, maintain, repair and remove  
water pipes and mains over, along and from Elm Street Pine Street  
Cedar Street and Oak Street, as all of the foregoing are  
designated and delineated on that certain map entitled, "Map  
of Linda Vista Tract San Anselmo Marin County, California,"  
and recorded on the 5th day of August 1907, in Book 2 of  
Maps at page 94, in the office of the Recorder of the County  
of Marin. And also the right to lay, maintain, repair and

remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said streets for the purpose of supplying said lands with water.

Fortieth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Greenfield Avenue and Spring Grove Avenue, as all of the foregoing are designated and delineated on that certain map entitled "Map of San Rafael Heights, Subdivision Two" and recorded on the 20th day of July 1911, in book 4 of Maps at page 6, in the office of the Recorder of said County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenues, for the purpose of supplying said lands with water.

Forty-first: The right to lay, maintain, repair and remove water pipes and mains over, along and from El Camino Bueno and two Lanes as all of the foregoing are designated and delineated in that certain map entitled "Camino Bueno Tract, Ross, Marin County, Cal" and recorded on the 26th day of July 1911, in Book 4 of Maps at page 7 in the office of the Recorder of the County of Marin. Also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said El Camino Bueno and Lanes, for the purpose of supplying said lands with water.

Forty-second: The right to lay, maintain, repair and remove water pipes and mains over, along and from Union Street from a point about four hundred forty seven (447) feet distant northerly from Belle Avenue, thence northerly along Union Street towards Jewel street a distance of Four hundred and thirty (430) feet as all of the foregoing streets are designated and delineated on that certain map entitled "Map of the City of San Rafael, compiled in 1899 by Geo. L. Richardson C.E. from official surveys." And also the right to extend said water pipes and mains along Union street in a northerly direction and also the right to lay, maintain, repair and remove over, across and from said Union street all necessary or useful pipe connection with said water pipe or main, and running or leading to any or all lots or parcels of land fronting upon said Union Street, or else-where, for the purpose of supplying said land with water.

Forty-third: The right to lay, maintain, repair and remove water pipes and mains over, along and from all streets, avenues, lanes and roads, designated and delineated on that certain Map entitled "Map of Marin Heights, Subdivision "A" recorded on the 23d day of October, 1911, in Book 4 of Maps, at page 11, in the office of the Recorder of the County of Marin.

And also the right to lay, maintain, repair and remove over across and from said streets, roads, avenues and lands all necessary or useful service pipes connecting with said water pipes or mains running or leading to any and all lots or parcels of land fronting upon said streets, roads, avenues or lands, for the purpose of supplying said lands with water.

Forty-fourth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Madrone Road, Oak St. and Klare Avenue as all of the foregoing are designated and

delineated on that certain map entitled "Subdivision of lots 14 and 14A of the Bush Tract, San Anselmo, Cal" Said map having been made by Geo. M. Dodge, C. E. in February 1912, and a copy of which is on file in the office of said Geo. M. Dodge; and also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Road, Street and Avenue for the purpose of supplying said lands with water.

Forty-fifth: The right to lay, maintain, repair and remove water pipes and mains, over along and from Alderney Road, El Cerrito Avenue, Oakland Avenue, San Francisco Boulevard, San Diego Avenue, Sonoma Avenue, Los Angeles Boulevard, Monterey Avenue, Santa Cruz Avenue, Durham Road, Sacramento Avenue, Santa Barbara Avenue, Pasadena Avenue, and Salinas Avenue, as all of the foregoing are designated and delineated on that certain map entitled "Short Ranch Subdivision Two, Marin County, California, and recorded on the 3d day of July 1912, in Book 4 of Maps at page 22, in the office of the Recorder of the County of Marin. And also the right to lay, maintain, repair and remove over, across and from said roads, avenues, and boulevards, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roads, avenues and boulevards for the purpose of supplying said lands with water.

Forty-sixth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Elm Street, Linda Vista Tract, San Anselmo, as designated and delineated on that certain map entitled "Map of subdivision of lots 1, 2 and 12



Linda Vista Tract, San Anselmo", and recorded in Book 4 of Maps, page 35, in the office of the Recorder of the County of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said street, for the purpose of supplying said lands with water.

Forty-seventh: The right to lay, maintain, repair and remove water pipes and mains over, along and from Laurel Lane in the Hinkel Tract, Fairfax, Marin County California, as said lane is designated and delineated on that certain map entitled "Map of Subdivision No. 1 of Hinkel Tract, Fairfax Marin County Cal" and recorded in Book 4 of Maps at page 37 in the office of the Recorder of the County of Marin on February 20th, 1913.

And also the right to lay, maintain, repair and remove over across and from said lane all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said land for the purpose of supplying said lands with water.

Forty-eighth: The right to lay, maintain, repair and remove water pipes and mains over, along and from Laurel Lane and Baywood Road, Bush Tract, Annex, San Anselmo, as designated and delineated on that certain map entitled Map of Bush Tract Annex, San Anselmo, Cal. and recorded at page 40 ~~xx~~ in Book 4 of Maps, in the office of the County Recorder of the County of Marin, on May 5th, 1913. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said street and lane, for the purpose of supplying said lands with water.

Forty-ninth: The right to lay, maintain, repair and remove water pipes and mains over along and from all streets, roads, lanes and avenues in "West End Addition", as said streets, roads, lanes and avenues are designated and delineated on that certain map entitled "Map of West End Addition, Marin County, California" and recorded in the office of the County Recorder of the County of Marin, State of California, in Book 4 of Maps at page 58; and also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said streets, roads, lanes and avenues for the purpose of supplying said lands with water.

Fiftieth: The right to lay, maintain, repair and remove water pipes and mains over, along and from the following described lands, to-wit:

BEGINNING at an iron pipe driven in Saunders Avenue, San Anselmo, distant North  $33^{\circ} 25'$  East 167 feet from the most Westerly corner of that certain tract of land which was conveyed by James D. Saunders to Bernard Brenfleck, by a deed dated December 9th, 1886, and recorded in the office of the County Recorder of the County of Marin, State of California in Liber 4 of Deeds, at page 258; running thence along the center line of an unnamed street or avenue South  $56^{\circ} 15'$  East 712.0 feet more or less to the Easterly end or terminus of said unnamed street or avenue; and also the right to lay, maintain, repair and remove, over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said streets for the purpose of supplying said lands with water.

Fifty-first: The right to lay, maintain, repair and remove

water pipes and mains, over along and from those certain streets roads, drives and avenues described as follows, to-wit:

BEGINNING at a point in the Southwesterly line of Kohn Road, which is distant South  $56^{\circ} 49'$  East 153.34 feet from the most northerly corner of that certain tract of land which was conveyed by Isaac Kohn to Robert A. Carey, by deed dated April 24th 1913 and recorded in the office of the County Recorder of the County of Marin, State of California, in Liber 152 of Deeds at page 107; running thence along the center of a street 40 feet wide and known as "Yolanda Drive" South  $26^{\circ} 30'$  West 218.9 feet to the center of a street 35 feet wide, known as Rowland Avenue; thence along the center of Rowland Avenue South  $56^{\circ} 49'$  East 250 feet more or less to the Easterly end or terminus of Rowland Avenue. Also, Beginning at a point in the center of the above mentioned Rowland Avenue distant South  $56^{\circ} 49'$  East 137.1 feet from the intersection of the center lines of said Yolanda Drive and Rowland Avenue and running thence along the center of an un-named street 30 feet wide, 118.6 feet to the Southerly boundary line of the tract of land first hereinabove mentioned. And also the right to lay, maintain, repair and remove, over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roads, drives, avenues and streets for the purpose of supplying said lands with water.

Fifty-second: The right to lay, maintain, repair and remove water pipes and mains over, along and from those certain streets and avenues in the Town of San Anselmo, County of Marin, being 40 feet in width and their center lines being described as follows:

BEGINNING at a point in the Southerly line of the San Rafael and Olema County Road, distant Northwesterly, measured thereon

140.0 feet from the most Easterly corner of a certain tract of land which was conveyed by James I. Taylor and wife to Robert A. Carey, by deed dated September 22, 1913, and recorded in the office of the County Recorder of Marin County, California, in Liber 155 of Deeds at page 81, which said point of beginning being in the center of Tamal Avenue; thence along the center of Tamal Avenue South  $37^{\circ} 57'$  West 270 feet to the center line of Park Drive; thence along the center line of Park Drive North  $52^{\circ} 03'$  West 180.0 feet; thence curving to the right on the arc of a circle, whose radius is 77.9 feet for a distance of 63.5 feet to the Easterly line of that certain public highway known as "Saunders Avenue".

Also beginning at the point of intersection of Tamal Avenue and Park Drive, above located, thence along the center line of Tamal Avenue South  $37^{\circ} 57'$  West 10.0 feet; thence curving to the left on the arc of a circle whose radius is 100 feet for a distance of 157.1 feet.