

Decision No. <sup>13117</sup> ~~14077~~

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
the EAST BAY WATER COMPANY, )  
a corporation, for an order authoriz- ) Application Number 9571  
ing the issue of bonds and stock, or )  
notes. )

Edwin O. Edgerton and Arthur G. Tasheira,  
for Applicant.

W. J. Locke, for East Bay Municipal Utili-  
ties, District and City of Alameda.

Leon E. Gray, City Attorney, for City of  
Oakland.

Lemuel D. Sanderson, City Attorney, for  
City of Berkeley.

BY THE COMMISSION:

OPINION

East Bay Water Company asks permission to issue not ex-  
ceeding \$2,250,000.00 of its unifying and refunding mortgage bonds  
and not exceeding \$1,162,500.00 of its six percent. Class "A" cum-  
ulative preferred stock, or in lieu of such bonds and stock not ex-  
ceeding \$3,158,000.00 of unsecured notes, for the purpose of ac-  
quiring properties and constructing what in this proceeding has been  
referred to as the Upper San Leandro Project.

The cost of the Upper San Leandro Project, exclusive of  
the cost of lands, water rights, and rights-of-way, is estimated  
by applicant at \$2,387,991.00. This amount is made up of the

following items:-

RESERVOIR:

Clearing 500 acres at \$100 . . . . . \$50,000.00 \$50,000.00

DAM:

Diversion dam-

Stripping . . . . . 5,000.00  
Cutoff . . . . . 5,000.00  
Fill- 82,700 cu.yds. at 0.90 . . . . . 74,430.00  
Diversion tunnel, 1.037 lin.ft. at 40.00 41,480.00  
Diversion tower . . . . . 20,000.00  
Tunnel portal approaches . . . . . 1,000.00 146,910.00

Main dam-

Clearing dam site and borrow pit-11 ac.  
at 100.00 . . . . . 1,100.00  
Stripping 7700 cu.yds. at 0.60 . . . . . 4,620.00  
Puddle trench excavation 3500 cu.yds. at  
1.50 . . . . . 5,250.00  
Sluiced fill, 1,137,000 cu.yds. at 0.40 470,800.00  
Concrete facing, 26,200 sq.yds. at 2.50 65,500.00 547,270.00

OPEN SPILLWAY:

Excavation 50,000 cu.yds. at 0.50 . . . . . 25,000.00  
Concrete lining and headworks 1500 cu.  
yds. at 20.00 . . . . . 30,000.00 55,000.00

ROAD CONSTRUCTION:

8.5 miles at \$15,000. per mile . . . . . 127,500.00  
Fencing 17 miles at \$500. per mile . . . . . 8,500.00 136,000.00

SUPPLY TUNNEL- CONCRETE LINED:

Tunnel, 500 lin.ft. at \$35. . . . . 17,500.00  
Control tower . . . . . 20,000.00  
6327 lin.ft. at \$37.50 . . . . . 237,562.50  
Portals and approaches . . . . . 1,500.00

GRASS VALLEY SHAFT:

215 lin. ft. at \$50. . . . . 10,750.00  
Backfill in shaft . . . . . 1,000.00 288,312.50

FILTRATION PLANT:

12 m.g.d. at \$40,000 per m.g. . . . . 480,000.00 480,000.00

TRANSMISSION SYSTEM:

Conduit-Tunnel to filter plant at 39th Ave.  
reservoir-20,000 lin.ft. 36" riveted  
steel pipe at \$10. . . . . 200,000.00  
39th Ave. reservoir to Piedmont reser-  
voir, 16,000 lin.ft. 20" at 5. per lin.ft 80,000.00  
Pumping plant, Piedmont booster . . . . . 7,500.00 287,500.00

Sub-total . . . . . \$1,989,992.50

Add 20% for contingencies, overhead, interest during  
construction, engineering, etc . . . . . 397,998.50

-2- TOTAL . . . . . \$2,388,991.00

It is of record that the estimates submitted have been carefully prepared, though it is realized that the actual cost will possibly vary from the estimates. The cost of lands, water rights and rights-of-way which the company must acquire in connection with the San Leandro Project, is estimated at about \$500,000.

This application, in so far as it involves the issue of securities, is general in its terms. The company has entered into no contract for the sale of any of its securities. If following this decision, applicant concludes to proceed with the construction of the Upper San Leandro Project, it will file a supplemental application asking the Commission to determine what securities it may sell to pay the cost of such construction and the terms and conditions under which the securities may be sold.

The evidence thus far introduced in this proceeding has largely to do with the construction of the Upper San Leandro Project. It is agreed by all that additional water should at once be made available to the East Bay communities. There is, however, disagreement as to whether the construction of the Upper San Leandro Project will make any additional water available and whether, in view of this contingency, the construction should now be undertaken.

The company through its president, states that it is willing to proceed with the construction of the Upper San Leandro Project if authorized so to do and if no insurmountable obstacles are interposed, but that it will not insist that it be allowed to go ahead with the construction. The company introduced evidence showing its present water resources, the necessity for the development of an additional water supply, the feasibility and practicability of the Upper San Leandro Project and the probable cost of such project. Representatives of the East Bay Municipal Utilities District believe that the construction of the Upper San Leandro Project should be undertaken forthwith, provided that a representative of the district be permitted to act in an advisory capacity and that the district be kept

informed as to the cost of the project as construction proceeds. The City of Oakland is opposed to the construction of the Upper San Leandro Project on the ground that not sufficient data has been filed which warrants the conclusion that such construction will actually relieve the threatened water shortage. It urges that any rainfall which will make an additional water supply available through the construction of the Upper San Leandro reservoir, will partially or completely fill the San Pablo reservoir, which reservoir has so large a capacity that when it is once filled, all danger of a water shortage is removed.

The company, it seems to us from statements made by its president, is opposed to any supervision of the construction by the East Bay Municipal Utilities District. He takes the position that the definite control and direction of the construction must be with the company. Moreover, he doubts whether the directors of the company can legally shift the responsibility resting upon their shoulders at all times for the proper investment of the stockholders' money. We do not think that the Commission should, by a condition in this order, require the company to submit to a supervision by the East Bay Municipal Utilities District. We believe that the responsibility for an additional water supply for the East Bay section rests with the East Bay Water Company. The Commission expects utilities, without formal order, to extend their facilities and to place themselves in a position where they can give proper and adequate service. The East Bay Water Company seems to realize this and has taken the initiative in preparing cost estimates and in submitting evidence which it thinks justifies the construction of the Upper San Leandro reservoir and appurtenances. The Commission will authorize the issue of bonds and stock, or notes, for the purpose of acquiring the necessary properties and constructing the Upper San Leandro Project; but any investment made in such project, will not, so far as this Commission is concerned, rest on any different footing

than the investments heretofore made by the East Bay Water Company, or similar investments by other utilities.

ORDER

EAST BAY WATER COMPANY having applied to the Railroad Commission for permission to issue bonds and stock, or notes, as indicated in the foregoing opinion and for the purposes indicated in such opinion, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds, stock or notes is reasonably required by applicant and that this application should be granted, as herein provided; therefore

IT IS HEREBY ORDERED that EAST BAY WATER COMPANY be, and it is hereby authorized, to issue not exceeding \$2,250,000.00 par value of its unifying and refunding mortgage bonds, and not exceeding \$1,162,500.00 par value of its six per cent Class "A" preferred stock, or issue in lieu of such bonds and stock not exceeding \$3,158,000.00 par value of notes; all for the purpose of acquiring the necessary properties and constructing the Upper San Leandro Project referred to in this proceeding, provided that none of the bonds, stock or notes be sold and delivered until the Commission by Supplemental Order has defined the terms and conditions under which said bonds, and stock or notes may be sold.

DATED at San Francisco, California, this 4<sup>th</sup> day of February, 1924.

C. Seaver  
H. B. ...  
Egerton Shaw  
J. T. Whittsey  
Commissioners.