

ORIGINAL

Decision No. 28432

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
MARTIN AND GOOLD WATER CO.,  
a corporation, to acquire the property,  
assets, and liabilities of Earl Martin  
and J.M. Goold, operating under the  
fictitious name of Martin and Goold  
Water Company, a co-partnership; for  
permission to operate pumping plants  
and to sell water for domestic use and  
for irrigation; for authority to issue  
stock and execute notes.

Application No. 20131.

Eldred E. Wolford, for applicants.

BY THE COMMISSION:

O P I N I O N

Earl Martin and J.M. Goold, co-partners doing business under the firm name and style of Martin and Goold Water Company, ask permission to transfer their partnership assets and liabilities to Martin and Goold Water Co., a recently organized corporation, and Martin and Goold Water Co. asks for a certificate of public convenience and necessity to supply water for domestic, irrigation and fire hydrant use, for an order approving a schedule of rates, and for permission to issue common and preferred stocks, to execute deeds of trust and to issue notes in the amounts and for the purposes hereinafter stated.

A public hearing in this proceeding was held before Examiner MacKall in Los Angeles on November 13, 1935, at which

time it was taken under submission.

The record shows that Earl Martin and J.M. Goold since August 1, 1932, have been engaged in operating a number of small water plants for the distribution of water for domestic and irrigation purposes in the territory adjacent to the southerly limits of El Monte, Los Angeles County, and near New Westminster, Orange County, conducting their business under certificates of public convenience and necessity heretofore granted to them by the Commission by the following decisions:

Decision No. 25109, dated Aug. 29, 1932, in Application No. 18270  
Decision No. 25829, dated April 17, 1933, in Application No. 18658  
Decision No. 25896, dated May 1, 1933, in Application No. 18671  
Decision No. 27147, dated June 8, 1934, in Application No. 19354

As will appear hereafter, applicant corporation asks for a new certificate of public convenience and necessity to construct, maintain and operate a public utility water system in the areas mentioned in said decisions and in additional territory.

The business of the co-partnership has increased rapidly since its inception, information on file with the Commission showing the following:

<u>Year</u>	<u>Operating Revenues</u>	<u>Operating Expenses</u>	<u>Net Operating Revenue</u>	<u>Number of Consumers</u>
1933	\$2,061.41	\$1,133.62	\$ 927.79	165
1934	6,478.40	3,910.05	2,568.35	393
1935 (9 mos.)	7,559.53	4,906.08	2,653.45	624

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The testimony shows that the co-partners have concluded

the business can be conducted more effectively by a corporate organization and therefore have caused the formation of Martin and Goold Water Co., a corporation, which will take over and thereafter operate the public utility properties and business of the co-partnership.

The new corporation has authorized capital stock of seventy-five thousand dollars (\$75,000), divided into 7,500 shares of the par value of ten dollars (\$10.00) each, consisting of 6,000 shares of common stock and 1,500 shares of six per cent preferred stock. In now taking over the assets of Earl Martin and J.M. Goold, the corporation proposes to assume and agrees to pay the sellers' obligations and to issue forty thousand dollars (\$40,000), or 4,000 shares, of its common stock. The assets to be thus acquired and the liabilities to be assumed as of July 31, 1935, appear from Exhibit "E" attached to the application as follows:

#### ASSETS

Fixed Capital	\$44,557.03	
Less Depreciation Reserve	<u>3,253.79</u>	\$41,303.24
Cash		693.24
Accounts Receivable		11,653.41
Materials and Supplies		<u>227.23</u>
Total Assets		\$53,877.12

#### LIABILITIES

Notes Payable	\$ 6,098.30	
Accounts Payable	7,073.57	
Consumers' Deposits	35.00	
Advances for Construction	<u>3,389.46</u>	
Total Liabilities		<u>\$16,596.33</u>
Balance		<u>\$37,280.79</u>

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It is reported that the forty-four thousand five hundred fifty-seven dollars and three cents (\$44,557.03) represents the cost to the co-partners of the properties they now propose to transfer to the corporation. In connection with such properties, it is alleged in the application that under the four certificates of public convenience and necessity heretofore granted by the Commission, the co-partners have been operating what they have designated as Plants Nos. "3" to "12," inclusive, and that subsequent to the last decision of the Commission (Decision No.27147, dated June 8, 1934) they have been constructing, or have been contemplating additional plants which are referred to as Plants Nos. "14" to "20," inclusive, to serve additional subdivisions in the same general territory.

In succeeding to the operations the corporation desires to obtain from the Commission a new certificate of public convenience and necessity permitting it to sell water for domestic, irrigation and fire hydrant use in the territory specified in the four certificates heretofore granted to Earl Martin and J.M. Goold, and referred to herein, and in the territory to be served by the additional plants numbered "14" to "20," inclusive, so that it will have but one certificate covering its entire service area. The area to be thus served is set out on a map of the territory near New Westminster which is designated as Exhibit "I" and on a map of the territory adjacent to El Monte which is designated as Exhibit "H." At the hearing, however, applicant excluded that portion of the proposed service area set out on Exhibit "H" which is referred to thereon as Tract

No. 10857.

The testimony in the proceeding indicates that the region is being subdivided rapidly into small ranch holdings and sold, that the present system has an ample supply of water to take care of reasonable demands for service and that no other public utility water company is operating in the proposed service area. No one entered an appearance at the hearing in protest to the granting of the certificate as herein requested.

In operating the properties, the corporation proposes to charge the same rates now in effect with the exception that it will add the following:

FOR FIRE HYDRANTS

Monthly Flat Rate:

For each fire hydrant-----\$1.50

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There appears to be no objection to this proposed rate and an appropriate order accordingly will be entered.

Referring now to the request of the corporation to execute deeds of trust and to issue notes, it appears that in acquiring the water system under discussion it will assume the payment of indebtedness aggregating, as of July 31, 1935, sixteen thousand five hundred ninety-six dollars and thirty-three cents (\$16,596.33), including, among other items, the following:

<u>Notes Payable:</u>					<u>Date of</u>	<u>Date Due</u>	<u>Interest</u>	<u>Amount</u>
Payee					<u>Issue</u>		<u>Rate</u>	
Barney Pipe & Supply Co.					3/18/33	9/18/33	8%	\$ 378.25
" " " "					6/15/33	12/15/33	8%	1,518.88
" " " "					9/ 1/33	3/ 1/34	8%	327.77
" " " "					10/ 1/33	4/ 1/34	8%	2,209.86
" " " "					4/ 1/33	10/ 1/33	8%	<u>231.12</u>
Frank Honeywell					10/31/34	10/31/35	6%	\$4,665.88
								1,000.00
<u>Contract Payable</u>								
J.W. Newman					11/ 4/34	\$13. mo.	5%	<u>1,020.77</u>
					Total			<u>\$6,626.65</u>

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The corporation proposes to refinance the above items. It reports that arrangements have been made with Barney Pipe & Supply Co. whereby a new note for four thousand six hundred sixty-five dollars and eighty-eight cents (\$4,665.88) will be issued in place of the five notes now outstanding, such new note to be unsecured, to be payable at the rate of two hundred dollars (\$200) or more per month and to bear interest at the rate of eight per cent per annum, the same rate now applying.

The time for payment of the one-thousand-dollar indebtedness due Frank Honeywell will be extended for a period of two years. It appears that this amount was borrowed in the purchase of property not then necessary or useful in the public utility operations and that its payment is secured by a deed of trust heretofore executed by the co-partners. The property involved since has become operative and, in extending the time for payment as now proposed, the corporation asks the Commission to approve the deed of trust heretofore executed. Unless a new deed of trust is executed,

however, no approval by the Commission of the existing deed of trust is necessary.

With reference to the amount due J.W. Newman, it seems that the co-partners on November 4, 1934, entered into a contract for the purchase for one thousand two hundred and eighty dollars (\$1,280.00) of certain real property used as the site of the office building for the water system, payment to be made at the rate of thirteen dollars (\$13.00) per month with interest at the rate of five per cent. The sum of two hundred fifty-nine dollars and twenty-three cents (\$259.23) has been paid on account, according to the application, leaving one thousand twenty dollars and seventy-seven cents (\$1,020.77) unpaid. Applicant corporation plans, in order to obtain title to the property, to execute a note for the balance due, payable in monthly installments of thirteen dollars (\$13.00) with the balance remaining at the end of five years to be then due, interest being at the rate of five per cent. The proposed note will be secured by a deed of trust substantially in the same form as that filed as Exhibit "F" attached to the application.

In addition to refinancing in part the existing indebtedness, the corporation asks permission to borrow up to five thousand dollars (\$5,000.00) from the First State Bank of Rosemead under the Federal Housing Act for the purpose of financing the cost of installing facilities to serve new subdivisions in its service area when and as they are opened. However, the testimony on this point was not so definite as to enable the Commission to pass upon the reasonableness of the amount requested and this portion of the application will be held in abeyance until such

time as the corporation can furnish the Commission with more complete information.

There remains for consideration the request of the corporation for permission to issue and sell at par for cash 500 shares of its preferred stock of the aggregate par value of five thousand dollars (\$5,000.00) for the purpose of obtaining funds to pay the indebtedness due Barney Pipe & Supply Co. referred to above and other indebtedness now to be assumed by it.

The terms of the preferences granted to the holders of the corporation's preferred stock appear in the Articles of Incorporation as follows:

"The holders of such preferred shares shall be entitled to receive from the surplus or net profits arising from the business of the corporation a fixed yearly dividend of six (6) per centum, payable annually on the first day of March, or in semi-annual or quarterly installments as the by-laws may from time to time provide. Said dividends shall be paid before any dividends shall be set aside or paid on the common shares. Should the surplus or net profits arising from the business of the corporation, prior to any dividend day, be insufficient to pay the dividend on the preferred shares, such dividends shall be payable from future proceeds, and no dividend shall at any time be paid upon common shares until the full amount of six (6) per centum per annum up to that time upon all the preferred shares shall have been paid or set apart. The holders of preferred shares shall be entitled to no dividends beyond the six (6) per centum as aforesaid. The holders of preferred shares shall have no voting powers whatsoever, nor shall they be entitled to notice of any meeting of share-holders of the company. Said preferred shares shall be subject to redemption at the par value thereof per share and accumulated dividends thereon at any time after one year from the issue thereof at such time or times, and in such manner as the Board of Directors shall determine. The holders of the preferred shares shall, in case of liquidation or dissolution of the company, be entitled to be paid in full, both the par amount of their shares and the accrued dividends, before any amount shall be paid to the holders of the common shares."



It will be observed that the holders of the preferred stock, under the Articles, shall have no voting powers whatsoever. The Commission does not look with favor on such an arrangement and is of the opinion that, if the corporation fails to pay quarterly dividends at the rate of six (6) per cent per annum on the preferred stock, the holders of preferred stock should be given a voice in the management of the properties and that their right to vote should continue until all accumulated dividends have been paid.

O R D E R

Earl Martin and J.M. Coold having applied to the Railroad Commission for authority to transfer properties, and Martin and Coold Water Co., a corporation, having applied for a certificate of public convenience and necessity, for approval of a schedule of rates, and for an order permitting the issue of stock and notes and the execution of deeds of trust, a public hearing having been held thereon, and the Commission being of the opinion that the application should be granted only as herein provided and that the money, property or labor to be procured or paid for through the issue of the stock and notes herein authorized is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, now, therefore,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and

will require Martin and Goold Water Co., a corporation, to operate and maintain a water system for the purpose of supplying water for domestic, irrigation and fire hydrant use within that certain area more particularly delineated upon the map filed with the application as Exhibit "I" and within that certain area more particularly delineated and outlined by the black lines upon the map filed with the application as Exhibit "H," excepting that area appearing on said Exhibit "H" designated as Tract No. 10857, and

IT IS HEREBY ORDERED as follows:

1. Earl Martin and J.M. Goold, co-partners doing business under the firm name and style of Martin and Goold Water Company, may transfer to Martin and Goold Water Co., a corporation, all of their public utility properties and assets except their certificates of public convenience and necessity granted by the decisions referred to in the foregoing Opinion, which certificates of public convenience and necessity are hereby cancelled concurrently with the transfer of said properties.
2. Martin and Goold Water Co., a corporation, in acquiring the properties and assets herein authorized to be transferred to it, may assume and agree to pay the outstanding liabilities, not exceeding sixteen thousand five hundred and ninety-six dollars and thirty-three cents (\$16,596.33), of Earl Martin and J.M. Goold, and may issue, on or before December 31, 1935, to said Earl Martin and J.M. Goold not exceeding 4,000 shares of its common capital stock of the aggregate par value of forty thousand dollars (\$40,000).
3. Martin and Goold Water Co., a corporation, may issue its promissory note in the principal amount of not exceeding four thousand six hundred sixty-five dollars and eighty-eight cents (\$4,665.88) payable in monthly installments of two hundred dollars (\$200.00) with interest at not exceeding eight per cent per annum to refund the indebtedness of like amount due Barney Pipe & Supply Co. to be assumed by it under the authority herein granted.

4. Martin and Goold Water Co., a corporation, may extend for a period of two years from October 31, 1935, the time for payment of the one-thousand-dollar six-per-cent note in favor of Frank Honeywell now to be assumed by it, or, in lieu thereof, may issue its new note in the principal amount of one thousand dollars (\$1,000.00), payable two years after date of issue, with interest at six per cent per annum and may execute a deed of trust, to secure the payment of said note, substantially in the same form as that filed in this proceeding as Exhibit "F," as amended by Exhibit "G," to refund said indebtedness.
5. Martin and Goold Water Co., a corporation, may issue its promissory note in the principal amount of not exceeding one thousand twenty dollars and seventy-seven cents (\$1,020.77), with interest at the rate of five per cent per annum, payable in monthly installments of thirteen dollars (\$13.00) with final payment due five years after date of issue, in evidence of the balance due on the contract with J.W. Newman, referred to in the preceding Opinion, and, to secure the payment of said note, may execute a deed of trust substantially in the same form as that filed in this proceeding as Exhibit "F."
6. Martin and Goold Water Co., a corporation, may issue and sell, on or before June 30, 1936, for cash at not less than par, not exceeding 500 shares of its preferred stock of the aggregate par value of five thousand dollars (\$5,000.00) and use the proceeds to pay in part the indebtedness to be assumed in acquiring the properties of Earl Martin and J.M. Goold under the authority herein granted.
7. Martin and Goold Water Co., a corporation, is hereby directed to file with the Railroad Commission, within thirty (30) days from and after the date hereof, the following schedule of rates to be charged by it for water delivered to its consumers:

DOMESTIC USE

Monthly Flat Rates:

For each lot of 1/2 acre or less with or without a residence where service connection does not exceed one inch--\$1.50

For each additional 1/4 acre or less----- .50

For each additional residence on one lot-----\$1.00  
 For extra service not exceeding one (1) inch on any lot--- .50  
 For small business frontage lots where service does not  
 exceed one (1) inch, at option of applicant----- 1.00

#### METER RATES

##### Monthly Minimum Charges:

For 5/8 x 3/4-inch meter-----\$1.00  
 For 3/4-inch meter----- 1.50  
 For 1-inch meter----- 2.00  
 For 1 1/2-inch meter----- 3.00  
 For 2-inch meter----- 5.00  
 For 3-inch meter----- 8.00

Each of the foregoing "Monthly Minimum Charges"  
 will entitle the consumer to the quantity of  
 water which that monthly minimum charge will  
 purchase at the following "Monthly Quantity  
 Rates."

##### Monthly Quantity Rates:

From 0 to 1,000 cubic feet, per 100 cubic feet-----\$0.10  
 From 1,000 to 2,000 cubic feet, per 100 cubic feet----- .07 1/2  
 All over 2,000 cubic feet, per 100 cubic feet----- .05

#### IRRIGATION USE

##### Monthly Flat Rate:

For one miner's inch (9 gallons per minute) per hour-----\$0.01

#### Meter Rates

##### Monthly Minimum Charges:

For 1-inch meter-----\$2.00  
 For 1 1/2-inch meter----- 3.00  
 For 2-inch meter----- 5.00  
 For 3-inch meter----- 8.00  
 For 4-inch meter-----15.00

Each of the foregoing "Monthly Minimum Charges"  
 will entitle the consumer to the quantity of  
 water which that monthly minimum charge will  
 purchase at the following "Monthly Quantity  
 Rates."

Monthly Quantity Rates:

From 0 to 10,000 cubic feet, per 100 cubic feet-----\$0.05  
All over 10,000 cubic feet, per 100 cubic feet----- .03

FOR FIRE HYDRANTS

Monthly Flat Rate for each fire hydrant-----\$1.50

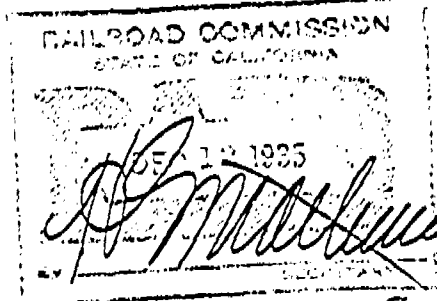
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8. Martin and Goold Water Co., a corporation, shall file with the Railroad Commission, within thirty (30) days from the date of this Order, rules and regulations governing service to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.
9. Martin and Goold Water Co., a corporation, shall file with this Commission, within thirty (30) days after acquiring title to the properties herein authorized to be transferred, a copy of the deed, or deeds, of conveyance and a statement showing the exact date upon which it acquired such properties and commenced operating them.
10. Martin and Goold Water Co., a corporation, shall keep such record of the issue of the stock and notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this Order.
11. The authority herein granted is not to be construed as determining the value of the properties herein authorized to be transferred for any purposes other than the transfer herein authorized.
12. The authority herein granted to execute deeds of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deeds of trust as to such other legal requirements to which they may be subject.

13. The authority herein granted to issue notes will become effective when Martin and Gould Water Co., a corporation, has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five dollars (\$25.00); the authority herein granted to issue preferred stock will become effective when said corporation has filed with the Commission a copy of an amendment to its Articles of Incorporation under which the holders of its preferred stock shall be given the right to vote if and when the corporation fails to pay any quarterly dividend on its outstanding preferred stock, such right to vote to continue during such period as the company fails to pay the accumulated dividends on said preferred stock.

In all other respects, the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this 9<sup>th</sup> day of November, 1935.



Leon A. Whelan  
M. J. Carr  
M. B. Harris  
W. A. Harrison  
Donald P. Wynn  
Commissioners.