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DEED.

40

BADEN IMPROVEMENT COMPANY

to

SPRING VALLEY WATER COMPANY.

50 ft Strip

Dated April 6th, 1907.

FILED FOR RECORD AT REQUEST OF

Edw. F. Fitzpatrick

May 28th A. D. 1907

at 3:10 min. past 2 o'clock

P. M. 136,

of Deeds, page 169
San Mateo County Records.

J. F. Johnson Recorder.

By Pauline E. Keenan Deputy Recorder

\$2.75 Accounting
\$.10 Copy Plotted
\$5.85 Total

IX ✓

DUPLICATE
NOT AN OFFICIAL RECORD

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ENGR LAND FILE
S. F. 123.

PREAMBLE AND RESOLUTION.

WHEREAS, the BADEN COMPANY has agreed to convey to the SPRING VALLEY WATER COMPANY certain lands near Baden in the County of San Mateo, in consideration of value received.

NOW, THEREFORE, BE IT RESOLVED that the President and Secretary of this Corporation be and they are hereby duly authorized, empowered and instructed to execute and acknowledge ^{a deed} in the name of the BADEN COMPANY, and the said Secretary is hereby authorized, empowered and instructed to affix the corporate seal to the said deed dated the sixth day of April, 1907, from the BADEN COMPANY to the SPRING VALLEY WATER COMPANY, conveying said property to said SPRING VALLEY WATER COMPANY.

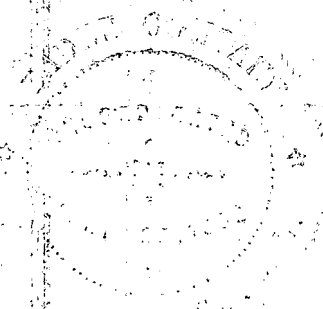
CCB

AND BE IT FURTHER RESOLVED that the said President and Secretary be and they are hereby duly authorized, empowered and instructed to deliver said deed to the said SPRING VALLEY WATER COMPANY in consideration of the said value received.

I, C. C. BURR, Secretary of the BADEN COMPANY, hereby certify that the foregoing is a true and correct copy of the resolution of the BADEN COMPANY, adopted at a meeting of its Board of Directors held on Monday, the 8th day of April, 1907, and said resolution appears upon the minute books of said company.

C. C. Burr

Secretary,



Form 601
12/10/16

O.V.
Geo. Schwanda

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S. F. W. D.

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SSA

THIS INDENTURE, made this ^{6th}
day of April, A. D. 1907, by and between the

BADEN ~~IMPROVEMENT~~ COMPANY,

a corporation duly organized and existing under and by virtue of
the laws of the State of California, the party of the first
part, and the

SPRING VALLEY WATER COMPANY,

also a corporation duly organized and existing under and by
virtue of the laws of the State of California, the party of the
second part, -

WITNESSETH : -

That the said party of the first part, for and in con-
sideration of the sum of Ten (\$10.00) Dollars, gold coin of the
United States, to it in hand paid by the said party of the second
part, the receipt of which is hereby acknowledged, has granted,
bargained, sold, conveyed and confirmed and, by these presents,
does grant, bargain, sell, convey and confirm unto the said party
of the second part, its successors and assigns forever, all that
certain piece or parcel of land, situate, lying and being in the
County of San Mateo, State of California, and described as follows,
to-wit:-

see
L.C.B.
1/1

A strip of land, eighty (80) feet in width, the center line
of which is described as follows:-

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S. F. W. D.

Beginning at a point marked "G" on the accompanying map, said point being located in the westerly line of the County Road from San Francisco to San Jose, and bearing north twenty-seven (27°) degrees fifteen (15') minutes west, a distance of one thousand two hundred and twelve (1,212) feet from the most easterly corner of the lands of the party of the first part on the west line of the County Road; thence, running north sixty-two (62°) ^{degrees} ~~feet~~, twenty-five (25') minutes west, one thousand six hundred and nine (1,609) feet, to a point marked "F" on map; thence north fifty-six (56°) degrees fifteen (15') minutes west, one hundred and six (106) feet, more or less, to a point marked "E" on map, - said point "E" being located in the division line between said tract of the party of the first part and the Flood and Mackay tract; said division line having been located from a description of the recorded deed of said property of the party of the first part:

1228

The northeasterly and southwesterly boundary lines of the said tract of land, eighty (80) feet in width, are located forty (40) feet, measured at right angles, on either side of and parallel to said center line; - the southeasterly end of this tract, through "G", being bounded by the westerly line of the County Road, bearing north twenty-seven (27°) degrees fifteen (15') minutes west, and the northwesterly end of this tract, through "E", being bounded by said division line between the lands of said party of the first part and those of Flood and Mackay, bearing south seventy-two (72°) degrees forty-five (45') minutes west: said point "E" being identical with the southeasterly end of the center line of a corresponding tract of land, eighty (80) feet in width, through the said Flood and Mackay tract, which latter forms a continuation of the tract hereinabove described; courses being expressed by true

rec'd
C. C. B.

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ENGR LAND FILE
S. F. W. D.

meridian; and the entire tract, herein described, containing three and fifteen hundredths (3.15) acres, more or less:

Excepting and reserving therefrom the right, on the part of the party of the first part, to construct and maintain sewers over and across said strip of land and to construct and maintain over and across said strip of land conduits and poles, with wires, for conducting, carrying and transmitting electric current for telephone, telegraph, lighting, heat and power purposes, and also the right to construct and maintain over and across said strip of land lines of pipe for carrying water and for carrying and conducting gas for light, heat and power purposes, and also the right, at all reasonable times, to enter upon said strip of land for the purpose of repairing or renewing said sewers, conduits, wires and pipes, and to keep the same, or any part thereof, in proper condition for use,- all of which must be done in such manner as to avoid any interference with the pipes and conduits of the party of the second part, and all of which must be done to the satisfaction of the Chief Engineer of the party of the second part:

Also excepting and reserving therefrom the right, on behalf of the party of the first part, and their tenants, to cultivate said strip of land, and the right to have ingress and egress to and from said strip of land and to passage over all parts thereof at all times: *excepting over trestle.*

*rcp
ecb
hsh*

Also excepting and reserving therefrom the right, on behalf of the party of the first part, to construct and maintain existing or other roads and streets across said strip of land; provided

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S. F. W. D.

that the same shall not interfere with the pipes, pipe lines or conduits of the said party of the second part:

IT IS UNDERSTOOD AND AGREED that the said party of the second part shall not fence said strip of land, hereinbefore described, and shall leave the surface thereof as nearly as possible in its present condition, except that the said party of the second part shall have a right to construct a trestle thereon, wherever necessary to carry its pipes or pipe lines.

IT IS FURTHER UNDERSTOOD AND AGREED that the party of the second part will pay to the said party of the first part, or its tenants, any actual damage accruing to the crops of the said party of the first part, or its tenants, growing upon said strip of land, which said damage shall accrue from any acts of the said party of the second part; and the amount of said damage, if possible, shall be mutually agreed upon, but, if not, it shall be determined by arbitrators, one of whom shall be selected by the party of the first part, or its tenants, and one by the said party of the second part; and if the two cannot agree, they shall select a third, whose decision shall be final, without recourse to any Court:

IT IS FURTHER UNDERSTOOD AND AGREED that the said party of the second part shall have the right to use any and all roads upon the premises of the party of the first part for the purpose of conveying pipe and materials to the said tract of land, hereinbefore described, and for the purposes of ingress and egress to and from and passage across said strip of land at all times:

*rec'd
cc 13
14*

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S. F. W. D.

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IT IS FURTHER UNDERSTOOD AND AGREED that the said tract of land shall not be used as a right of way for any steam, electric, or any other railroad, but the said party of the first part shall have the right to use the same as a street or boulevard for light vehicles, automobiles, saddle animals, pedestrians and the like, except where it is necessary for the party of the second part to construct a trestle to carry its pipes or pipe-lines; provided, further, that the grade of the said street or boulevard be established under the supervision and to the satisfaction of the Chief Engineer of the party of the second part; and provided, further, that if the said party of the first part shall subdivide and sell its property adjacent to the said strip of land, so herein conveyed, that then and in that event said street or boulevard may be used for heavy teams and traffic for a distance not exceeding one block; and provided, further, that no trees or shrubs shall be planted in the roadway of said street or boulevard, nor in the center thereof:

These covenants and conditions shall bind the successors and assigns of both parties hereto:

The party of the second part, by the acceptance of this deed, agrees to all the conditions, covenants, reservations and stipulations in the entire grant contained; and, in addition to such acceptance of this conveyance, the record of the same, by or at the request of the said party of the second part, shall be further and conclusive evidence of such acceptance:

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining,

*See B
C. C. B
J*

DEED

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ENGR LAND FILE
S. F. W. D.

and the reversion and reversions, remainder and remainders,
rents, issues and profits thereof:

TO HAVE AND TO HOLD, all and singular, the said land
above described (subject to said reservations, covenants, condi-
tions and stipulations), together with the appurtenances, unto
the said party of the second part, its successors and assigns
forever:

IN WITNESS WHEREOF, the said party of
the first part has caused this indenture to be executed, in its
corporate name and under its corporate seal, by its President
and Secretary, thereunto duly authorized, - all on the day and
year first herein written.

*cc 13
cc 9*

SIGNED, SEALED AND DELIVERED)
IN THE PRESENCE OF:-)

BADEN ~~IMPROVEMENT~~ COMPANY, *W.S.P.*

by

[Handwritten Signature]

President.

and by

[Handwritten Signature]

Secretary.



State of California,
City and County of San Francisco } ss.

On this Tenth day of April

in the year One Thousand Nine Hundred and seven before me, GEO. T. KNOX, a Notary Public, in and for the said City and County, residing therein, duly commissioned and sworn, personally appeared

E C Burr & C C Burr
known to me to be the President and Secretary respectively,
of Baden Company

the Corporation described in and that executed the within instrument, and also known to me to be the person~~s~~ who executed it on behalf of the Corporation therein named, and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office, in the City and County of San Francisco, the day and year in this Certificate first above written.

Geo T Knox

NOTARY PUBLIC.

In and for the City and County of San Francisco, State of California.



EXECUTIVE DEPARTMENT
SPRING VALLEY WATER COMPANY
425 MASON STREET

DEED

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S. F. W. D.

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SAN FRANCISCO, CAL.

March 7, 1924.

Mr. John E. Behan,
Secretary,
B u i l d i n g.

Dear Sir:

In response to your letter of March 7th, with reference to anything further that might be done in the matter of the Baden property of the Company, proposed to be used by the California Golf Club; the exercise of any rights that we may have are limited to Mr. Thomas' recent legal opinion. I have nothing to suggest unless there be something in this opinion that it is desirable to do which may not have been done. I have not read this opinion closely.

Yours very truly,

S. P. Eastman

OROVN
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ENGR LAND FILE
S. F. W. D.

March 7th, 1924.

S. P. Eastman, Esq.
President,
Building.

Dear Sir:-

Herewith exchange of letters between J. F. Leicester, Attorney for the Baden Company and ourselves with relation to a reserved use in a portion of our Baden-Merced right of way.

Facts are that we paid \$10,000 to the Baden Company on April 6th, 1907 for a strip of about 3½ acres running through a large tract of land, where the line divides near Baden, subject to certain reservations as to surface use.

Our main use is for transmission lines, but the Baden Company is selling its reservation to "cultivate" to our present tenants at Ingleside, the California Golf Club of San Francisco for golf club purposes and said Club desires to construct "bunkers" on the strip.

The stand we have thus far taken, upon the advice of our attorneys, is a willingness to concede the use for "fairways and greens" if we are not put to the expense of damages in case of other disturbances for our purposes, but not to permit the construction of "bunkers".

I hate to think that we paid \$10,000 for the fee to our land and that we do not control it.

What further course do you suggest we pursue?

Yours very truly,

JEB:H

DROWN, LEICESTER & DROWN
ATTORNEYS AND COUNSELORS AT LAW
1001-1004 CALIFORNIA PACIFIC BUILDING
TELEPHONE SUTTER 1430

J. F. LEICESTER
W. N. DROWN

CABLE ADDRESS
"DELD"

DEED

**ENGR LAND FILE
S. F. W. D.**

DUPLICATE
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SAN FRANCISCO, CAL. Mch. 6, 1924.

Mr. John E. Behan
Secretary and Treasurer of
Spring Valley Water Company
425 Mason Street, City.

Dear Sir:

I have yours of the 3rd inst. I hardly agree with your construction of the instrument so far as our right to use the surface of the land for a golf course. ^{is intended} The deed gives us the express right to cultivate this land, and if we choose to cultivate it for the purpose of lawns we could, of course, use the lawn for any proper purpose, including the play of golf. Certainly such a use would not interfere with the purposes for which you have the right to use the land, at least not nearly as much as our clear and express right of laying out roads and erecting telephone poles. However, in view of what you say in your letter it is useless to further discuss this matter because I believe we can come to an agreement.

You say that the construction of bunkers on this strip of land would not meet the views of your engineering department. I think if they will reconsider this matter they will agree with me that such a construction could not possibly be of any detriment to your rights. We clearly have the right to grade the strip of land for a road and use it for many other purposes. The construction of one or more bunkers would not disturb the surface of the ground nearly as much as would the construction of a road along the strip. Indeed, it would hardly disturb the surface at all. The Club takes the view that it could not carry out its plans for a properly constructed golf course without placing one or more of its bunkers on this strip. I believe if we discuss the matter together that we could reach an agreement in this matter.

Should you have to repair your conduits, any excess cost occasioned by digging through a bunker could be paid by the Club. It could only be a matter of a few dollars in any event.

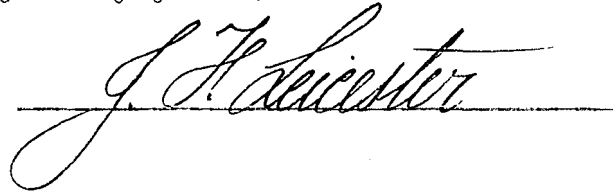
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ENGR LAND FILE
S. F. W. D.

I will take the matter up with you further after I have discussed it with the officers of the Club. Meanwhile I thank you for your attention to the matter, and trust that we can shortly arrive at an amicable agreement satisfactory to all parties.

Very truly yours,



JFL

DEED

ENGR LAND FILE
S. F. W. D.

March 3rd, 1924.

J. F. Leicester, Esq.
1001 California Pacific Building,
San Francisco, California.

Dear Sir:-

Your letter of February 18th has been received and we have given consideration to the matter you present.

We cannot acknowledge that the property conveyed in fee to this company by the deed of April 6, 1907, is subject to rights reserved by the grantor to use the same for the purposes of a golf course. The right of conducting sports on land is a well recognized easement, and if the reservation of such an easement had been intended it would have been a simple matter to have so provided in the instrument. It is unquestionably the fact that such a use of the land was not contemplated. This company did not acquire an easement only, leaving the grantor free to use the property for any purpose not inconsistent with the easement. We acquired the fee title subject to certain rights expressly reserved; and no rights remained in the grantor except those that were reserved.

However, it is our policy to co-operate with others in matters of this kind so far as we can consistently with our own interests, and we should be willing to consider joining with the proper parties in an instrument whereby the reservations should be changed from those expressed in the deed to the right to use the surface of the ground at its present grade for greens or fairways for a golf course at such points as are not now occupied by us with trestles or other surface structures or improvements, conditioned for the payment by the holder of the reserved rights but on our behalf of the taxes and assessments levied on the land, with the obligation on our part to interfere with the use of the course as little as reasonably possible and to refill with all convenient despatch and substantially to present grade the excavations which it may be necessary for us to make from time to time, but without obligation to compensate for damage necessarily done to lawns, etc., the new instrument not to alter our present right of ingress and egress for purposes in connection with our use of our property, and no fences to be made. Permitting the disturbance of the

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ENGR LAND FILE
S. F. W. D.

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present surface of the ground which would be incidental to the construction of bunkers on our land does not meet the views of our engineering department; but we presume if the strip may be used for greens and fairways the course may be so laid out that the bunkers are located elsewhere.

Any such proposition will, of course, have to be passed upon by our Board of Directors or Executive Committee.

Yours very truly,

Secretary

JEB:H

DEED

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ENGR LAND FILE
S. F. W. D.

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February 28th, 1924.

S. P. Eastman, Esq.
President,
B u i l d i n g .

Dear Sir:-

I noticed in the columns of the Daily Press that the California Golf Club of San Francisco, our present tenants on the old golf course at Lake Merced, have arranged to purchase from the Baden Company a few hundred acres of land at Baden for a golf course.

We own an eighty foot strip near the proposed golf course which was bought from the Baden Company on April 6th, 1907, and the strip is used as a portion of the Baden Merced right of way. In this connection, Attorney J. F. Leicester, representing the Baden Company seems to think that reserved rights to said Company give them the privilege of assigning the use of the strip to the Golf Club for fairways, greens and bunker purposes.

The opinion of our attorneys has been obtained and they suggest a reply to Mr. Leicester as to our position, with which I fully agree. Will you please read the suggested reply contained in our attorneys' opinion and let me have your views.

Mr. Leicester's client may pay taxes on the strip, but we do likewise.

Very truly yours,

JEB:H

EDWARD J. McCUTCHEN
WARREN OLNEY, JR.
J. M. MANNON, JR.
A. CRAWFORD GREENE
ALLAN R. MATTHEW
FARNHAM R. GRIFFITHS
F. F. THOMAS, JR.
JOHN T. PIGOTT

JOSEPH B. McKEON
JOHN F. CASSELL
JOHN W. PARKER
RUSSELL A. MACKAY
JAMES D. ADAMS
STANLEY MORRISON
ROBERT L. LIPMAN
JAY T. COOPER
HAROLD A. BLACK
EDWIN S. PILLSBURY

McCUTCHEN, OLNEY, MANNON & GREENE

COUNSELORS AT LAW

DEED

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CABLE ADDRESS MAOPAG-
ENGR LAND FILE
S. F. W. D.

BALFOUR BUILDING
SAN FRANCISCO, CALIFORNIA

February 26, 1924

Mr. John E. Behan,
425 Mason Street,
San Francisco, Calif.

Dear Sir:

Baden Company.

We return herewith (a) original deed, Baden Company to Spring Valley Water Company, dated April 6, 1907, and recorded May 28, 1907, in Volume 136 of Deeds, p. 169, records of San Mateo County, and (b) letter from J. F. Leicester, Esq., to Spring Valley Water Company dated February 18, 1924. We have considered the questions asked in your letter of February 20th, with reference thereto.

By the deed the Baden Company reserved a great variety of rights in respect to the strip of land conveyed to the water company: the right, on the part of the first party, to construct and maintain over and across the strip sewers, conduits, poles, wires, pipe lines; the right, on behalf of the first party, "and their tenants", to cultivate said strip of land and the right to have ingress and egress to and from the strip and passage over all parts thereof (excepting trestle) at all times; the right, on behalf of first party, to construct and maintain existing and other roads and streets across said strip; the right to have the strip unfenced and the surface kept as nearly as possible in its then condition (except for necessary trestles); and the right to use the strip as a street or boulevard (except where trestles are necessary).

This brief enumeration of the principal reserved rights is made to indicate their broad scope. While the water company acquired the fee title, subject to the reserved rights, the character of the reservations is such that the water company acquired little more, in substance, than the equivalent of an easement with, as you say, the necessity of paying the taxes on the fee.

In view of these broad provisions we think the definition of the word "cultivate" (as restricted to tillage for the purpose of raising crops, or, on the other hand, as meaning to change from a state of nature) is not determinative; while it is impossible to

Mr. Behan:
Approved:
Feb. 29, 1924

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Mr. John E. Behan.

give unqualified advice, we incline to the view that use for the general purposes of a golf course may reasonably be regarded as within the effect of the reservations if it does not unduly impair your use of the strip for the purposes of a conduit for water. Greens, although a form of cultivation which is not for the purpose of yielding crops, may be included in the term "cultivate" if given a liberal construction; fairways and the passing and repassing incident thereto may be included in the term "passage" and other provisions which indicate an intention that passing and repassing shall be unrestricted except where there are trestles and except by heavy teams and traffic.

It is true, as you say, that a golf course is a use which was probably not thought of in connection with the property at the time the conveyance was executed. It is also true that the right of conducting lawful sports upon land is a recognized easement (Civil Code, Section 801) and if contemplated could easily have been expressed. Nevertheless, while a grant is to be interpreted in favor of the grantee, a reservation contained in a grant is to be interpreted in favor of the grantor (Civil Code, Section 1069), and it seems to us probable that the reservations in this deed, given a liberal construction in favor of the grantor, would be held to permit these proposed uses, at any rate if they do not materially interfere with your use of the conduit.

Bunkers, involving a disturbance of the surface of the ground, may stand in a different position. They may tend seriously to interfere with your conduit, and you may, we think, properly insist that the deed contemplates that the surface of the ground will be kept in its natural position subject only to grade changes approved by your Chief Engineer.

The foregoing answers your first, second and fourth questions. There remains the third question: whether the reservations are personal to the grantor (the Baden Company) and its tenants, or on the other hand may be assigned. Whether the reservations are regarded as appurtenant (as is perhaps implied, as to some of them, by the reference to tenants) or as in gross, we believe they are not personal to the grantor but may be assigned, and that the conveyance of the contiguous land of the Baden Company on both sides of the strip, together with the reservations in the interlying portion of the strip, would be effective to pass the reservations in respect thereto. In the deed, following the reservations is a paragraph reading as follows:

"These covenants and conditions shall bind the successors and assigns of both parties hereto:"

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S. F. W. D.

Mr. John E. Behan.

We attach no particular importance to the reference to them as "covenants and conditions"; or to the colon(:) at the end of the quoted paragraph (the same punctuation was used at the end of practically all of the paragraphs in lieu of a period (.) and obviously was not intended to make the paragraph refer to what followed rather than to what preceded); or to the omission of "and enure to the benefit of" after "bind".

There are several points in Mr. Leicester's letter which call for comment:

He states that the water company would be liable to make good damage, resulting from your excavations, to lawns (used in connection with the golf course), and to replace the surface as found. We should question whether the obligation to pay "any actual damage accruing to the crops" of the first party or its tenants would include lawns cultivated for purposes other than crops, or whether the obligation to "leave the surface thereof as nearly as possible in its present condition" could refer to a subsequent condition differing from that existing at the time of the deed.

He refers to liability for taxes heretofore paid for your account on this land. We question whether there is any liability to make reimbursement therefor if the payment was not made at your request.

Ede v. Heywood,
153 Cal. 615.

We feel there is probably merit in his suggestion that the use of the property for a golf course would be less burdensome to you than many of the uses expressly permitted. This negotiation may make it possible for you to better your position. You may deem it good judgment to write Mr. Leicester substantially as follows:

Your letter of February 18th has been received and we have given consideration to the matter you present.

We cannot acknowledge that the property conveyed in fee to this company by the deed of April 6, 1907, is subject to rights reserved by the grantor to use the same for the purposes of a golf course. The right of conducting sports on land is a well recognized easement, and if the reservation of such an easement had been intended it would have been a simple matter to have so provided in the instrument. It is unquestionably the fact that such a use of the land was not contemplated. This company did not acquire an easement only, leaving the grantor free to use the property for any purpose not inconsistent with the easement. We acquired the fee title subject to certain

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ENGR LAND FILE
S. F. W. #4

Mr. John E. Behan.

rights expressly reserved; and no rights remained in the grantor except those that were reserved.

However, it is our policy to co-operate with others in matters of this kind so far as we can consistently with our own interests, and we should be willing to consider joining with the proper parties in an instrument whereby the reservations should be changed from those expressed in the deed to the right to use the surface of the ground at its present grade for greens or fairways for a golf course at such points as are not now occupied by us with trestles or other surface structures or improvements, conditioned for the payment by the holder of the reserved rights but on our behalf of the taxes and assessments levied on the land, with the obligation on our part to interfere with the use of the course as little as reasonably possible and to refill with all convenient despatch and substantially to present grade the excavations which it may be necessary for us to make from time to time, but without obligation to compensate for damage necessarily done to lawns, etc., the new instrument not to alter our present right of ingress and egress for purposes in connection with our use of our property, and no fences to be made. Permitting the disturbance of the present surface of the ground which would be incidental to the construction of bunkers on our land does not meet the views of our engineering department; but we presume if the strip may be used for greens and fairways the course may be so laid out that the bunkers are located elsewhere.

Any such proposition will, of course, have to be passed upon by our Board of Directors or Executive Committee.

Yours truly,

McClatchy, Chas. Manning, Secy.

Enclosures.

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OF AN OFFICIAL RECORD

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ENGR LAND FILE
S. F. W. D.

February 20th, 1924.

Messrs. McCutchen, Olney,
Mannon & Greene, Attys.,
Balfour Building,
San Francisco, Calif.

Gentlemen:-

ATTENTION F. F. THOMAS, ESC.

Herewith communication dated February 18th, 1924, from J. F. Leicester of Drown, Leicester & Drown, 1001 California Pacific Building, this City, and also the original deed of April 6th, 1907 from Baden Company to Spring Valley Water Company granting an 80 foot strip near Baden, San Mateo County, subject to certain reservations and conditions. From Mr. Leicester's letter it is apparent that he is seeking to sell an added use in our lands for golf course purposes. In this connection, will you kindly express your opinion on the following questions:

Are we justified legally in acceding to Mr. Leicester's request in permitting the construction of bunkers and fairways upon the strip of land in question?

While we have acceded to the condition that the land may be "cultivated" by the tenants of the Baden Company, does this mean that another use never thought of before can be carried out by the Baden Company?

Is the deed personal in its conditions, that is, does it apply only to the Baden Company and its tenants?

What did we really get by the conveyance other than the payment of taxes upon the strip and where does the paramount interest lie?

Will you be kind enough to return the deed and the communication with your opinion.

Very truly yours,

JEB:H

DEED

DROWN, LEICESTER & DROWN
ATTORNEYS AND COUNSELORS AT LAW
1001-1004 CALIFORNIA PACIFIC BUILDING
TELEPHONE SUTTER 1430

J. F. LEICESTER
W. N. DROWN

CABLE ADDRESS
"DELD"

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ENGR LAND FILE
S. F. W. D.

DUPLICATE
NOT AN OFFICIAL RECORD

SAN FRANCISCO, CAL. Feb. 18, 1924.

Spring Valley Water Company
425 Mason Street
San Francisco, Cal.

Gentlemen:

By deed dated April 6th 1907 Baden Company conveyed to you, subject to certain restrictions and exceptions, a strip of land eighty feet wide forming a part of the Baden Farm in San Mateo County, California.

The Baden Company excepted and reserved from the said strip of land a right to construct and maintain sewers, conduits, poles, wires and gas pipes over and across the same, also the right to cultivate said strip of land, also the right to construct and maintain roads and streets upon and across the same, and to construct and maintain over and across said strip of land pipes and pipe lines for water; and in and by the said Deed you agree not to fence said strip of land, and to leave the surface thereof unmolested, except by way of constructing a trestle thereon, and to pay any actual damages that may accrue to any crops that may be grown upon said strip of land.

The Baden Company now has in contemplation a sale of the entire Baden Farm to a Golf Club. If the sale goes through the Club desires to construct golf courses upon said tract of land and to maintain the same as a golf course. It has raised the question as to whether or not you would seek in any way to interfere with this right to construct bunkers and fairways upon the strip of land in question. I am inclined to think that under the rights excepted and reserved by the Baden Company you could not object to any use of the surface of the strip of land the Golf Club might desire to make thereof. However, it would be better for all parties to remove all doubt upon this subject, and I am therefore requested by the Baden Company to ascertain your views on the matter. Of course, anything that is done by the Golf Club must not in any way damage or interfere with your pipe line, but on the other hand the use of this property for a golf course, and the construction of fairways and bunkers thereon, could not possibly damage your pipe line. If, however, you should desire to repair or replace your pipe line, it would become necessary for you to dig up the surface of at least some portion of the land in question, and in so doing you would damage the lawns growing thereon; and I think under the terms of the deed you would readily admit your liability to make good

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this damage and to replace the surface of the ground as you found it.

It would greatly facilitate the pending negotiations if you would agree to execute a contract in which you acknowledge the right of the Golf Club to construct bunkers upon and over this strip of land, and generally to use the same for the purposes of this golf course, and in which you further agree not to interfere with the use of the land for a golf course, excepting so far as may be necessary for the purpose of protecting your rights to maintain, repair and lay your water conduits therein.

As I understand it you are liable for the taxes upon the strip of land in question, although the Baden Company has been paying these taxes for some years last past, and is probably entitled to reimbursement. Perhaps as a consideration for the agreement which the Golf Club will desire from you in case it buys the property, it might agree to make no change in the assessment, and to permit the strip in question to be assessed as heretofore to the owners of the rest of the tract, and the Baden Company might release you from all liability for taxes heretofore paid for your account on this land. However, this is a matter of little importance.

I believe that the use of the property for a golf course would prove more satisfactory to you than its use for almost any other purpose, and would interfere less with any possible use you might desire to make of the strip of land than would the subdivision of the tract into building lots.

Will you kindly give this matter your immediate consideration, and let me hear from you at your earliest possible convenience. We feel sure that you will not desire to impede the proposed sale, but will be willing to accommodate the Baden Company so far as you can do so without prejudicing any of your rights.

Yours very truly,

J. H. Leicester

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DUPLICATE
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South San Francisco Land and Improvement Co. (Seal)
(Corp Seal) By Leroy Hough, Vice- President.

Secretary
Geo. H. Chapman.

State of California,)
) SS.
County of San Mateo.)

On this 24th day of May nineteen hundred and seven before me, E. E. Cunningham, a Notary Public in and for said County and State of California, residing therein duly commissioned and sworn, personally appeared Leroy Hough, and George H. Chapman, known to me to be the officers who executed the within instrument, on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

(Seal) E. E. Cunningham,

Notary Public in and for said City and County of San Mateo, State of California.

A true copy of an original recorded at the request of Hensley Green Co. May 23th A. D. 1907 at 22 min. past 9 oclock A. M.,

By *J. Johnson* County Recorder,
C. Hanson Deputy Recorder.

PREAMBLE AND RESOLUTION.

WHEREAS, the BADEN COMPANY has agreed to convey to the Spring Valley Water Company certain lands near Baden in the County of San Mateo, in consideration of value received.

Now, Therefore be it resolved that the President and Secretary of this Corporation be and they are hereby duly authorized, empowered and instructed to execute and acknowledge a deed in the name of the Baden Company, and the said Secretary is hereby authorized, empowered and instructed to affix the corporate seal to the said deed, dated the sixth day of April 1907, from the Baden Company, to the Spring Valley Water Company, conveying said property to said Spring Valley Water Company.

And be it further resolved that the said President and Secretary he and they are hereby duly authorized, empowered and instructed to deliver said deed to the said Spring Valley Water Company in consideration of the said value received.

I, J. C. Burr, Secretary of the Baden Company, hereby certify that the foregoing is a true and correct copy of the resolution of the Baden Company, adopted

at a meeting of its Board of Directors held on Monday, the 9th day of April 1907, and said resolution appears upon the minute books of said company.

(Corp Seal)

C. C. Burr,
Secretary-

THIS INDENTURE, made this 6th day of April A. D. 1907 by and between the Baden Company, a corporation duly organized and existing under and by virtue of the laws of the State of California, the party of the first part, and the

SPRING VALLEY WATER COMPANY,
also a corporation duly organized and existing under and by virtue of the laws of the State of California, the party of the second part,-

WITNESSETH :-

That the said party of the first part, for and in consideration of the sum of Ten (\$10.00) Dollars, gold coin of the United States, to it in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, has granted, bargained, sold, conveyed and confirmed, and by these presents, does grant, bargain sell, convey and confirm unto the said party of the second part, its successors and assigns forever, all that certain piece or parcel of land, situate lying and being in the County of San Mateo, State of California, and described as follows, to-wit:-

A strip of land, eighty (80) feet in width, the center line of which is described as follows:

Beginning at a point marked "G" on the accompanying map, said point being located in the westerly line of the County Road from San Francisco to San Jose and bearing north twenty seven (27°) degrees fifteen (15') minutes west, a distance of one thousand two hundred and twelve (1,212) feet from the most easterly corner of the lands of the party of the first part on the west line of the county road; thence, running north sixty two (62°) degrees twenty five (25') minutes west one thousand six hundred and nine (1,609) feet to a point marked "F" on map; thence north fifty six (56°) degrees fifteen (15') minutes west, one hundred and six (106) feet more or less, to a point marked "E" on map, said point "E" being located in the division line between said tract of the party of the first part and the Flood and Mackay tract; said division line having been located from a description of the recorded deed of said property of the party of the first part:-

The northeasterly and southwesterly boundary lines of the said tract of land eighty (80) feet in width, are located forty (40) feet , measured at right angles, on either side of and parallel to said center line:- The south-easterly end of this tract, through "G" being bounded by the westerly line of the County Road, bearing North twenty seven (27°) degrees fifteen (15') Minutes west, and the northwesterly end of this tract, through "E" being bounded by said division line between the lands of said party of the first part and those of Flood and Mackay, bearing south seventy two (72°) degrees forty-five (45') minutes

DUPLICATE
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DUPLICATE
FOR OFFICIAL USE

west: said point "E" being identical with the southeasterly end of the center line of a corresponding tract of land, eighty (80) feet in width, through the said Flood and Mackay tract, which latter forms a continuation of the tract hereinabove described; courses being expressed by true meridian; and the entire tract, herein described, containing three and fifteen hundredths (3.15) acres more or less:

Excepting and reserving therefrom the right, on the part of the party of the first part, to construct and maintain sewers over and across said strip of land and to construct and maintain over and across said strip of land conduits and poles, with wires, for conducting, carrying and transmitting electric current for telephone, telegraph, lighting heat and power purposes, and also the right to construct and maintain over and across said strip of land lines of pipe for carrying water and for carrying and conducting gas for light, heat and power purposes, and also the right, at all reasonable times, to enter upon said strip of land for the purpose of repairing or renewing said sewers, conduits wires and pipes, and to keep the same, or any part thereof, in proper condition for use, all of which must be done in such manner as to avoid any interference with the pipes and conduits of the party of the second part, and all of which must be done to the satisfaction of the Chief Engineer of the party of the second part:-

Also excepting and reserving therefrom the right, on behalf of the party of the first part, and their tenants to cultivate said strip of land and the right ^{and egress} to have ingress to and from said strip of land and to passage over all parts thereof at all times: excepting over trestle.

Also excepting and reserving therefrom the right, on behalf of the party of the first part, to construct and maintain existing or other roads and streets across said strip of land; provided that the same shall not interfere with the pipes pipe lines or conduits of the said party of the second part:-

It Is Understood and Agreed that the said party of the second part shall not fence said strip of land, hereinbefore described, and shall leave the surface thereof as nearly as possible in its present condition, except that the said party of the second part shall have a right to construct a trestle thereon, wherever necessary to carry its pipes or pipe lines:-

It Is Further Understood And Agreed that the party of the second part will pay to the said party of the first part or its tenants any actual damage accruing to the crops of the said party of the first part, or its tenants, growing upon said strip of land, which said damage shall accrue from any acts of the said party of the second part; and the amount of said damage if possible, shall be mutually agreed upon, but, if not, it shall be determined by arbitrators, one of whom shall be selected by the party of the first part, or its tenants, and one by the said party of the second part; and if the two cannot agree, they shall select a third, whose decision shall be final without recourse to any Court:

It Is Further Understood And Agreed that the said party of the second part shall have the right to use any and all roads upon the premises of the party of the first part for the purpose of conveying pipe and materials to the said tract

of Land, hereinbefore described, and for the purposes of ingress and egress to and from and passage across said strip of land at all times:-

It Is Further Understood And Agreed that the said tract of land shall not be used as a right of way for any steam, electric, or any other railroad but the said party of the first part shall have the right, to use the same as a street or boulevard for light vehicles, automobiles, saddle animals, pedestrians and the like, except where it is necessary for the party of the second part to construct a trestle to carry its pipes or pipe-lines; provided, further, that the grade of the said street or boulevard be established under the supervision and to the satisfaction of the Chief Engineer of the party of the second part; and provided, further, that if the said party of the first part shall subdivide and sell its property adjacent to the said strip of land, so herein conveyed, that then and in that event said street or boulevard may be used for heavy teams and traffic for a distance not exceeding one block; and provided, further, that no trees or shrubs shall be planted in the roadway of said street or boulevard, nor in the center thereof:

These covenants and conditions shall bind the successors and assigns of both parties hereto:

The party of the second part, by the acceptance of this deed agrees to all the conditions covenants reservations and stipulations in the entire grant contained; and in addition to such acceptance of this conveyance, the record of the same, by or at the request of the said party of the second part, shall be further and conclusive evidence of such acceptance:

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof:

To have and to hold, all and singular the said land, above described (subject to said reservations, covenants conditions and stipulations) together with the appurtenances unto the said party of the second part its successors and assigns forever:

In Witness Whereof, the said party of the first part has caused this indenture to be executed, in its corporate name and under its corporate seal, by its President and Secretary thereunto duly authorized all on the day and year first herein written.

Baden Company,

(Corp Seal)

By E. C. Burr,
President.

and by C. C. Burr,
Secretary.

Signed, Sealed and Delivered

in the Presence of :-

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State of California,)
) SS.
City and County of San Francisco.)

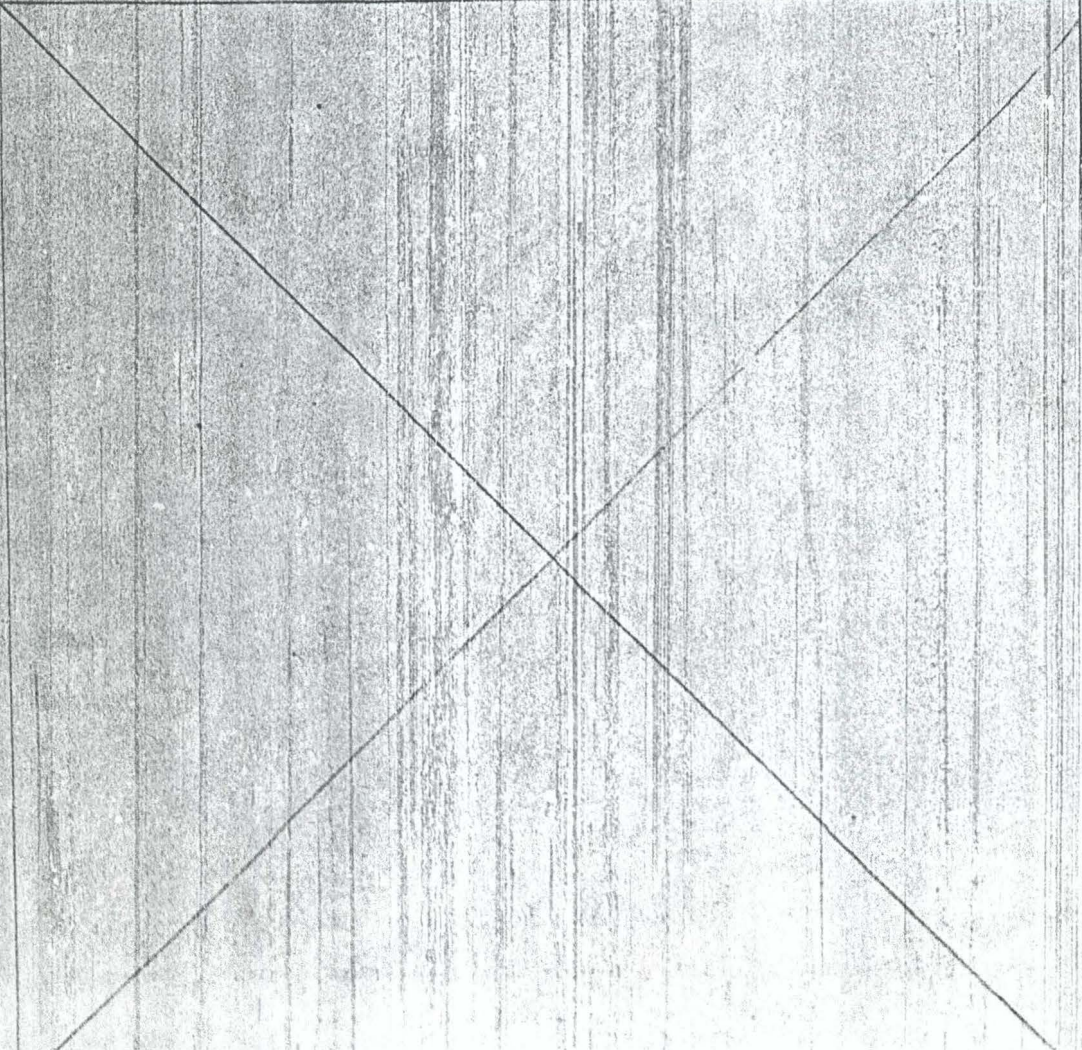
On this tenth day of April in the year one thousand nine hundred and seven, before me, Geo. T. Knox, a Notary Public in and for the said City and County, residing therein, duly commissioned and sworn, personally appeared E. C. Burr & C. Burr, known to me to be the President and Secretary respectively of Baden Company the Corporation described in and that executed the within instrument, and also known to me to be the persons who executed it on behalf of the Corporation therein named, and they acknowledged to me that such Corporation executed the same.

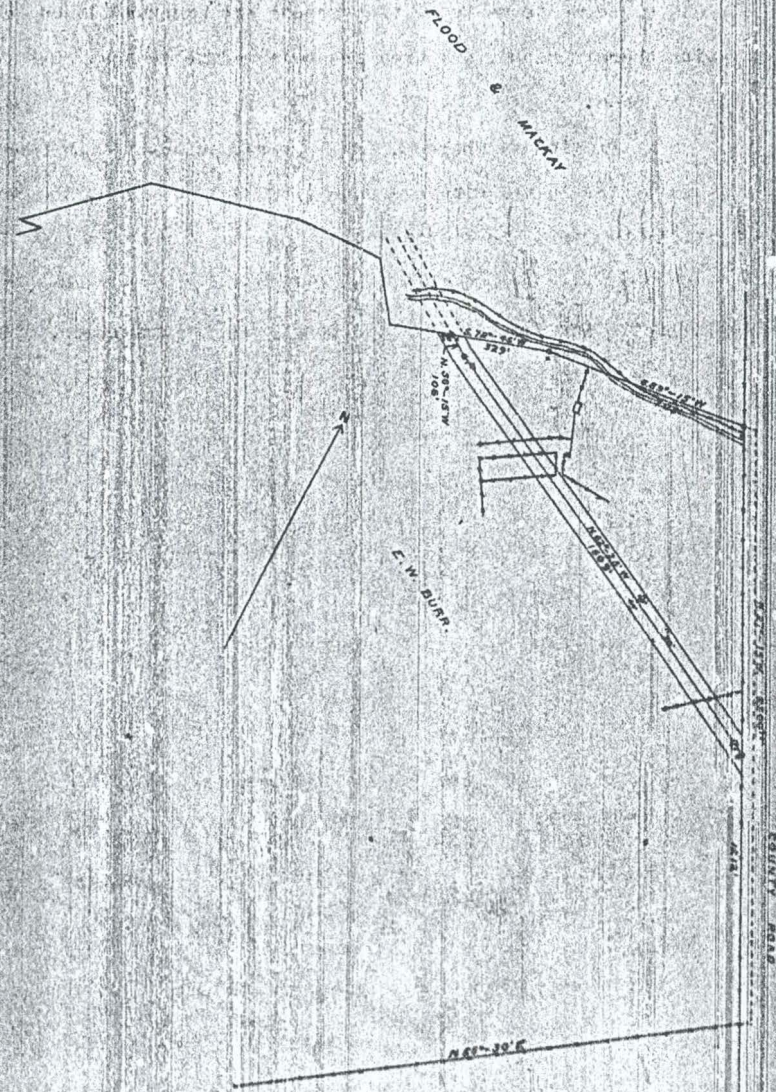
In Witness Whereof, I have hereunto set my hand and affixed my official seal, at my office in the City and County of San Francisco, the day and year in this Certificate first above written.

(seal)

Geo. T. Knox,

Notary Public in and for the City and County of San Francisco, State of California.





Scale 100 ft to 1 inch

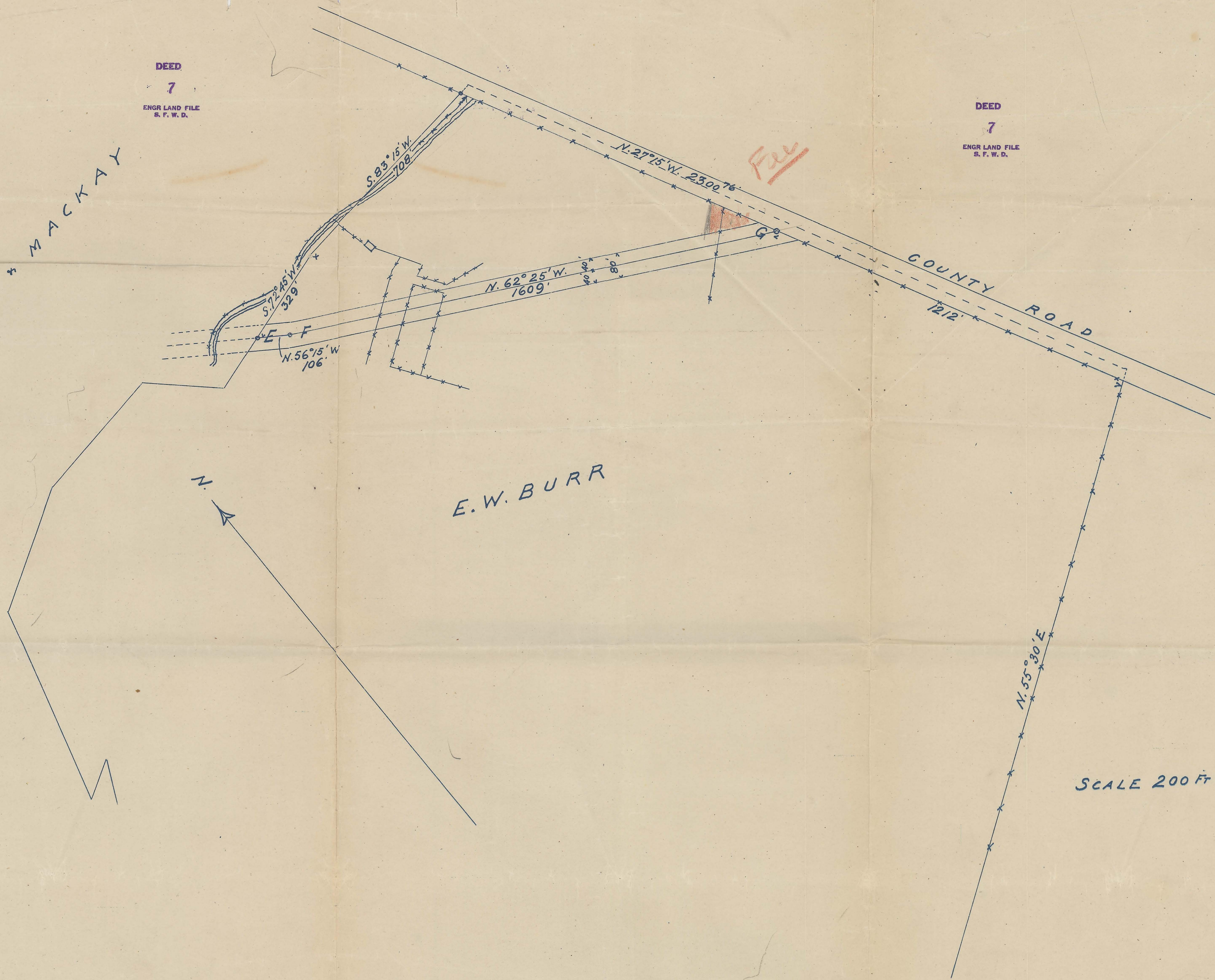
A true copy of an original recorded at the request of Edw. P. Fitzpatrick,
May 28th A. D. 1907 at 30 min. past 2 o'clock P. M.,

By *E. J. Johnson* County Recorder,
Charles E. Thomas Deputy Recorder.

DEED
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ENGR LAND FILE
S. F. W. D.

DEED
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ENGR LAND FILE
S. F. W. D.

FLOOD & MACKAY



Handwritten signature and date: 4/20/53