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Decision No. 10296-

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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CITY AND COUNTY OF SAN FRANCISCO,  
a corporation,  
Complainant,

-vs.-

SPRING VALLEY WATER COMPANY,  
Defendant.

Case No. 842

ORIGINAL

In the Matter of the Application of  
SPRING VALLEY WATER COMPANY,  
for permission to increase the rates  
and charges for water furnished by  
it to the City and County of San  
Francisco and its inhabitants.

Application No. 2739

BY THE COMMISSION:

FIRST SUPPLEMENTAL ORDER.

WHEREAS, SPRING VALLEY WATER COMPANY reports that it is willing to enter into an agreement with the Board of Public Works of the City and County of San Francisco along the lines indicated in Ordinance Number 5599 New Series approved by the Mayor of the City and County of San Francisco on March 31, 1922, and a copy of said ordinance marked "Exhibit A" being attached to the supplemental petition filed in the above entitled matter, and the company having requested the Commission to modify its order in Decision Number 9352, dated August 12, 1921, so as to permit it to enter into an agreement with the Board of Public Works of the City and County of San Francisco for the purpose of carrying out the provisions of said ordinance,

AND the Commission having considered the company's request and being of the opinion that its Decision Number 9352,

dated August 12, 1921 should be modified as herein provided;

IT IS HEREBY ORDERED as follows:

1. That Condition 1 of the order made by the Commission herein upon the 12th day of August, 1921, be, and it is hereby, amended to read as follows:

If the City and County of San Francisco shall construct the section of its proposed Hetch Hetchy conduit, extending from a point of intersection with the railroad of the Southern Pacific Company in the vicinity of Irvington, County of Alameda, to a point on the route of the Hetch Hetchy aqueduct in the vicinity of Crystal Springs reservoir, County of San Mateo, together with a pumping station upon the line of said conduit for use in conjunction therewith, and is willing to enter into an agreement with the Spring Valley Water Company, under which agreement additional water may be brought from Alameda Creek sources through such conduit and by means of said pumping station into Crystal Springs reservoir, then and in that event the Spring Valley Water Company shall be required,

(a) To expend a sum not exceeding \$1,500,000 in increasing the height of its present Calaveras dam to an elevation which will result in an increase of not less than 24,000,000 gallons in the average daily yield of the Calaveras reservoir, and in making such other additions to its structures and facilities as may be requisite to permit the delivery of such additional 24,000,000 gallons daily to its Miles Screen Tank, and

(b) To construct a pipe line sufficient to convey 24,000,000 gallons of water daily from its said Miles Screen Tank to a point of connection with the aqueduct to be constructed by the City and County of San Francisco, at or near its intersection with the railroad of the Southern Pacific Company in the vicinity of Irvington, and

(c) To pay to the City and County of San Francisco, during each year of the period of construction of the said aqueduct and pumping plant, but for a total period not exceeding three years, a sum determined at the rate of five (5) per cent per annum upon the cost of such construction theretofore incurred, all as specified in subdivision (b), paragraph Sixth of the said proposed agreement.

All of such construction shall be completed not later than the date of the completion of the Hetch Hetchy conduit and pumping station proposed to be constructed by the City and County of San Francisco; provided, however, that the required increase in the height of the Calaveras dam may be made in two or more units, and in such event only the first of such units need be completed within the period first specified, and the remaining unit or units shall be completed within such further period or periods of time as may be jointly determined by the City Engineer of the City and County of San Francisco and the Chief Engineer of the

Spring Valley Water Company, and, in the event of their failure to agree thereupon, as may be determined by the Railroad Commission. In order to facilitate the construction of such conduit, and pumping station by the City and County of San Francisco, the Spring Valley Water Company shall grant to the City and County of San Francisco an easement of right of way for the installation of said conduit through such lands and rights of way of the Spring Valley Water Company as may be necessary therefor, the location of such conduit to be so determined as will interfere to the least possible extent with the future use by the Spring Valley Water Company of its lands and rights of way. The company may also make it a condition of said agreement for operating said Hetch Hetchy conduit and pumping station, that if the company should at a future date elect to build its own conduit, or, for any other reason, should not require the further use of said Hetch Hetchy conduit and pumping station, it may, with the prior approval of the Railroad Commission, to be evidenced by a formal order, and on not less than three years' written notice to the City and County of San Francisco, terminate said agreement, and may make it a further condition of said agreement that the City and County of San Francisco shall give the company at least three years' written notice of its election to terminate said agreement, and that such notice shall not be given except for the purpose of enabling the City and County of San Francisco to make use of such conduit and pumping station for the transmission of water from its Hetch Hetchy project to San Francisco, and that such termination shall not become effective prior to the time when the City and County of San Francisco shall actually require the use of such conduit and pumping station for such purpose, it being the intent hereof to afford the company adequate opportunity to provide or acquire other facilities for the transmission or other disposition of its water when said agreement shall be terminated by the City and County of San Francisco. The program of construction and time of completion of said structures shall be subject to joint determination by the City Engineer of the City and County of San Francisco and the Chief Engineer of the Spring Valley Water Company, and in case of their failure to agree upon such program of construction or time of completion in any respect, the difference shall be submitted to the Railroad Commission of the State of California for determination.

2.-- That condition 2 of the said order be, and it is hereby, amended to read as follows:

The Spring Valley Water Company shall, if the City and County of San Francisco undertakes the construction of said conduit and pumping station, stand ready to enter into and execute an agreement with said city and county, under which the company shall pay to the city and county, out of its revenues, commencing with the completion of the said aqueduct and pumping plant and the receipt of written notice by the company that the same are available to it for the transmission of water, a sum equal to five per cent of the cost of constructing said conduit and pumping station, not exceeding a total of \$250,000 per year, and shall also pay, either through its own operation of said conduit and pumping station or, if that should not prove feasible, through the

city's operation of said conduit and pumping station, all operating and maintenance charges, not including, however, replacements, extraordinary repairs, or loss or damage due to faulty construction or employment of defective or inadequate materials. Water brought through said conduit to Crystal Springs Reservoir shall, so far as may be necessary and to the extent of the existing conduit facilities of the Spring Valley Water Company, be pumped to the elevation of San Andreas reservoir, and thereafter delivered to the company's consumers in San Francisco.

3.-- That condition 3 of the said order be, and it is hereby, amended to read as follows:

Commencing with the year 1922 the Spring Valley Water Company shall create and establish out of its surplus a fund for the purpose of amortizing the capital expenditures which will be incurred by the company in accordance with the above requirements, such fund being hereinafter referred to as the amortization fund. Said amortization fund shall be created and maintained as follows:

After full provision has been made during each year for the payment of operating and maintenance expenses, including the cost of operating the Hetch Hetchy conduit and pumping station (including likewise the payment of interest on the cost of construction of such conduit and pumping station as above provided in condition 2 hereof) the payment of taxes and assessments, the creating of a depreciation reserve of \$300,000 per annum, the payment of interest on all bonds and notes and other interest bearing indebtedness, and the payment of dividends at the rate of 5 per cent per annum upon the outstanding capital stock of the aggregate par value of \$28,000,000, there shall be set aside out of the surplus after meeting the foregoing requirements, and placed in the amortization fund, such sum, hereinafter referred to as the annual contribution, as will upon the expiration of a term of twelve years, with interest at 5 per cent compounded annually, yield a total sum equivalent to the aggregate of the capital expenditures required under the provisions of condition 1 hereof; provided, however, that if the revenues of any particular year shall exceed the requirements of the Spring Valley Water Company as hereinabove set forth by more than the amount of such annual contribution, the amount of such excess shall be apportioned equally between the amortization fund and the surplus of the Spring Valley Water Company; provided further that if the revenues of any particular year shall be insufficient to yield a surplus equivalent to such annual contribution above the aforesaid requirements of the Spring Valley Water Company, the company shall not, during such year or thereafter, be required to make any contribution to the amortization fund until a surplus shall have been derived in subsequent years in a sufficient aggregate amount to make up such ~~deficit~~ deficit or accumulated deficits, together with interest upon the amount thereof at the rate of 7 per cent per annum; provided, further, that the Spring Valley Water Company shall not be required to make any contribution to

the amortization fund during the years 1922 and 1923, but in the event that the properties of the Spring Valley Water Company which were offered for sale to the City and County of San Francisco on the fourteenth day of January, 1921, shall be purchased by the City and County of San Francisco prior to the first day of January, 1934, the sum which shall be transferred to and become the property of the City and County of San Francisco as hereinafter provided shall be not less than the sum which would have been accumulated if contribution had been made to the amortization fund in accordance with the foregoing requirements of this condition. All moneys placed in the amortization fund herein required to be established shall be invested by the Spring Valley Water Company in such manner as will in its judgment afford the maximum interest yield consistent with safety of principal.

4.-- That condition 4 of said order be, and it is hereby amended to read as follows:

As a further condition of the granting of such increase, it is required that in the event that the properties of the Spring Valley Water Company which were offered for sale to the City and County of San Francisco on the fourteenth day of January, 1921, shall be purchased by the City and County of San Francisco prior to the first day of January, 1934, the amortization fund established in accordance with the requirements of condition 3 hereof shall be transferred to and become the property of the City and County of San Francisco; provided, however, that if up to the time that such properties shall be purchased by the City and County of San Francisco the revenues of the company shall have been insufficient to meet the requirements of the company as specified in condition 3 hereof, and such deficit or accumulated deficits shall not have been offset by the surplus derived from the revenue of subsequent years and prior to the time of such purchase, the said amortization fund before being transferred to the City and County may be diminished by the amount of such deficit or accumulated deficits, and only the balance paid over to the City and County of San Francisco. In the event that said properties of the Spring Valley Water Company shall not have been purchased by the City and County of San Francisco prior to the first day of January, 1934, the said amortization fund shall thereafter remain the property of the Spring Valley Water Company.

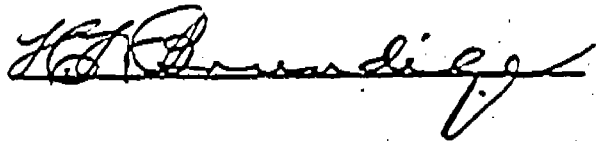
IT IS HEREBY FURTHER ORDERED, that Spring Valley Water Company be, and it is hereby, authorized to enter into an agreement, substantially in the same form as the agreement contained in ordinance number 5599 New Series, of the Board of Supervisors of the City and County of San Francisco, approved

on March 31, 1922, by the Mayor of the City and County of San Francisco.

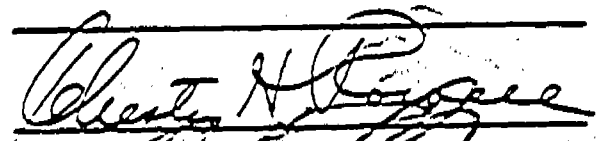
IT IS HEREBY FURTHER ORDERED, that Spring Valley Water Company shall file a verified copy of the agreement herein authorized to be executed, within thirty days after its execution.

IT IS HEREBY FURTHER ORDERED, that the order in Decision Number 9352, dated August 12, 1921, as amended, shall remain in full force and effect except as modified by this First Supplemental Order.

DATED at San Francisco, California, this 12<sup>th</sup> day of April, 1922.



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Commissioners.