

ORIGINAL

Decision No. 3059

Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
THE MONTEREY COUNTY WATER WORKS for
leave to convey part of its water sys-
tem to Pacific Improvement Company.

)
) Application No. 1657.
)
)

Richard Bayne and J. P. Langhorne for
The Monterey County Water Works;
Goodfellow, Eells, Moore & Orrick for
the Pacific Improvement Company;
Carmel Martin, City Attorney, for the
City of Monterey;
H. G. Jorgenson, City Attorney, for the
City of Pacific Grove.

GORDON, Commissioner.

O P I N I O N.

In this application, The Monterey County Water Works asks for authority to transfer to Pacific Improvement Company the property referred to in Exhibit "A" attached to the application. Pacific Improvement Company joins in the application. In general, the property to be transferred as described by applicant, consists of the following:

(a) The Carmel dam and dam site and surrounding lands, together with the right to maintain and operate said dam and headgate, or any other storage or diversion works, for taking water from the Carmel River. The water to be taken from the Carmel River in any one year by Pacific Improvement Company shall not exceed 35 per cent of the total flow of the river. The instrument of sale also reserves to The Monterey County Water Works a right of way across the property to be conveyed to Pacific Improvement Company; for the purpose of constructing a pipe line to Carmel River, if and when desired.

(b) The Pacific Grove reservoir and surrounding lands, except the pump house and site.

(c) The pipe line from the Carmel dam to the twelve-inch Y branch near corner "N" of the Clay Pitts Reservoir Tract; also the pipe line from twelve-inch Y branch around the Clay Pitts Reservoir to the Pacific Grove valve-house, and thence to the valve-house in the Hotel Del Monte grounds, with necessary rights of way for said pipe lines.

(d) The sum of \$34,353 on deposit with the International Banking Corporation in San Francisco, and constituting a part of the depreciation reserve amounting to \$131,079.38 on December 31, 1914, and a proportionate share of subsequent accretions.

The property proposed to be retained by The Monterey County Water Works and that transferred, with the values as estimated by the Commission's engineers, is shown in the tabulation below:

<u>Structure</u>	<u>Pacific Improvement Company</u>	<u>The Monterey County Water Works.</u>
Land.....	\$ 6,269	\$ 4,204
Carmel Dam.....	20,500	---
Pacific Grove Reservoir	75,284	---
Clay Pitts Reservoir...	---	176,999
Tularcitos Survey.....	2,950	---
Carmel Main.....	313,900	---
22" Main.....	---	231,582
12" Main.....	---	16,876
16" Main.....	96,102	---
Buildings.....	3,725	4,638
Tanks.....	---	227
Pumping Equipment.....	---	9,547
Ventura Meters.....	1,073	1,865
General Stock and Equipment	---	31,064
Monterey District	---	136,272
Pacific Grove District	---	130,163
Unincorporated District	---	45,266
Water Rights and Rights of Way	31,767	42,079
Current Construction for Year 1914.....	---	11,337
Totals...	\$551,570	\$842,119

By deed dated August 27, 1907, Pacific Improvement Company conveyed all of the foregoing together with other property, to The Monterey County Water Works including certain rights of way across certain of its ranches and the grounds of the Hotel Del Monte. The deed reserves to the grantor "sufficient water for domestic and stock uses of said Hotel Del Monte" and the grounds and drives used in connection therewith and for certain irrigation uses upon its said ranches, all as therein more fully set forth. It also provides in part as follows:

"And in consideration of said Purchaser bringing said water to said hotel and grounds and for the uses above mentioned and maintaining the efficiency of said plant and pipe lines up to at least their present efficiency and so as to be able to supply said vendor, its successors and assigns, with said water for said hotel purposes, said vendor, its successors or assigns, shall pay to said purchaser its successors or assigns, the sum of ten thousand (\$10,000) dollars a year, and no more."

The rates of the water works were attacked as unreasonable and unjust by the City of Monterey in Case No. 500. The utility thereupon filed application for an increase in rates. The two matters were consolidated and heard together and rates established by this Commission in its Decision No. 1855. (5 Opinions and Orders of the Railroad Commission of California, page 530).

In due time the utility applied for a rehearing and Pacific Improvement Company joined in the proceeding as intervenor. The City of Monterey and the City of Pacific Grove were both represented by counsel at the hearing. Meanwhile the new rates so established have remained suspended and not in effect. Pursuant to the constitutional authority given the Commission to regulate the utility rendering the service, the rates so established included rates for service to the hotel and ranches.

Applicants wish to divide the system and the burden of serving the water. The proposed division will provide 315 .

for each a substantially independent system except that the Water Works will depend upon the Company to divert the water and carry it a short distance to the main of the Water Works. Very careful consideration has been given to the plan proposed and to the terms of the proposed deed submitted as the means of carrying it out. Some slight modifications have been suggested and adopted by the parties.

The amount of water which the Improvement Company under the deed may divert for its own uses is found by Mr. Hawley, the Hydraulic Engineer of the Commission, to be about the same amount which the company has heretofore been applying to a beneficial use in its hotel, grounds and ranches. It proposes to at all times maintain the properties used in part for service of the water works in as serviceable and efficient condition as they now are, operate its pipe line to its full capacity and deliver into the 22" main of the water works or any main substituted therefor 65% of the quantity of water reaching that point, which will furnish sufficient water for the water works for several years to come. When necessary, the water works may take direct increased amounts of water up to 65% of the flow of the river. The parties agree to submit all disputes concerning division and delivery of water for the determination of this Commission. The Improvement Company also agrees to guarantee to the extent of \$10,000. a year the gross revenue of the water works from sales until sales equal or exceed 27,000,000 cubic feet per year for a period of three consecutive years.

The annuity fund is to be divided in the proportions heretofore determined by Mr. Hawley to be referable to the portions of the system taken by each of the parties, which is a satisfactory division.

In view of the provisions of the deed of August 27, 1907, by which the grantor reserved for its private use water for its hotel and ranches and the facts and circumstances surrounding the use subsequent to that time the proposed arrangement is just and equitable.

Pacific Improvement Company owns all the stock of The Monterey County Water Works. The portion of the system retained by the water works is sufficient to insure suitable service to the public.

In reference to the amount of capital stock heretofore issued by The Monterey County Water Works, the management has stated that it will reduce its stock to an amount commensurate with the value of the assets retained.

The arrangement authorized herein will make it unnecessary to provide rates for service to the hotel and ranches, and the schedule of rates heretofore provided for The Monterey County Water Works has accordingly been modified in that and certain other particulars by the Commission's decision on application for rehearing in the original case and application. Reference is hereby made to the decision therein, which is filed today.

I submit the following form of order:

O R D E R.

THE MONTEREY COUNTY WATER WORKS having requested authority to convey to Pacific Improvement Company certain portions of its water works system and to enter into contract relating to the use of the water of Carmel River, in which application Pacific Improvement Company joins, and a public hearing having been held thereon and the matter having been submitted for determination and the Commission being now fully advised,

IT IS HEREBY ORDERED that The Monterey County Water Works be and it is hereby authorized and empowered to pay to

Pacific Improvement Company, the sum of \$34,353 ^{with accretions} / from its certain fund on deposit with the International Banking Corporation in San Francisco accumulated and set aside for the replacement and repair of its said water works system, and to convey to Pacific Improvement Company the property described in Exhibit "A" attached hereto and made part hereof; and to execute and deliver to said company indenture in the form set forth in Exhibit "A" attached to the application, as modified in accordance with the suggestions of the Commission; the property to be conveyed and the terms and conditions upon which it is to be received and held being fully set forth in said indenture.

This order is made upon the following conditions and none other, to-wit:

(1) The approval herein given of said indenture is for the purpose of this proceeding only and an approval only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval thereof as to any other legal requirements to which said indenture may be subject.

(2) The authority hereby given shall continue only for a period of thirty days from date hereof.

(3) Applicant shall report to this Commission in writing within ten days after the execution and delivery of said indenture and the payment of said sum of money the fact of the execution and delivery thereof and the payment of said sum.

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

Dated at San Francisco, California, this 25th day of January, 1916.

W. L. Leland
W. L. Leland
Edwin O. Edgerton
Thomas R. Wilson
Commissioners.

Exhibit "A"

Referred to in and made part of decision of the Railroad Commission of the State of California, No. 3059 in Application No. 1657: being properties described in and to be conveyed by proposed indenture between The Monterey County Water Works, a corporation, and Pacific Improvement Company, a corporation.

All those certain lands, water-rights, pipe lines and other property, situate, lying and being in the County of Monterey, State of California, which are specifically described as follows, to-wit:

(A) The Carmel dam-site and surrounding lands, described as Lot sixteen (16) of section twenty-three (23); Lot four (4) of Section twenty-four (24); and the southwest quarter ($\frac{1}{4}$) of the Northwest quarter ($\frac{1}{4}$), and the west half ($\frac{1}{2}$) of the southwest quarter ($\frac{1}{4}$) of section twenty-four (24), all in Township seventeen (17) South, Range two (2) east, Mt. Diablo Meridian, according to the public surveys of the Government of the United States, together with the Masonry Dam, and appurtenances thereon constructed, and the right to maintain and operate said dam and headgate, or any other storage or diversion dams or works for taking water from the Carmel River, which may hereafter be constructed by the party of the second part, provided that the water so to be diverted from the said Carmel River for use of the party of the second part, (exclusive of the water to be delivered to the party of the first part under the covenants of this deed) shall not exceed in any one year thirty-five (35) per cent of the total flow of said river, measured at the point of diversion. The party of the first part reserves from the above deed a right of way across said land for any pipe line or pipe lines, flumes or ditches.

it may hereafter at any time or times, or from time to time, construct to convey water from the Carmel River, along such line or lines as it may select for that purpose at any time or from time to time, and which will not interfere with the dam or pipe lines of the party of the second part.

(B) That certain tract of land that includes the Pacific Grove Reservoir, being a part of the Point Pinos Rancho, and which is more particularly described as follows: Beginning at a stake marked "A" set in the Armenta Line, this being the Easterly boundary line of the Point Pinos Rancho, opposite the corner, on Line Street, of lots one (1) and two (2) of Block ten (10) Intermedia Tract, Monterey, and fifteen (15) feet Northwesterly from said corner, thence running North thirty-one (31) degrees two and one-quarter ($2\frac{1}{4}$) minutes west, one hundred and sixty-one and $37/100$ (161.37) feet to stake; thence North sixty-four (64) degrees nineteen and one-quarter ($19\frac{1}{4}$) minutes west, four hundred forty-three and $4/100$ (443.04) feet to stake; thence in a Westerly direction along the Southerly line of Hillcrest Avenue three hundred seventy-four and $44/100$ (374.44) feet to the Northeast corner of Block one hundred and ninety-four (194) of the Hillcrest Tract, in the City of Pacific Grove, California, thence South eight (8) degrees twenty-one and three-quarters ($21\frac{3}{4}$) minutes West, five hundred one and $39/100$ (501.39) feet to a stake, which is the Southeast corner of said Block one hundred and ninety-four (194); thence south seventy (70) degrees thirty-eight (38) minutes East, four hundred and forty-seven (447) feet to a stake, said stake being set in the Armenta Line before mentioned; thence along said Armenta Line North fifty-eight (58) degrees fifty-seven and three-quarters ($57\frac{3}{4}$) minutes East five hundred eighty-nine and $80/100$ (589.80) feet to a stake marked "A", the point of beginning.

Said tract of land hereby conveyed includes the Pacific Grove Reservoir, outlet gate house and tunnel and other appurtenances appertaining thereto, together with the line of twelve (12) inch cast iron pipe running from the said Reservoir to Hillcrest Avenue, in the City of Pacific Grove, and connecting with the line of twelve (12) inch cast iron pipe located in said street and hereinafter conveyed to the party of the second part.

Also the following described lots, being also part of the tract of land upon which the Pacific Grove Reservoir is located and being more particularly described as lots five (5) to seventeen (17) inclusive, in Block ten (10) of the Intermedia Tract in the City of Monterey, as laid down and delineated on the map of said Intermedia Tract, recorded in the County Recorder's office of the County of Monterey.

Also that piece of land lying between the Westerly City Limit Line of the City of Monterey, and the West boundary line of Block ten (10) of the Intermedia Tract, and being originally that part of Line Street, City of Monterey, lying between the dividing line of lots four (4) and five (5), Block ten (10), Intermedia Tract, and the southerly City Limit Line of the City of Monterey, said portion of the said Line Street having been abandoned by the City of Monterey.

The said party of the first part reserves from this grant the tract of land described as follows: Beginning at the above mentioned stake marked "A" and running North thirty-one (31) degrees two and one-quarter ($2\frac{1}{4}$) minutes West eighty-eight and $\frac{7}{10}$ (88.7) feet along the line between the above described Reservoir Tract and Lot one (1), Block one hundred eighty-five (185) of the Hillcrest Tract, of the City of Pacific Grove, to the northwest corner of said Lot one (1), Block one hundred eighty-five (185) of Hillcrest Tract, thence South fifty-seven (57) degrees fifty and three-quarters ($50\text{-}\frac{3}{4}$) minutes West sixty-six (66) feet along the southerly line of Second Street produced

westward; thence South twenty-six (26) degrees, twenty-nine and three-quarters (29-3/4) minutes West fifty-one and thirty one-hundredths (51.30) feet; thence South thirty-four (34) degrees, twenty and three-quarters (20-3/4) minutes East sixty (60) feet, along the northward prolongation of the dividing line between lots four (4) and five (5), Block ten (10) of the Intermedia Tract, in the City of Monterey, to a point on the southerly boundary line of the above described Reservoir tract; thence Northwesterly along said southerly boundary line to stake "A", the point of beginning.

The party of the first part also reserves a right of way across the said Reservoir tract for the eight (8) and twelve (12) inch suction lines and for the sixteen (16) inch waste line of the Pumping Plant now located on the said tract of land herein reserved and last above described.

The said party of the first part hereby covenants for itself, its successors and assigns, that the said party of the first part, its successors and assigns, will not use the said tract of land last above described, nor lots two (2), three (3) and four (4), of Block ten (10), Intermedia Tract, nor the tract of land that was formerly that part of Line Street, in the City of Monterey, lying to the north of the said lots two (2), three (3) and four (4), of Block ten (10), for any other purpose than for the maintenance and operation of Pumping Plants and store houses, and will not build thereon, or allow to be built or conducted thereon, any stable, dwelling house, water closet, privy or any other structure or structures, the drainage from which would endanger the purity of the water stored in the said Reservoir.

(C) Also the following described pipe lines together with the trestles, shut-off gates, blow off gates and connections,

air valves and connections, and fittings that are now in any part of the said pipe lines, (but not including the pipes and valves in the cross connections that now exist between said pipe lines and the pipe lines owned and reserved by the said party of the first part);namely:

That pipe line running from the Carmel Dam in a general westerly and northerly direction through the Carmel Valley, Carmel City and the Pescadero Rancho to the twelve (12) inch "Y" branch located near corner "N" of the Clay Pitts Reservoir Reservation, as described in the deed of conveyance executed by the Pacific Improvement Company to The Monterey County Water Works, dated August 27th, 1907, and recorded in Vol. 98 of Deeds, page 154 Monterey County Recorder's office; which pipe line consists of approximately thirty-four thousand nine hundred and twenty-six (34926) feet of eighteen (18) inch diameter riveted pipe, two thousand nine hundred and fifty and six-tenths (2950.6) feet of twenty-two (22) inch diameter riveted pipe, nine thousand five hundred and four-tenths (9500.4) feet of fifteen (15) inch diameter riveted pipe, twenty-six thousand one hundred fifty-six and two-tenths (26156.2) feet of fifteen (15) inch O. D. Converse joint pipe and thirty-two thousand eight hundred seventy-two (32872) feet of twelve (12) inch diameter cast iron pipe. Also the pipe line, consisting of approximately two thousand thirty-one and eighttenths (2031.8) feet of twelve (12) inch diameter cast iron pipe, running from the above mentioned twelve (12) inch "Y" branch in a general northerly direction around the Clay Pitts Reservoir to the twelve (12) inch "Y" branch located in the line of twelve (12) inch pipe connecting with the twenty (20) inch "Y" branch at the end of the twenty (20) inch outlet pipe to the Clay Pitts Reservoir, the said twelve (12) inch "Y" branch being about four hundred and ten (410) feet northerly from the said twenty-(20) inch "Y" branch. Also the pipe line running from the twenty (20) inch "Y" branch at the end of the above

mentioned twenty (20) inch outlet pipe of the Clay Pits Reservoir, through the Pescadero Rancho in a northeasterly direction to the Northwest boundary line of the Pescadero Rancho, which is also the Southeasterly boundary line of the Point Pinos Rancho, and from thence in a northeasterly direction through the Point Pinos Rancho to the southern corporate limits of the City of Pacific Grove, and thence in an easterly direction through the City of Pacific Grove along Hillcrest Avenue to the Pacific Grove Valve House Tract, which is located at the intersection of Ninth Street and Eardley Avenue, in the City of Pacific Grove, thence across said tract and into the Valve House and connecting to the twenty (20) inch "Y" branch in the line of twenty (20) inch pipe in the said Valve House, the line consisting of approximately ten thousand five hundred (10500) feet of twelve (12) inch cast iron pipe; and one hundred and ninety-nine (199) feet of twelve (12) inch riveted steel pipe.

Also the line of twenty (20) inch diameter cast iron pipe running from the outlet Gate House of the Pacific Grove Reservoir across the tract^{of land} upon which is located the said reservoir; thence along Gate Street in the City of Pacific Grove, to the Pacific Grove Valve House Tract, thence across said Valve House tract and into and through the said Valve House to the connection with the line of sixteen (16) inch cast iron pipe on Eardley Avenue, in the City of Pacific Grove. The said line of pipe consisting of approximately seven hundred and eighty (780) feet of twenty (20) inch cast iron pipe.

Also that line of sixteen (16) inch cast iron pipe running from the end of the above mentioned twenty (20) inch pipe in the Pacific Grove Valve House, along Eardley Avenue to Light House Avenue, and along Light House Avenue to a point on the Easterly boundary line of the City of Pacific Grove, which is also the westerly boundary line of Monterey; thence easterly along Light House Avenue and Hawthorne Avenue to the westerly boundary

line of the United States Military Reservation, and thence crossing the United States Military Reservation in a general easterly direction and across Light House Avenue to a point on the easterly boundary of the United States Military Reservation which also is the westerly boundary line of the right of way of the Southern Pacific Railroad Company; thence in a southeasterly direction along and upon the right of way of the Southern Pacific Railroad Company to a point on the easterly boundary line of the City of Monterey, which is also the westerly boundary line of the Hotel Del Monte Grounds, and from this point through the Grounds of the Hotel Del Monte to the Valve House located in the Del Monte Grounds. The said line consisting of approximately twelve thousand three hundred and ninety-five (12395) feet of sixteen (16) inch cast iron pipe and two thousand seven hundred and forty-two (2742) feet of sixteen (16) inch riveted steel pipe.

Together with all necessary rights of way for maintaining, renewing and operating said pipe lines and connections and for installing and maintaining any new pipe line of pipe lines which the party of the second part may construct along said rights of way, at any time or from time to time, reserving, however, to the party of the first part the right to install, maintain, renew and operate any pipe lines which it may hereafter construct upon and along any said rights of way, provided that such reserved right and the right herein granted to the party of the second part shall not be so exercised as to interfere with or endanger the pipe lines of either party hereto.

TOGETHER with all and singular the tenements, hereditaments and appurtenances to all said properties belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.