

ORIGINAL

Decision No. 13322

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY LTD., a corporation, and the SAN ANTONIO WATER COMPANY, a corporation, for an Order of the Railroad Commission of the State of California Authorizing Southern California Edison Company Ltd. to transfer to San Antonio Water Company certain lands and certain rights in and to the use of the waters of San Antonio Creek.

Application No. 24061

BY THE COMMISSION:

O P I N I O N

Applicants, Southern California Edison Company Ltd., a public utility, and San Antonio Water Company, engaged in the business of developing and distributing water solely to its stockholders at cost, primarily for the purpose of irrigation in San Bernardino County, ask permission to execute an agreement and deeds to exchange land and water rights for the purpose of correcting errors in agreements and deeds heretofore executed.

By a deed, dated June 1, 1917, San Antonio Water Company transferred to Ontario Power Company, predecessor of Southern California Edison Company Ltd., forty-five acres of land located in the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 13, Township 1 North, Range 8 West, S. B. B. & M. This tract was

intended to embrace all of the land upon which Ontario Power House No. 1 is located. Through an error it failed to do so. As a result, the power house is now located, in part, upon lands owned by the Southern California Edison Company Ltd., and, in part, upon lands owned by the San Antonio Water Company. To correct this error, the Southern California Edison Company Ltd. proposes to transfer to the San Antonio Water Company, two and one-half acres of said forty-five acre tract in exchange for two tracts of land, comprising about 2.85 acres. One of these tracts is part of the land upon which Ontario Power House No. 1 is located. The other tract is the land upon which the diversion dam and intake works of Southern California Edison Company Ltd., in the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 30, Township 2 North, Range 7 West, S. B. B. & M., are located.

By the deed, dated June 1, 1917, San Antonio Water Company conveyed to Ontario Power Company, predecessor in interest to Southern California Edison Company Ltd., the right to divert all of the waters of San Antonio Creek at a point to be approved by said San Antonio Water Company, in the Southeast $\frac{1}{4}$ of Section 19, Township 2 North, Range 7 West, S. B. B. & M., and to conduct said water to any power house that might thereafter be constructed upon the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 2 North, Range 8 West, S. B. B. & M. for the sole purpose of generating electric energy. The San Antonio Water Company also conveyed to the Ontario Power Company an easement and right of way for a pipe line or conduit extending from said diversion point to said power house. The power house was built by the Ontario Power Company in 1919, and known as Ontario Power Plant No. 2.

The diversion dam and intake works were, however, located at a point in the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 30, Township 2 North, Range 7 West, S. E. B. & M. upon lands owned by the San Antonio Water Company instead of at the point heretofore mentioned. From 1919 up to March, 1938, when said power house was destroyed by a flood, the Ontario Power Company and its successor, Southern California Edison Company Ltd., diverted all of the water of San Antonio Creek whenever the quantity of water flowing therein at the diversion dam was less than or not greater than the capacity of the pipe line. The water passed not only through Ontario Power Plant No. 2 but also through Sierra Power Plant and Ontario Power Plant No. 1. The latter two power plants were constructed prior to Ontario Power Plant No. 2 and are now operated by Southern California Edison Company Ltd. The San Antonio Water Company claims that through inadvertence, error and mistake, in granting the diversion rights contained in the deed of June 1, 1917, it failed to except out of the said water therein granted, and reserve to itself as it intended to do, fifteen miner's inches of water. Thereafter, so the record shows, San Antonio Water Company, not realizing that it had failed to except and reserve fifteen miner's inches of water out of the water granted by the deed of June 1, 1917, conveyed to certain persons the right to divert from said San Antonio Creek certain quantities of water for domestic use. It now claims that by reason of said error and mistake, the deed of June 1, 1917 casts a cloud upon the title of the water rights heretofore conveyed by San Antonio Water Company for domestic use since June 1, 1917. Southern California Edison Company Ltd., on the other hand, contends that

through the diversion and use of said water it has acquired a right to all of the water conveyed by the deed of June 1, 1917.

For the purpose of composing and settling all of the conflicting claims and contentions of Southern California Edison Company Ltd. and San Antonio Water Company, in and to the lands and in and to the waters of San Antonio Creek, applicants desire to execute an agreement substantially in the same form as the agreement filed in this proceeding as Exhibit B, and to execute deeds substantially in the same form as those filed in this proceeding as Exhibit C, Exhibit D, Exhibit E, and Exhibit F. Through the execution of the agreement and deeds, Southern California Edison Company Ltd. will obtain title to all of the land on which Ontario Power House No. 1 is located; will obtain title to the land on which the diversion dam and intake to its conduit is located; will obtain the right to use water not only for the purpose of generating electricity but also for domestic and irrigation purposes at Sierra Power House and Ontario Power House No. 1 and on certain land owned by it in the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 2 North, Range 8 West, S. B. B. & M., and will have its rights to the waters of the San Antonio Creek, except for the fifteen miner's inches and the point of diversion recognized by San Antonio Water Company.

It is believed, so the record shows, that the land and rights to be acquired by Southern California Edison Company Ltd. have a value equal to the land and rights it conveys to San Antonio Water Company. We are in this proceeding making no finding as to the value of said land and rights. The transfer of said land and rights we find to be in the public interest.

O R D E R

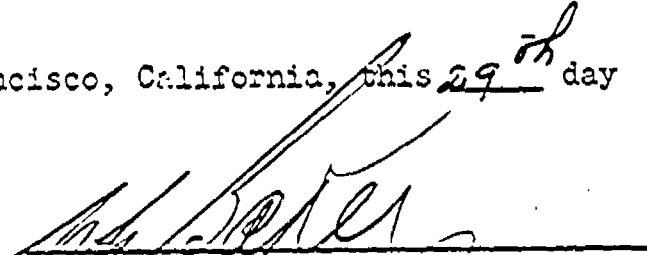
The Commission having considered applicants' requests and it being of the opinion that this is not a matter on which a hearing is necessary, and that this application should be granted, therefore,

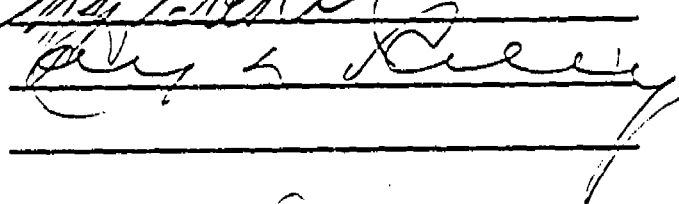
IT IS HEREBY ORDERED that Southern California Edison Company Ltd. be, and it is hereby, authorized to enter into an agreement and deeds substantially in the same form as the agreement and deeds filed in this proceeding as Exhibits "B," "C," "D," "E," and "F," and convey to San Antonio Water Company the properties and rights described in said agreement and in said deeds.

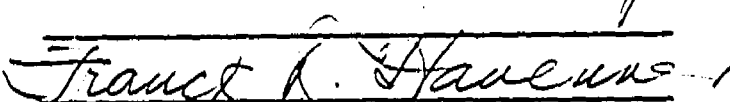
IT IS HEREBY FURTHER ORDERED that Southern California Edison Company Ltd. shall within thirty (30) days after the execution of said agreement and said deeds file with the Railroad Commission a certified copy of said agreement and a certified copy of each of said deeds.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective twenty (20) days after the date hereof, and expire ninety (90) days after said effective date.

Dated at San Francisco, California, this 29th day of April, 1941.







Commissioners.