

THOMAS M. STETSON

Number 7

Agreement to Supply Water to Hart Park

1934

THIS AGREEMENT, made and entered into on this 17th day of March, 1934, by and between COUNTY OF KERN, a political subdivision of the State of California, hereinafter called the County, the party of the first part, and MILLER & LUX, INCORPORATED, a Nevada corporation, and KERN COUNTY LAND COMPANY, a California corporation, hereinafter called the Companies, the parties of the second part,

W I T N E S S E T H :

THAT WHEREAS, the County is the owner of all that portion of Section 26, Township 28 South, Range 28 East, Mount Diablo Base and Meridian, lying South of Kern River; and all that portion of the West half of the Southwest quarter (W $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section 31, Township 28 South, Range 29 East, lying West of Kern River, an aggregate acreage of about 363 acres, used as a public park, and desires to construct and maintain therein a pond or lake of about twenty (20) acres in area and to divert water from the Kern River to fill and maintain the said lake; and

WHEREAS, the Companies assert that they severally own or control ancient water rights on the river, both riparian and appropriative, and that one of the parties of the second part controls a large number of appropriative rights initiated between 1870 and 1875 when the lands on which the headgates and diversion points were and are situate were public lands of the United States and the lands embracing the above described public park were owned by the State of California or were public lands of the United States,

NOW, THEREFORE, in consideration of the premises and of the performance of the agreements of the County hereinafter contained, the Companies hereby severally consent to the use of a portion of the water of Kern River by the County to form and maintain a lake in said park of approximately twenty (20) acres in area.

In consideration of the foregoing consent, the County agrees with each of the Companies severally as follows:

(a) To fill the lake initially during the period when the flow of the river exceeds twenty-five hundred (2500) second feet or at such other time when, in the opinion of the Companies, the lake may be filled without depriving the agricultural interests of needed water;

(b) After the initial filling not to divert or permit to be diverted from the river at any time in excess of a flow of fifteen (15) cubic feet per second;

(c) To discharge into the Kern River unpolluted and undiminished in quantity (except for loss from natural seepage and evaporation from the lake and from water consumed in the irrigation of not to exceed 370 acres), all water diverted from the river except the amount necessary for the initial filling of the lake;

(d) Not to divert, or to permit anyone to divert, any water from the river in its course through the said park

or from the said lake other than for the purposes of said lake and/or for the irrigation of not to exceed 370 acres of said park;

(e) To submit any plans for diversion works for the approval of the Chief Engineer of the Kern County Land Company before commencing the construction of such works;

(f) Not to assign or transfer any interest in said water but to retain and use the same only in the operation of said public park and public lake.

Nothing herein contained shall be deemed to be an admission by the County that the parties of the second part, or either of them, have any water rights in said river, and nothing herein contained or performed hereunder by any of the parties hereto shall affect or change the present existing water rights, if any, of the respective parties.

IN WITNESS WHEREOF, the Chairman of the Board of Supervisors of the County of Kern has hereunto, and to a duplicate and triplicate hereof, set the name of the said County, and the Clerk of the said Board of Supervisors has affixed the County seal, pursuant to a resolution duly adopted by the said Board of Supervisors of said County, and the Companies have hereunto, and to the said duplicate and triplicate hereof, caused their respective corporate names to be subscribed and their respective corporate seals to be affixed by their proper officers thereunto duly authorized, the day and year first above written.

COUNTY OF KERN,

(Seal of the County)

Attest:

F. B. Smith
County Clerk

J. A. Brown
Deputy

by W. R. 11/10/1911
Chairman
of the Board of Supervisors.

MILLER & LUX, INCORPORATED,
a corporation,

by Asa E. Fickett, Jr.
by T. L. Dunham
Secretary.

(Corporate
Seal)

KERN COUNTY LAND COMPANY,
a corporation,

by W. R. 11/10/1911
Vice-President
by W. R. 11/10/1911
Secretary

(Corporate
Seal)