

ORIGINAL

Decision No. 23524

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 FARMERS IRRIGATION COMPANY for an  
 order authorizing an increase of  
 rates.

Application No. 16795.

Farrand and Slosson, for Applicant.

J.J. Deuel and L.S. Wing, for Ventura  
 Farm Bureau, Protestant.Stacey C. Bates and Sheridan, Orr,  
 Drapeau & Gardner, by Louis C. Drapeau,  
 for certain water users, Protestants.

BY THE COMMISSION:

O P I N I O N

In this proceeding Farmers Irrigation Company, a corporation engaged in the public utility business of supplying water for irrigation purposes to lands located in and adjacent to the City of Santa Paula, Ventura County, makes application to the Railroad Commission for an order authorizing an increase in rates.

The application alleges that the rates at present in effect are non-compensatory, being inadequate to produce the revenue necessary to yield a reasonable interest return on the value of its properties devoted to the public use. It is further alleged that certain of the consumers are being provided with irrigation service for their lands under the terms of a contract dated May 1, 1902, entered into by and between the River Street

Water Company, party of the first part; certain stockholders of River Street Water Company, second parties; and Artesian Water Company, party of the third part. Wherefore, the request is made for an order of the Commission authorizing an increase and adjustment of its rates which will allow applicant a reasonable interest return on its investment.

Public hearings in this proceeding were held at Santa Paula before Examiner Williams.

Farmers Irrigation Company, applicant herein, was incorporated in July of 1917 for the purpose of acquiring and consolidating into one operating unit two existing public utility irrigating ditch systems, one originally known as the "Farmers Ditch" and the other as the "River Street Ditch," or "Gries Ditch." Both of these ditch systems originally were constructed during or about the year 1870 by early settlers and landowners to divert waters of the Santa Clara River for the purpose of irrigating their ranch lands located near the town of Santa Paula. Applicant herein acquired the Farmers Ditch system, together with its water rights, from Santa Clara Water and Irrigating Company and also from Farmers Ditch Irrigating Company, under the authority granted by this Commission's Decision No. 5108 dated February 5, 1918, and acquired said River Street or Gries Ditch system and water rights from the River Street Ditch Company, a corporation, under authority granted by Decision No. 6147 dated February 25, 1919.

The rates now charged by applicant for service on the Farmers Ditch system were established by the Commission in Decision No. 1452 dated April 22, 1914, at a time when said system

was in the ownership of the Santa Clara Water and Irrigating Company. These rates are as follows:

Thermal Belt Water Company, per annum-----	\$2,000
Limoneira Company, per annum-----	2,000
All other consumers, per miner's inch day-----	20¢

The rates at present in effect for water delivered under the original River Street Ditch system were not established by the Railroad Commission but were filed with the Commission on September 30, 1915, by Interurban Land Company, the then owner of the property. These rates, other than the 20-cent rate, were established under written agreement entered into under date of May 1, 1902, between certain or all of the stockholders of River Street Water Company, a corporation, and certain other individuals who may or may not have been stockholders of said company, and the Artesian Water Company, a corporation, and as filed are as follows:

- (a) The former stockholders of Artesian Water Company, as per contract covering specified lands,
  - first 40 - 24-hour inches, per acre per inch--- 5¢
  - All additional, per 24-hour inch-----10¢
- (b) To all non-stockholders-----20¢

The above schedule of rates as filed is not strictly correct and is uncertain and ambiguous. The stockholders referred to therein are in fact stockholders of the River Street Water Company. The rates have been interpreted by all interested parties to be 5, 10 and 20 cents per miner's inch day of 24 hours.

After acquisition of the two irrigating systems, Farmers Irrigation Company in 1919 commenced the installation of extensive improvements in the original diversion and distribution facilities. The original diversion point of the River Street Ditch, or Gries Ditch, was abandoned and all waters thereafter, diverted from the

Point of intake of the Farmers Ditch located at a point approximately one and one-half miles farther up on the Santa Clara River. Practically all of the open ditches were replaced with concrete pipe lines which now aggregate approximately 66,000 lineal feet and range from twelve to forty-eight inches in diameter. At present there remains approximately 7,400 feet of open canal. A regulating reservoir with a storage capacity of nine and six-tenths acre feet and which is located at the extreme lower end of the main transmission pipe line has also been constructed. There are at this time in active operation nine drilled wells, eighteen and twenty inches in diameter, equipped with electrically-driven pumps and supplying additional and supplemental water. Four of these wells were drilled during the period from 1923 to 1925 and five drilled and placed in operation in the year 1929. This last battery of five wells was installed in order to supply sufficient water for full irrigation requirements during certain periods when the boron content of the Santa Clara River waters makes it necessary to discontinue the use thereof by reason of its injurious affect upon citrus and walnut trees. All water is delivered from the transmission mains by gravity flow and served upon a metered basis to ninety-three active consumers. During the year 1929 the irrigated area totalled 5,588 acres devoted principally to citrus and walnut culture.

No detailed appraisal of the properties was submitted by applicant other than the historical value of the assets of the corporation as carried upon its books as of June 30, 1930, amounting to \$425,123. L.S. Wing, engineer appearing in behalf of Ventura Farm Bureau, submitted an appraisal of the prop-

erties of this system amounting to \$412,282, together with the sum of \$6,417 for the corresponding annual depreciation fund based upon the five per cent sinking fund. A detailed appraisal of the lands, rights of way and physical properties of applicant was presented by H.A. Noble, one of the Commission's hydraulic engineers, in which the historical cost as of June 30, 1930, was estimated to be \$464,678 and the corresponding annual depreciation fund \$2,737, computed by the sinking fund method of five per cent. This appraisal covered only tangible properties and embraced the appraisal of lands and rights of way at the present fair market value thereof. The estimate presented in behalf of the Farm Bureau was not based upon a detailed appraisal of the existing physical properties but was a combination of several valuations heretofore made of portions of the properties involved, including certain thereof at the purchase price or cost of acquisition, adjustments being made for abandoned properties, replacements and other additions and betterments; the lands and rights of way, however, were not appraised at the present fair market value but included at the historical cost of acquisition. The book value as submitted by applicant also included the purchase price of certain of the properties, a large portion of which has been wholly abandoned, while other items of operative property were not carried in the company's books.

A careful consideration of the evidence submitted as to the values of the physical properties of this utility and the proper depreciation annuity indicates that the sum of \$460,000 is a reasonable rate base and that \$3,512 is a proper annual depreciation fund to allow for the purposes of this proceeding. In connec-

tion with the depreciation annuity, it appears that the amounts set out by the Commission's engineer did not fully cover certain of the pipe lines, whereas the allowance submitted by the engineer for the Farm Bureau assumed life expectancies which, in our opinion, are unreasonably short for the type of construction involved.

Set out below is a tabulation reflecting the operation and maintenance expenses exclusive of depreciation as submitted by the utility in its annual reports to the Commission for the years 1925 to 1929, inclusive.

SUMMARY OF MAINTENANCE AND OPERATION EXPENSES

Items	1925	1926	1927	1928	1929
Source of water supply	\$802.60	\$1,248.34	\$1,852.94	\$606.12	\$964.58
Pumping expense and repairs	4,316.30	2,242.32	2,727.02	6,352.00	21,923.95
Purification expense	-	-	-	971.15	1,042.62
Transmission and distribution expense	3,415.44	544.18	2,266.19	2,172.87	2,513.19
Repairs to transmission and distribution system	276.73	625.10	508.01	477.54	490.64
Collections and promotion business	-	-	480.67	492.14	896.34
General expenses	3,452.31	4,596.09	135.81	552.96	1,700.16
Taxes	1,801.26	959.54	998.45	932.65	1,243.95
<b>Totals</b>	<b>\$14,064.64</b>	<b>\$10,215.57</b>	<b>\$8,949.09</b>	<b>\$12,577.43</b>	<b>\$30,775.43</b>

There was no substantial disagreement over the operating methods of this utility or the present costs of operation and maintenance. The very great increase in operating costs for the years 1928, 1929 and also 1930 over those incurred during previous years is the direct result of the necessity of discontinuing the use of gravity river water during a large part of the irrigation season be-

cause of the injurious affect of boron contained therein necessitating complete reliance upon pumped water from wells. As long as the present conditions exist, it is apparent that the operating expenses of this utility will approximate the sum of \$30,000 per year and this amount therefore will be allowed herein with the understanding that, should at any time in the future the quality of the river water improve to such an extent that the volume of pumped water required may be substantially decreased, it will then be proper to reduce proportionally the above allowance.

Set out below are the total gross revenues received for irrigation service for the years 1925 to 1929, inclusive.

<u>1925</u>	<u>1926</u>	<u>1927</u>	<u>1928</u>	<u>1929</u>
\$32,625	\$19,899	\$16,282	\$30,103	\$35,575

The gross revenue for the first nine months of 1930 was \$26,263 compared with \$27,351 for the same period of 1929. From the evidence it appears that the total gross revenue for the year 1930 will closely approximate that for the preceding year.

The total water use by consumers in 1928 and 1929 under the rates at present in effect and charged is given in the following table which shows the quantity delivered in acre feet under contract rates and under the rates established by the Commission with the corresponding amount of revenue obtained.

Rates Charged	Delivered in 1928		Delivered in 1929	
	Acres Feet	Revenue	Acres Feet	Revenue
20¢-rate per M.I.-day	4,788.847	\$24,135.78	5,679.127	\$28,623.10
Thermal Belt Company	2,760.534	2,000.00	3,234.292	2,000.00
Olive Lands (Limoneira Company)	972.806	2,000.00	1,339.415	2,000.00
Artesian Contract at 5¢ per M.I. day	394.462	496.90	420.081	529.30
Artesian Contract at 10¢ per M.I. day	583.462	1,470.32	961.405	2,422.74
Totals	9,500.012	\$30,103.00	11,634.360	\$35,575.14

The above tabulation indicates that for the year 1928 the regular consumers charged at the rate of twenty cents per miner's inch day used fifty per cent of the total waters delivered for which they paid the sum of \$24,136, while the other consumers using the same amount of water paid therefor only the sum of \$5,967. Similarly, in the year 1929 the consumers charged twenty cents per miner's inch day paid \$28,623 for forty-nine per cent of the total waters delivered, while the remaining consumers using fifty-one per cent thereof paid but the sum of \$6,952 therefor. In the year 1929 the use of water was approximately as follows:

Consumers at 20 cents per miner's inch day--49%  
 Thermal Belt Water Company-----28%  
 Limoneira Company, or Olive Lands-----11%  
 Consumers holding rights under the  
 Artesian Water Company contract-----12%

The percentages of use by the same classes of consumers were substantially the same for the preceding year of 1928.

The annual total of the acreage irrigated from this system during the past five years has ranged from about 4,900 to 5,600 acres, being largely in citrus orchards. The possible additional acreage that may be irrigated from this system in the future is comparatively small since the adjoining areas are provided with



irrigation service from other sources. The classification of crops irrigated in 1929 is as follows:

Citrus-----	2,950 acres
Walnuts-----	1,600 acres
Apricots-----	125 acres
Annual crops - beans, alfalfa, beets, etc.	<u>913</u> acres
Total-----	5,588 acres

The increased costs induced by the necessity of using vastly increased quantities of pumped water indicates from the foregoing figures that while such conditions obtain applicant is reasonably entitled to receive a higher revenue from water sales. The existence of several different rates for the same class of service, some of them resulting from the Artesian Water Company Contract fixing the rates for water to certain parties and to certain lands, seriously complicates the establishment of a uniform charge. There is no question but that the existing rate structure produces an unfair discrimination throughout the entire system. Based upon deliveries for the year 1929, the rate actually paid by Limoneira Company was 5.9 cents per miner's inch day, by Thermal Belt Water Company 2.45 cents, and by holders of rights under the said contract 5 cents and 10 cents, while the cost of water to all others was 20 cents per miner's inch day.

No protest was made by any of the consumers against the establishment of a reasonably increased charge for water service as long as the present pumping necessities exist, with the exception, however, that certain consumers receiving water at the preferential rate of five and ten cents under the above contract seriously objected to any changes whatsoever in their contract rates upon the ground that this Commission was without jurisdic-

tion to alter any part of the terms and provisions of said agreement.

At the time rates were established by the Commission under the application of Santa Clara Water and Irrigating Company (Decision No. 1452, 4 C.R.C. 810), a certain contract entered into on September 1, 1903, by the then owners of the system, Farmers Ditch Irrigating Company, with the Thermal Belt Water Company provided for the delivery of a continuous flow of 200 miner's inches of water at a flat rate of eight hundred dollars (\$800) per year for a period of forty years and another contract made by the said Irrigating Company on September 4, 1904, the rights to which the Limoneira Company succeeded, provided for the delivery of water free of charge and in perpetuity to a tract of land designated as "Olive Lands" to the amount of 200 miner's inches continuous flow of water. In establishing rates in that proceeding, the Commission disregarded both of the above contract rates and/or purported rights and established the present rate of two thousand dollars (\$2,000) per annum for the delivery of water to each of the above concerns. This decision of the Commission was carried to the Supreme Court of the State of California which upheld the Order of the Commission in January of 1917 in the case entitled "Limoneira Company v. Railroad Commission," (174 Cal. 232.) The situation as to the existing contract holders is not exactly parallel to that which obtained in the Limoneira case. The evidence presented in this proceeding indicates that the River Street Ditch, or as it is also called the Gries Ditch, was constructed originally about the year 1870 by a group of ranchers and landowners living in the vicinity of Santa Paula whose principal use for water at that time was for the irrigation of alfalfa on lands

lying along the right or north bank of the Santa Clara River. This ditch was maintained and operated by the various landowners through whose properties it ran and, in so far as the testimony goes, for several years was operated more or less as a community ditch. For the purpose stated to have been the protection of the water rights involved in the Gries Ditch, certain or all of the water users organized the River Street Water Company, the articles of incorporation of which were filed with the County Clerk of Ventura County in August, 1893. The stated purpose of this company as set forth in said articles of incorporation was to engage in the business of selling water to its stockholders and to "other persons" for "domestic, irrigation, watering live-stock, manufacturing and other purposes." Subsequent to its organization water was delivered continuously through the Gries Ditch by the River Street Water Company until the year 1902, at which time an option to purchase its ditch and water rights for twelve thousand dollars (\$12,000) was granted to Artesian Water Company by and through an agreement in which River Street Water Company was stated to be the party of the first part; its stockholders, parties of the second part; and the Artesian Water Company, party of the third part (Exhibit No. 3). This option was exercised by Artesian Water Company and by indenture dated May 1, 1902, (Exhibit No. 4) the properties were sold to the optionee. By concurrent agreement (Exhibit No. 5) entered into under date of May 1, 1902, by and between the Artesian Water Company and certain of the stockholders of the River Street Water Company, including also certain landowners under the Gries Ditch who may or may not have been stockholders of said company, wherein and whereby the Artesian Water

Company agreed to supply, for a period of forty-eight years commencing the first day of May, 1902, water to each of said stockholders and landowners, their successors or assigns, and to the specifically designated and described lands then owned by them, at a rate fixed therein upon a basis of "10 inches, rain measure, per acre," amounting for all practical purposes to five cents and ten cents per minor's inch day of twenty-four hours. According to said agreement, the first ten acre inches allotted to each stockholder was a preferred right over and above all other consumers of the utility. The additional water provided to be furnished was not established as a preferred right but was to be delivered upon the same basis as water supplied to the other consumers with the exception, however, of the rate which was fixed at the same price as for the primary allotment. The rates set out in the above agreement have been charged by all of the owners and operators of the Gries Ditch from May, 1902, to the present time. The Artesian Water Company sold its properties to the Interurban Land Company, which company in turn sold to the River Street Ditch Company, a public utility organized for the purpose of acquiring and operating the properties by the Thermal Belt Water Company. Thereafter these properties were acquired by applicant herein under authority granted by this Commission's Decision No. 6147 issued February 25, 1919.

From the evidence it appears that, although the Gries Ditch originally was operated by its water users or consumers more as a community or neighborhood ditch, yet from the formation and organization of the corporation called River Street Water Company until the time of its sale to the Artesian Water Company water was sold not only to the River Street Water Company stockholders but

to a number of non-stockholders whose lands were located under the gravity flow of the ditch. During this period water was not supplied to consumers in accordance with their ownership of stock, neither was the delivery of water limited only to specifically designated lands owned by said stockholders. As a matter of fact the evidence indicates that there was no definite relation whatsoever between ownership of shares of stock in the company and either the ownership of the lands actually irrigated or the right to receive water service upon application therefor. The record shows that many of the stockholders during some years took no water at all, while other consumers owning but a share or two of stock received the delivery of large quantities of water for use upon lands either owned or leased by them. Apparently there was ample and sufficient water to supply the needs of the stockholders of the company, as well as adequate water to supply others who could make use of such service, and the testimony presented in this proceeding indicates that this service to non-stockholders was customarily rendered and billed at the same rates charged stockholders.

It is evident that the original scope of operation of the Gries Ditch system was enlarged and extended beyond its former and original sphere under and during the regime of the River Street Water Company and that during such period the water service was dedicated generally to that portion of the public owning or controlling lands situate under and along said ditch and that by intent and also by act the waters delivered were furnished as a public utility service and, as such, the service is therefore subject to the control and jurisdiction of the Railroad Commission. This dedication clearly having been accomplished prior to the

making of the option agreement of January, 1902, and the said agreement of May 1, 1902, it necessarily follows that this Commission has the power and authority, as well as the duty, to disregard all or any provisions of said agreements which may interfere with the establishment of a just, fair and uniform schedule of rates to be charged the present water users. It appears that said agreements not only purport to grant preferential rights to water service to certain individuals to the exclusion of other consumers not parties thereto but, furthermore, attempt to set out special and preferential rates therefor, both of which attempts under existing conditions result in an unfair discrimination against the regular or non-contract water users. Therefore, in order to establish at this time a fair, reasonable and just rate to be charged for service rendered by this utility and in order to eliminate the above existing unfair discrimination, the schedule of rates established in the following Order will in all respects apply uniformly to each and every consumer served hereafter by applicant.

O R D E R

Farmers Irrigation Company, a corporation, having made application to the Railroad Commission for an order authorizing an increase in rates, public hearings having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

It is hereby found as a fact that the present rates of Farmers Irrigation Company, in so far as they differ from the rates herein established, are unjust, unreasonable and discriminatory and that the rates herein established are just and reasonable rates to be charged by said company for the service rendered.

Basing its Order upon the foregoing findings of fact and upon the further statements of fact in the Opinion preceding this Order,

IT IS HEREBY ORDERED that Farmers Irrigation Company be and it is hereby authorized and directed to file with this Commission, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all service rendered subsequent to the 1st day of April, 1931.

METERED RATE SCHEDULE

For all irrigation use, per miner's  
inch day-----\$.22

(The miner's inch herein shall be considered equivalent to flow at the rate of one-fiftieth (1/50th) of a cubic foot per second.)

IT IS HEREBY FURTHER ORDERED that Farmers Irrigation Company be and it is hereby directed to file with this Commission, within sixty (60) days from the date of this Order, rules and regulations governing relations with its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 23d day of  
March, 1931.

O. L. Seamy  
Leon Wheeler  
M. J. Con  
M. B. Kavin  
Fred G. Stewart  
Commissioners.