

Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

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In the matter of the Application of)
MOUNTAIN LIGHT AND WATER COMPANY,)
a corporation, and BROOKDALE LAND)
COMPANY, a corporation, to transfer)
certain property.)

Application

No. 1940.

Decision No. 3033

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

WHEREAS, the Railroad Commission by Decision No. 2958, dated December 4, 1915, authorized Brookdale Land Company to sell the property described in said decision to Mountain Light and Water Company; and authorized said Mountain Light and Water Company to execute a mortgage or deed of trust securing the payment of \$23,500.00 face value of bonds, said mortgage or deed of trust to be substantially in the same form and tenor as the mortgage or deed of trust attached to the application and marked "Exhibit G", and

WHEREAS, applicants herein on December 23, 1915, filed a supplemental application asking authority to amend the mortgage or deed of trust heretofore approved so as to extend the lien of the mortgage or deed of trust to all the property of Mountain Light and Water Company now owned or hereafter acquired, except independent water power or light plants, which said company may hereafter acquire; to provide

for the appointment of a receiver in case of default, and to empower trustees in case of default to declare the principal of the bonds due and payable, all of which amendments, together with certain other minor changes, are set forth in the supplemental application herein and are incorporated in the mortgage or deed of trust attached to the supplemental application, said mortgage or deed of trust having been marked "Exhibit G Amended", and

WHEREAS, applicants also ask authority to modify the agreement of sale between Brookdale Land Company and Mountain Light and Water Company, dated October 25, 1915, as set forth in "Exhibit B Amended",

And Good Cause Appearing,

IT IS HEREBY ORDERED that Mountain Light and Water Company be given authority, and it is hereby given authority, to execute a mortgage or deed of trust substantially in the same form and tenor as the mortgage or deed of trust attached to the supplemental application herein, and marked "Exhibit G Amended", in lieu of the mortgage or deed of trust approved by Decision No. 2958, dated December 4, 1915.

IT IS HEREBY FURTHER ORDERED that Brookdale Land Company be given authority, and it is hereby given authority, to transfer and sell/its water and electric light plant, situate in the County of Santa Cruz, State of California, and particularly described in "Exhibit B Amended" as follows, to-wit:

"FIRST: (a) All property of whatsoever kind or character, wheresoever situate, in any manner used by, connected with, or belonging (either directly, indirectly or incidentally) to the water plant situated at and near the Town of Brookdale, Santa Cruz County, California, and which includes among other things, all springs and waters, including all underground waters, flowing or otherwise, on, over or under any lands situate in Sections 31 and 32 in Township 9, South, Range 2 West M. D. B. & M.; also all water rights or privileges in or to Clear Creek and the San Lorenzo River, or the waters therein or in any of the branches or tributaries of said Clear Creek or said River, or in or to the waters therein, where said Creek or River or branches are located in said Sections 31 or 32 aforesaid, except the rights in said San Lorenzo River heretofore conveyed by said first party or its predecessors in interest, to A.H. Breed.

" (b) Also, all rights of way and easements belonging to first party or utilized by it for flumes, flume-lines, pipes, pipe-lines, reservoirs, spillways for reservoirs and overflows of waters therefrom, and other spillways for other flows from any portion of said water system, also for roads, trails, streets, alleys and for all purposes in any manner necessary, required or convenient for the reasonable maintenance, operation, extension, improvement or repair of the water or light plants herein agreed to be conveyed, also all necessary rights of ingress and egress to, from or over private properties in which said first party may now own, or may hereafter acquire any right, title or interest, or otherwise.

" (c) Also, all reservoirs, flumes, dams, flume-lines, intakes, pipes, pipe-lines, mains, laterals, service-pipes, spillways, drains, tools, implements, meters, machinery of every kind and character, water-wheels, lumber and other materials of every kind and character owned by said first party, and now or heretofore, used, or intended for the use, of said water-plant, or connected therewith.

"SECOND: All property of whatsoever kind or character wheresoever situate in any manner used by, connected with or belonging (either directly, indirectly or incidentally) to the Electric Light Plant situate at and near the Town of Brookdale, aforesaid, and which property includes among other things, all waters, water rights or privileges, or other rights and privileges, in and to the said Clear Creek and the San Lorenzo River, and the branches and tributaries thereof, and the waters therein, as set forth and described in subdivision (a) of paragraph marked "FIRST" herein;

" Also all rights of way and easements as set forth and described in subdivision (b) of the paragraph marked "FIRST" herein, and in addition thereto the same rights of way and easements for the wires, poles, pole-lines, and for all other purposes in any manner connected with the maintenance, operation, extensions, improvement and repair of said electric light plant, or any portion thereof, so far as can be done.

"Also, all reservoirs, etc., as set forth in subdivision (c) of said paragraph marked "FIRST" herein, in any manner connected with said electric light plant, or the operation thereof, and in addition thereto, all generators, dynamos, motors, exciters, switches, switchboards, meters, wires, poles, pole-lines, insulators, and all other machinery, tools, implements and materials in any manner connected with said electric light plant, wheresoever situate.

"THIRD: A perpetual right of way to lay pipe lines on, over or under the surface, or to construct or erect poles and pole-lines, transformers, wires and any other equipment, over and across, any and all streets, roads, walks, trails, or alleys of said Town of Brookdale, or on, over or across or under any property owned or possessed by said first party, or which it may hereafter acquire, in or near said town of Brookdale, and which may be deemed necessary, economical or convenient for the maintenance, operation, extension, improvement or repair of said water or light plants, or any portion thereof.

"FOURTH: All of Lot 11, Block F, as the same is so marked and designated on the Map of Brookdale, Santa Cruz County, California, printed by the Union Lithograph Company of San Francisco, California, together with all improvements thereon; including also the mill-plant thereon, with all machinery and every other machinery of whatsoever kind or character, whether connected with said water and electric light plants or not; including all saws, tools, implements, belting, shafting, pulleys, iron, lumber and all other equipment and materials of every kind and character on said premises or belonging thereto or connected therewith wheresoever situate.

"FIFTH: The following described tract of land: Commencing at the point of intersection of the Easterly line of Reed Street in said Town of Brookdale, with the Southerly line of the Southern Pacific Railroad right-of-way, which said Reed Street shall be extended to said right-of-way by said first party, and running thence Southerly along said Easterly line of said Reed Street a distance of eighty (80) feet; thence running Easterly along a line parallel with said line of said right-of-way a distance of one hundred and fifty (150) feet; thence running Northerly along a line parallel with said Easterly line of said Reed Street a distance of eighty (80) feet to said line of said right-of-way; thence running Westerly along said line of said right-of-way a distance of one hundred and fifty (150) feet to the point of commencement.

"SIXTH: A tract of land along the bed and banks of said San Lorenzo River, as said river is described in said paragraph marked "FIRST" herein, including all of said bed and banks not heretofore conveyed by said first party, including the right to erect and construct a dam or dams across said river at one or more points for manufacturing, power, commercial or pleasure purposes and to thereby raise the water flowing in said river to such height as shall be necessary for either or all of such purposes;

"Also, so much land adjoining the banks of said river as may be required for securing the foundations of said dams and for the erection of power houses and the

"necessary use thereof, provided, however, that the party of the second part, its successors and assigns, within one year from the first day of December, 1915, shall serve upon said first party a notice in writing designating the lands adjoining the banks of said river as aforesaid, required for such purposes, and file for record a copy thereof, duly acknowledged and certified, with the County Recorder of Santa Cruz County, State of California; it being agreed that should said second party fail to serve and file said notice as aforesaid, then all rights herein granted to select any lands adjoining the banks of said river as aforesaid, for the purposes aforesaid, shall become inoperative and void;

"Also, the following tract of land: Commencing at a point on the northerly line of the right of way of the Southern Pacific Railway Company due south of the point on the south bank of the San Lorenzo River where the sewer line of the Town of Brookdale leaves said bank to cross said river, thence running Easterly along said northerly line of said Southern Pacific right of way to the southwesterly corner of the lands owned by Mrs. R. C. Judkins, formerly Mrs. Emma Jenkins; thence running Northerly along the northwesterly line of said lands of Mrs. R.C. Judkins to the northwesterly corner of said lands of Mrs. R.C. Judkins, and thence continuing in a straight line to the intersection of said line with the 1/16 Section line of said Section 32, Township 9 South, Range 2 West, M. D. B. & M., said 1/16 section line being the north boundary line of the lands owned by the party of the first part; thence running West along said 1/16 section line to its intersection with the southerly bank of said San Lorenzo River; thence running Easterly along the southerly bank of said San Lorenzo River to its intersection with the said sewer line of said Town of Brookdale; thence running south to the point of commencement. It is understood and agreed that said party of the second part, its successors and assigns, shall have no right or power or authority, and that none is hereby granted to said second party to use any lands for dam foundations or for the erection of power houses upon any portion of the lands contained in this subdivision of paragraph "SIXTH" which lie west of the said sewer line where it crosses said river.

"It is understood and agreed that the acceptance of the title to any property hereunder shall not be construed as imposing any duty or obligation upon the party of the second part in reference to said sewer system; it being understood that there is reserved to parties using said sewer the right to have the septic sewer tanks now on said property remain thereon, but that said second party neither accepts nor assumes any obligation or liability in reference thereto.

"It is agreed that the word "banks" as used in this agreement when referring to the banks of the San Lorenzo River, shall be construed to mean and cover and

"include all lands lying on both sides of the bed of said river between the bed thereof and lines drawn along both banks of said river parallel to and two feet above the lines on the banks of said river reached by the waters flowing in said river during the period of highest flood; and in the event of one or more dams being erected across said river as aforesaid, then the word "banks" aforesaid, shall be construed to include any additional lands lying on both sides of the banks of said river, between the bed thereof and lines drawn along both banks of said river parallel to and two feet above the water level of the top of said dam or dams.

"Nothing contained in this agreement shall be construed to grant any such property, privileges or rights which said party of the first part has no right to grant.

"SEVENTH: Two tracts of land consisting of one-half acre each adjoining the present sites of the two reservoirs now being used by said electric light plant and connected with the two power mains of said plant; said two tracts of one-half acre each to be selected by said second party within one year after the delivery of the conveyances by first party to second party of the plants of first party.

"EIGHTH:: Two rights of way each ten feet in width along the two power mains of said electric light plant running from said plant on said Lot 11, Block F, above described in paragraph marked "FOURTH" herein, to the two reservoirs described in paragraph marked "SEVENTH" herein, being five feet on each side of the center line of each of said power mains; also, two rights of way each thirty feet in width running from said reservoirs described in said paragraph marked "SEVENTH" herein, along the flume-lines connected with each of said reservoirs, respectively, to the intakes connected with said flume lines; also any additional land on either side of said rights of way, or any other rights of way granted in this instrument, necessary or proper to be used at any time to maintain proper and convenient slopes to any road, work, improvement or development or use of any or either of said rights of way. The first part reserves the right to construct roads across said rights of way in such manner as not to interfere with said pipes and flumes.

"NINTH: All that certain tract of land known and designated as JOHN DUBUIS SUBDIVISION No.1, consisting of six hundred fifty-one and nine hundred fifteen thousandths acres (651.915), situated in Section 36, Township 9 South, Range 3 West, and in Section 31, Township 9 South, Range 2 West M.D.B. & M., transferred to T.G. McCreary as Trustee for said John Dubuis by said first party, excepting from said 651.915 acres those portions lying West and North of lands of J.N. Walter and the John Dubuis Subdivision

"No.2, consisting of 29.491 acres, and a line drawn parallel with and forty feet Southeasterly from the Southeasterly bank of the Sweet Water Branch of Clear Creek, and South of the South side of the Wagon Road running along the South side of said Clear Creek; which tract of land consists of six hundred acres or thereabouts, being a portion of the Bloom Tract.

"TENTH: All ownership, rights or privileges which said first party may now own or have or may hereafter in any manner acquire in or to any of the property agreed to be conveyed as aforesaid to the second party, or any portion thereof, or any other property in any manner for any purpose necessary, proper or convenient for the maintenance, operation, extension, improvement or repair of said water or light plants, or any portion thereof, which may by virtue of any contractual or other right or interest be reserved to, or which may revert for any purpose or cause to said first party; also the right to enforce, collect and receive any such property, rights or privileges to the same extent that said first party might or could do; but nothing herein contained shall grant any portion of the real estate, other than the water rights therein, conveyed by said first party or its predecessor in interest, to the County of Santa Cruz for the purpose of maintaining and operating a Fish Hatchery thereon, and in the event of the reversion of said real estate, such reversion shall pass to and be held by said first party, in so far as it refers to said real estate.

Also, the right to enforce the full and complete performance in good faith of any and all restrictions and conditions of every kind and character set forth in any deed or other instrument which has heretofore, or which may hereafter be given by said first party, or its predecessors in interest, or by its successors or assigns, conveying any right, title or interest in or to any property in said Town of Brookdale; and said first party hereby covenants and agrees that in all future conveyances of any property it may own in said Town of Brookdale it will include all of the restrictions, conditions and limitations set forth in the form of deeds now being used by said first party, a copy of which is hereto attached and hereby made a part of this agreement, with all improvements thereon.

It is agreed that the tract of land described in the paragraph marked "FIFTH" herein is conveyed for the purpose of furnishing said second party with a lot on which to erect a manufacturing plant, and that if said second party does not erect a plant on said lot of land within two years from the date of this agreement of such size as to cost not less than five hundred dollars, then such tract of land is to revert to said first party."

IT IS HEREBY FURTHER ORDERED that the order found in Decision No. 2958, dated December 4, 1915, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this 8th -
day of January, 1916.

Max Thelen
H. J. Loveland
W. J. Gordon
Frank R. Dyer
Commissioners.