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ORIGINAL

Decision No. 80480

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition of the CITY OF RIVERSIDE, a Municipal Corporation, to have fixed the just compensation to be paid for the Water System of the Southwest Water Company existing within and adjacent to the boundaries of said municipality.	Application No. 49307 (Filed April 24, 1967; Amended February 7, 1972)

(Appearances are listed in Appendix A)

O P I N I O N

I. Preliminary Statement

The chartered City of Riverside, California, by a petition of the "second class", filed April 24, 1967 pursuant to Resolution No. 10570 of its City Council adopted April 18, 1967, seeks to have this Commission fix the just compensation (Public Utilities Code Sections 1401-1421) to be paid for acquisition of the "La Sierra System" of Southwest Water Company, located in and adjacent to the City.[1/]

The Commission took jurisdiction on January 18, 1968 after resolving the Company's preliminary motions, made at the show cause hearing, to disqualify the Commission for bias and for a jury trial of the issue of just compensation (Decision No. 73615, 67 CPUC 786).

1/ Petitioner alleges (Pet., par. I) that if authorized by future charter amendment to acquire the properties without submitting the question of issuance of revenue bonds to the voters, it may amend the petition to one of the "first class" (Public Utilities Code, Section 1403). A petition for such amendment, filed by the City on February 7, 1972, was granted without opposition by the Company (Decision No. 79739, dated February 23, 1972). The original petition has not otherwise been amended.

Evidentiary hearings, commencing March 4, 1969 with direct testimony by the Commission staff on the three reports the City had requested it to prepare and direct qualifying testimony by the City's land appraiser, were continued at the City's request and resumed on December 16, 1969. The hearings proceeded - with numerous postponements - through 1970 until submission on July 19, 1971, subject to briefs. The last brief was filed on October 8, 1971.

The Company, on January 27, 1970, moved to dismiss the proceeding for lack of diligent prosecution by the City, or, in the alternative, that the Company be permitted to show appreciation in the value of its properties, either in the main proceeding or in supplemental proceedings (Public Utilities Code, Sections 1417 - 1419), alleged to have resulted from inflationary trends during the two and two-third year interval between the filing of the City's petition (April 24, 1967) and the City's first significant showing (December 16, 1969). The Commission, after consideration of oral and written argument, denied the motion to dismiss and permitted the Company to make its requested showing in the main proceeding, subject to challenge by the City (Decision No. 77583, dated August 4, 1970). Both the Company and the City thereafter presented evidence on the appreciated value issue and have again discussed, in their briefs, the question of whether such evidence was properly includible in the main proceeding or should have been relegated to the supplemental proceedings provided by the Code.

We reaffirm our previous opinion (Decision No. 77583, supra) that, for reasons stated therein, the substantial rights of the parties would be preserved by updating the valuations to December 16, 1969 for consideration in the main proceeding. The exhibits reveal with sufficient clarity both the nature and extent of adjustments to 1967 values for which the parties now contend.

One other controversial issue, which concerns inclusion, for valuation purposes, of the facilities of Daly Water Company (a mutual company), may appropriately be considered before discussing the several valuation studies presented by this record. The City contends that as Daly is a separate non-utility corporation neither its physical facilities nor its corporate stock (100% of Daly's stock is owned by Southwest) should be valued in this proceeding and that, in any event, the City is not seeking to acquire the Daly properties. The Company contends that both the City's petition and evidence concerning the integrated operation of the Daly facilities with those of the Company in its La Sierra System service area require inclusion of the Daly properties in determining the just compensation to which Southwest is entitled for the taking of its La Sierra System.

Resolution No. 10750 of the City Council of Riverside (Petition, Exhibit "A") describes the sought properties as "the La Sierra Water System of the Southwest Water Company" and directs the bringing of appropriate just compensation proceedings for the acquisition of that system under the provisions of Public Utilities Code Sections 1401-1421.

The petition recites (Pet., pars. X and Xa) that the City intends to acquire, among other items, the "...property, rights,... which comprise the Company's La Sierra Water System..." and that these consist of "All...property,...rights owned by the Company..." which, together with "The lands, property, rights and facilities above described...constitute a single integrated water system..."

The evidence shows, without contradiction, that Southwest owns all of the capital stock of Daly Mutual Water Company, is the sole customer for all water produced by the three Daly wells (607W1 and 608W1 and 2 - Ex. 1, Chart 1-A; Ex. 102, Plate No. 1), and utilizes the company as an integral part of its La Sierra Water System to supply water to its customers throughout its La Sierra District service area. The Daly facilities are located within the geographic area described in the petition and are within the plat

attached to the petition as Exhibit B. The Daly facilities are physically connected to the Southwest facilities and Southwest has facilities on the Daly properties. Southwest's investment in Daly is included as an element of rate base for rate fixing purposes and was taken into account in the Original Cost Rate Base report presented, at the City's request, by the Commission's staff engineer, Brown (Ex. 3). Also, the Daly water rights were valued along with those of Southwest in a report, dated October, 1969, prepared by the City's consultant, William J. Carroll, "on the value of the water rights owned by Southwest Water Company in serving the La Sierra District and those rights owned by Daly Water Company in serving the same system" (Report, Ex. 6, transmittal letter dated October 20, 1969).

The evidence shows that, for reasons not stated by the City on this record, the staff engineers retained by the City to prepare and present studies of Reproduction Cost New (Houck, Ex. 1) and Accrued Depreciation (Brown, Ex. 2) of the Company's La Sierra District properties, did not inventory, value or depreciate the Daly properties in reaching the conclusions set forth in their respective studies. Houck's statement in connection with his exclusion of the Daly facilities was that though the Daly wells furnished water exclusively to the utility they were the "property" of Daly Mutual Water Company which was not a party to this proceeding (Ex. 1, pp. 2-2, 3).[2/]

2/ Houck, answering questions on cross-examination by the Company's counsel as to who directed him to exclude the Daly properties from his RCN study and whether he had considered severance damages if the City were not to take the Daly properties, responded, in substance, that he "assumed" the decision to exclude the Daly properties was reached, after the City's application had been filed, as the result of discussions with his supervisors, and that he had not attempted to determine severance damages (R.T. 267-268).

The Daly facilities also were not included in an updated inventory and appraisal (dated October, 1969) prepared by the City's consultant - Albert A. Webb Associates - to show the "computed value" of reproduction cost new less accrued depreciation (RCNLD) as of April 24, 1967 of the La Sierra System, "for comparison with a similar inventory and appraisal made by the Staff...." (Ex. 7, transmittal letter dated October 25, 1969). The evidence discloses that the Daly properties, though included in the original Webb 1964 study, were specifically excised, by direction of the City, from the Webb-Krieger report (Ex. 7) relating to value as of April 24, 1967 (R.T. 847-849; Exs. 56-60). Also, the "land only" appraisal report prepared for the City by John C. Donahue Company (Ex. 5), which values 21 parcels of land in the La Sierra District owned in fee by Southwest, did not include any Daly properties.

All witnesses called by Southwest who expressed an opinion on value included the Daly properties.

The City argues, in substance, that Southwest's ownership of Daly's stock does not convert the Daly assets into "lands, property, and rights" of Southwest, and that this Commission, therefore, lacks jurisdiction to value either the Daly stock or assets, or to render any "legally effective order that could result in acquisition by the City" (Op. Br., pp. 23-26).

The Company argues (Op. Br. pp. 5-7) that as Daly has no significant liabilities, it makes no difference whether one regards Daly's stock or physical assets as the "property" or "rights" of Southwest which are to be valued under the petition; in either event, the value of the Daly facilities must be included. Also, the Company urges, if the facilities to be taken by the City did not include those of Daly Water Company, the Daly facilities would be almost entirely worthless, and Southwest would have compensable severance damages equal to the value of the Daly facilities (citing cases). Finally, the Company asserts that the record would be "hopelessly" confused if the Daly facilities were not included, as the water

rights experts for both Southwest and the City included the Daly water rights in their appraisals; moreover, as the valuation of Southwest's executive vice-president, Hannon (Ex. 117), staff engineer Brown's rate base study (Ex. 3), the earnings studies of the City's consultant, Wainwright & Ramsey, Inc. (Exs. 8, 134), and of the Company's consultant, Dr. Schultz (R.T. 1726-1746), are based on the combined facilities of Southwest and Daly, exclusion of Daly, the Company maintains, would undermine the basis on which all of that evidence was submitted.

The Company (Reply Br., pp. 23-24), replying to the City's discussion of the Daly properties, asserts that a stock certificate is the "paper representative" of the "incorporeal right" of the stockholder, and that shares of stock are "property" having the same characteristics as any other property (citing 11 Fletcher, Private Corporations, pars. 5091, 5096). Hence, the Company argues, as ownership of the Daly stock enables Southwest to use the Daly facilities as an integral part of its La Sierra System and is among the property and rights owned by Southwest "which comprise the Company's La Sierra Water System" (Pet., par. X), the right to severance damages would arise should the City not acquire the Daly properties.

The Company, finally, asserts that if it owned the Daly physical assets outright, instead of through its ownership of the Daly stock, severance damages clearly would be available to it. The result is no different in the present case, the Company argues, as the unity of ownership necessary to award severance damages exists where the contiguous properties "are used in common by the owners under a contract or other arrangement" and each is more valuable by reason of the combined use (citing People v. Nyrin, 256 C.A. 2d 288, 295, 63 Cal. Rptr. 905 (1967) and other cases - Reply Br. p. 25 (emphasis Southwest's)).

The Commission's duty, in a proceeding under Sections 1401-1421 of the Public Utilities Code, is to fix and determine the just compensation (and severance damages, if any) to be paid by a political subdivision for acquisition of the lands, property and rights of a public utility. Its function, like that of a jury or referee, is to hear and determine the question of values exhibited to it in connection with the various properties described in the petition, and to fix a single sum as compensation (and a separate sum as severance damages, if any) for the taking of the property by the political subdivision under eminent domain proceedings, or otherwise.

The only "adjudication" made by the Commission is its finding as to the amount of compensation or severance damages to be paid if the utility's properties are to be taken. That determination does not contemplate or require the issuance of any order. Nor does it require resolution of matters of law concerning the right or obligation of the condemnor to take specific property included in the valuation award, or the right of the condemnee to receive - or the obligation of the condemnor to pay - severance damages for property not taken, or of questions of law involved in applying the tests of unity of use, unity of ownership, or contiguity as between the taken and remaining portions for the purpose of ascertaining severance damages.

We are of the opinion that the language of Resolution No. 10570 and of the City's petition is sufficient to identify, for valuation purposes, the Daly properties as being among the Company's "lands, property and rights" comprising its La Sierra Water System.

II. The La Sierra System - History and Present Operations

Southwest Water Company, a regulated public utility, on April 24, 1967 was furnishing water service in Los Angeles County (La Mirada District), San Bernardino County (Etiwanda District) and Riverside County (La Sierra District). The La Sierra service area is located in northwestern Riverside County west of the City of Riverside.

The initial water system in what is now Southwest's La Sierra District was constructed by W. J. Hole, about 1919, to serve residents of Rancho La Sierra, an area of some 10,000 acres. The rancho was sold with the water system in 1925 to Wm. M. Cook and W. E. Babb. That sale, along with the transfer of the water system properties to Citizens Domestic Water Company, a corporation, was authorized by the Commission on April 10, 1925 (26 CRC 290). Southwest purchased the water system, then serving some 2,400 customers, from Citizens in 1956 (Decision No. 54160, dated Dec. 4, 1956, Application No. 38246). Shortly thereafter, Citizens and Southwest were granted a certificate to serve unincorporated territory west of the Riverside city limits, and were authorized to issue stock for the purchase of all outstanding stock of Daly Water Company from Riverside Water Company, a mutual (Decision No. 54649, dated Mar. 12, 1957, Application No. 38576). The La Sierra System, under Southwest's ownership, has grown along with development of residential tracts within the system's original boundaries.

The principal source for water distributed by the Company through its La Sierra System is from local wells owned by either the utility or Daly Water Company. Southwest also purchases water from the Rancho La Sierra Company's Worthington Well (Plant 603). The system (approx. elev. 700-1000 ft. - Ex. 1, Charts 1-A, 1-B) is divided into five different pressure zones, for which the supply is maintained by a system of well and booster pumps, check valves, hydropneumatic tanks and more than 3,100,000 gallons of storage capacity. All pumping is automatically controlled with the exception of Well No. 2 at the Buchanan Plant 612. The utility, as of April 24, 1967, furnished general metered water service to approximately 6,000 customers. The boundary of the La Sierra District service area, as delineated on Exhibit B attached to the City's petition, also includes approximately 420 customers located in a part of the La Sierra District which lies outside the Riverside City limits.

Southwest was last granted a systemwide rate increase in 1962 (Decision No. 64486, dated Nov. 2, 1962, Application No. 43589).[3/]

The evidence shows that the system has grown and improved since its acquisition by Southwest. On April 24, 1967, when the City filed its petition, many new larger lines had been installed, service improved and customer complaints virtually eliminated. On the valuation date, the Company owned more than 100 miles of water lines, operated wells (including the Daly wells) with a combined capacity of about 7,000 gallons per minute and maintained a reservoir capacity of 3,145,000 gallons. Because of the size of the service area, there is need for considerable length of transmission lines between points of service, booster pumping capacity and storage. The Company has initiated the use of radio dispatch units, telemetering, electronic data processing and envelope billing, has adopted a public relations program and has good employee relations and bank connections. The Company, prior to the filing of the petition, was prepared for further expansion, which the record indicates the area is certain to experience.

The Company asserts that the property being involuntarily acquired is a "modern well managed water system, located in an expanding area of Southern California" and that "All of the basic circumstances to which the hypothetical willing purchaser would look are strongly positive" (Op. Br., p. 3). The City, it appears, does not share that view (Cl. Br., pp. 1-3).

3/ Southwest, during pendency of hearings in the instant case, applied for rate increases in its La Sierra District (Application No. 52540, filed April 9, 1971) and in its La Mirada and Etiwanda Districts (Application No. 52640, filed May 26, 1971). Neither application has been decided as of this writing.

III. Valuation Studies and Opinions on Value

Preliminary Statement

This record, long in the making, contains substantial evidence concerning each of the system's compensable components - physical facilities, water rights, land and rights-of-way, and organization expense and going concern value. To facilitate comparison of the testimony of those witnesses who valued the property only as of April 24, 1967 with those who also testified concerning an increase in value as of December 16, 1969, we shall adopt the Company's format (Op. Br., pp. 3-4) of first discussing value as of April 24, 1967, followed by a discussion of the increase in value claimed between those dates and the value of all properties as of December 16, 1969. Finally, we shall consider evidence concerning rate base and capitalized earnings.

We recognize that because of the generally limited market for utility properties, consideration must be given to methods of determining the market value of a regulated public utility that would not be appropriate when real property alone is being condemned; nevertheless, the value determined must be fair to both the condemnor and the condemnee. Whatever the order of presenting testimony may be, the burden of showing the value of the property sought to be condemned rests in the first instance on its owner (Marin Water & Power Co. v. Railroad Com'n., 171 Cal. 706 (1916)).

We have used, as the measure of value of the properties herein, the concept of the highest price, estimated in terms of money, that a willing buyer would pay to a willing seller for the property if exposed for sale on the open market, where each is under no unusual pressures of time or circumstance and each has knowledge of all the uses and purposes to which the property is best adapted and for which it is reasonably capable of being used. The measure of severance damages, if any, would be the net loss in the market value of the remainder.

We also recognize that there is no precise formula for determination of just compensation. The Commission, in previous just compensation cases, has considered a number of value criteria, with varying emphasis, in the performance of its duty to reach an independent judgment on just compensation based on resolution of conflicting testimony and other conflicting data in records before it. Among the criteria that have been considered are: (a) original cost rate base, depreciated; (b) comparable sales; (c) capitalization of earnings and (d) present day cost; i.e., (1) reproduction cost new less accrued depreciation of physical properties; (2) market value of lands, easements and rights-of-way, (3) market value of water rights, and (4) organization costs and going concern value. The Commission has also considered record facts having an adverse effect on market value. If intangible items exist as part of the utility system, they have been considered as enhancing the value of its tangible property.

All of the value criteria mentioned above are present in this record. The several opinions, with a few exceptions, exhibit a wide range of diversity due to the various assumptions used by their proponents. On brief, the City has stressed the capitalized earnings approach to market value, whereas the Company has emphasized depreciated reproduction cost new as the preferred basic approach when there is a contemplated taking of a going concern with a view to continuing the operation. The staff, after completion on February 20, 1970, of direct and cross-examination on its evidentiary showing, took no further part in the case except to file a brief in reply to certain statements in the Company's opening brief concerning testimony of the staff witnesses, Houck and Brown. We next consider the various opinions on value of compensable components of the Company's La Sierra Water System, commencing with the physical facilities.

Physical Facilities - Southwest Water Company

The record contains opinions on the value of the physical facilities by three sets of engineers: the Public Utilities Commission staff, Donald L. Houck and John E. Brown (Exs. 1,2); the engineers employed by Southwest, Thomas M. Stetson and Donald L. Howard (Ex. 102), and the engineers employed by the City of Riverside, Albert A. Webb Associates, specifically Robert Krieger of that firm (Ex. 7).[4/] Following are their RCNLD conclusions for the total plant of the La Sierra system, including general overheads but excluding the Daly properties, as of April 24, 1967:

	PUC Staff (Exs. 1,2)	Stetson (Ex. 102)	Webb-Krieger (Ex. 7)
Reproduction Cost New	$4,250,140	$4,799,893	$3,764,905
RCN, Less Accrued Depreciation	2,889,380	3,518,123	2,492,949

The staff's inventory, as of April 24, 1967, was based on a Webb office inventory and appraisal for the City of the La Sierra system as of July 1, 1964 (which included the Daly facilities), updated by the staff for additions, deletions and changes in the physical plant during the intervening period. It includes a pipeline inventory agreed to by the Webb and Stetson offices on January 20, 1969 and transmitted to the staff for review and use in preparing its RCNLD reports. The staff's inventory was then reviewed and accepted by the Webb and Stetson offices for use in their RCNLD reports; however, only the Stetson report presents RCNLD values for the physical plant of Daly Water Company.

4/ Krieger, who substituted for Albert Webb in mid-proceedings after the latter became physically incapacitated (see Ex. 50, letter of David A. Cubberly, M.D., dated January 5, 1970), authenticated the Webb report (Ex.7) and testified to that study and to an earlier appraisal of the La Sierra system, as of July 1, 1964, prepared by the Webb office for the City. Krieger participated in the preparation of both studies under Webb's supervision. Webb's testimony, on voir dire and direct examination, appears on pages 123-145 of the Reporter's Transcript, but was stricken from the record (R.T. 686).

The Company urges that little weight be given the Webb-Krieger report because, in addition to its many specific defects (Southwest Op. Br., pp. 7, 29-36) which neither Krieger nor the City attempted to correct, its presentation was predicated, contrary to basic rules of condemnation valuation, on the sole assumption that the City of Riverside would buy or reproduce the system.5/

The City asserts that its position with respect to depreciated reproduction cost "is that it is an appropriate measure of just compensation only in certain unusual cases; it is at best a ceiling...from which to recede to realistic valuation" (Cl. Br., p.8). Except for a few isolated references to bits of evidence in the course of its argument, the City did not discuss the specifics of either its own or the other RCNLD studies, nor did Krieger or the City attempt to correct the substantial omissions, inaccuracies, inconsistencies and underestimates shown by the evidence to permeate the Webb-Krieger report. Instead, the City asks (Op. Br., pp. 7, 13) that we disregard the RCNLD approach and adopt the capitalized earnings valuations developed by its financial consultants, Wainwright and Ramsey (Exs. 8, 134).

Although we shall consider, later in this opinion, the capitalized earnings opinions advanced by both the City's and the Company's experts, we cannot ignore the propriety, long recognized by the Courts and this Commission, of using the test of reproduction cost new less accrued depreciation of physical assets of a utility system as an element of value to be considered in arriving at our ultimate determination of market value, or "just compensation".

5/ The Commission, in two Monterey Peninsula Muni. Water Dist. cases (63 CPUC 533, 539 and 63 CPUC 555, 559 - both 1964), had held that the reproduction cost estimate should be that of a public rather than a private entity "since a public entity can parallel the system, whereas a private entity could not...." This condition has been changed by enactment of the antiparalleling statute (Public Util. C., secs. 1500-1506, Stats. 1965, Ch. 1752), under which a public entity no longer may parallel the existing system without making payment for the loss of value to the existing private facilities occasioned thereby (see Cucamonga County Water Dist. v. Southwest Water Co. (1971) 22 C.A. 3d 245).

The Webb-Krieger report, however, because of what the evidence shows to be its unrealistic and unwarranted assumptions, as well as its uncorrected omissions, inconsistencies and underestimates, is entitled to but minimal weight. To mention only two examples, in addition to its faulty premise that only the City would buy or reproduce the system, the record shows that the Webb-Krieger study was based on an assumed construction period of only 12 months (the staff had assumed a 17-month construction period) during which it was also assumed that more than 550,000 lineal feet of pipe would be installed simultaneously by two different contractors, proceeding at a rate of 1,000 feet per day, seven days a week and with no estimate for delays of any type. Such an assumption, even for a "theoretical" reproduction of a water system of this size and complexity, lacks credibility. The other example, which illustrates the significant downward adjustments from the Webb office report of July 1, 1964 in reaching - under the City's close supervision and direction - the valuations shown for April 24, 1967, concerns the substantial disparity, before general overheads, between the Webb-Krieger and staff RCN values in contrast to the relatively minor difference between those of the staff and the Stetson office, shown by the following figures (before general overheads and excluding the Daly facilities):

Staff (Ex. 1, Table 9-A)	$3,950,680	Stetson (Ex. 102, Table II-19)	$4,017,657
Webb-Krieger (Ex. 7, Table No. 14)	3,372,067	Staff (Ex. 1, Table 9-A)	3,950,680
Staff Exceeds Webb-Krieger By	$ 578,613	Stetson Exceeds Staff By	$ 66,977

The above examples, together with others specifically mentioned by the Company in its Opening Brief but virtually ignored in the City's arguments, in our opinion, lend substance to the Company's assertion (Op. Br., p. 30) that the Webb-Krieger study

"...contains so many fundamental inadequacies and is so transparently designed simply to produce a low, rather than a fair or reasonable, valuation, that it is entitled to no weight whatever in determining the fair market value of the Southwest...facilities."

We now consider the staff and Stetson RCNLD appraisals which, though comparable in some basic respects, exhibit significant differences in assumptions, techniques and figures, especially as regards general overheads and accrued depreciation. The Company asserts that the fundamental difference between the staff and Stetson methods is that the staff pursued chiefly a "theoretical approach", whereas Stetson and Howard grounded their approach "almost entirely on actual experience in the construction of water systems" (Op. Br., p. 9). The City, as noted earlier, has made only passing reference to the specifics of the various RCNLD studies, or their differences, in its arguments against use of the RCNLD valuation data (see Cl. Br., pp. 6-9).

The staff, in its brief filed for the announced purpose of "setting the record straight" concerning statements in the Company's Opening Brief in connection with testimony of the staff's witnesses, Houck and Brown, asserts that though its approach to reproduction costs new was partly theoretical, it was "based on a great deal of actual data and professional judgment" and applied so as to reconstruct the La Sierra Water System "exactly as it presently exists" (Br., pp. 2-3, excluding - as the staff's RCNLD studies show - the Daly facilities).

After contrasting the methods and techniques used in its study with those of the Stetson report as applied to development of RCN figures, the staff has characterized its approach - asserted to have been used in the two Monterey cases (footnote 5, supra) and in other just compensation proceedings before this Commission - as based on the tenet that "an actual existing water system is to be constructed under theoretical conditions". The Stetson study, the staff

asserts, "with its use of unit costs developed from many and various sources and jobs, might be said to have constructed a theoretical water system from data from numerous actual projects" (Br., p. 5). The staff, asserting that the unit cost method is not the "best" method for pricing a job under RCN conditions, concedes, nevertheless, that it is a "legitimate" method and a "useful tool" in checking results obtained by other studies (Br., pp. 5-6). Noting that only in the allowance for general overheads is there a significant difference between the Company and the staff,[6/] and that despite the Company's criticism of the staff's methods there is an exceptionally close agreement in their total RCN estimates before general overheads, the staff urges that the Commission adopt the staff's practices by accepting its RCN estimate of $4,250,140 before accrued depreciation (Br., p. 6).

The staff, in a brief discussion (Br., pp. 7-8) of the accrued depreciation estimates presented by the Company's witness, Howard (Ex. 102, pp. II-29 through II-45), and the staff's witness, Brown (Ex. 2), asserts, citing examples of their respective assumptions in estimating service lives of well booster pumps and pipe (Southwest, Op. Br., pp. 23-25), that Howard's estimates are "arbitrary" while those of Brown are "objective" and should be adopted as the more reasonable.

The Company has cited numerous instances asserted to show the faulty or unrealistic assumptions and techniques used by the staff, in contrast to those of the Company's witnesses, in reaching their respective RCN and RCNLD conclusions (Op. Br., pp. 9-27). Examples cited, among others, are in the areas of: material costs, especially with regard to discounts; labor costs; determination of unit costs; general overheads, especially net interest during

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6/ Although different assumptions were used by the Company and staff in estimating general overheads, those estimates were also influenced by the fact that the Company applied a rate of 19.47 percent to its RCN figures (Ex. 102, Table II-19), whereas the staff applied a rate of 7.58 percent to its RCN figures (Ex. 1, Table 9-A).

construction, and depreciation. The Company has proposed (Ex. 121, Howard, summarized in Appendix A of its Opening Brief) fourteen combinations of adjustments to the staff's RCNLD estimate of $2,889,380. The Company states that the adjustments would be appropriate if some or all of Stetson's assumptions and figures were to be substituted for those of the staff.7/

One of the major assumptions of the Houck RCN study is that most materials are purchased by the owner and furnished to the contractor, with an allowance of 18 percent as the contractor's margin only for labor and equipment costs and an estimate of $152,000 for "material indirects"; i.e., for purchasing and stores expense and for loss, breakage and waste during construction (Ex. 1, p. 6-1, par. 1; pp. 4-3, 4, 5). Howard, for the Company, testified that the "material indirect" costs would be incurred whether or not the materials are purchased by the owner (R.T. 1185-1187). Houck himself, on cross-examination, recognized that he had made no provision for many anticipated expenses if the owner were to handle the purchasing of materials (R.T. 361-373).

The Company urges (Op. Br., p. 14) that even if the Commission were to accept Houck's RCN approach an adjustment to the figure be derived would be necessary to add contractor's overhead and profit to the cost of materials. The Company has made that adjustment (using Houck's estimate of overhead and profit), which is summarized

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7/ The adjustments relate to the items of general overheads, depreciation, material overheads and "in-place" costs, and state resultant RCNLD estimates as of April 24, 1967 and December 16, 1969 in connection with each combination. The various combinations result in April 24, 1967 RCNLD figures ranging from $2,988,749 to $3,777,057, from which we compute an average RCNLD figure of $3,308,101. Using all of Howard's adjustments (Ex. 121, Study XIII), an RCNLD figure of $3,777,057 is reached, which is $258,934 higher than Stetson's original estimate - $3,518,123 - as of April 24, 1967.

in Adjustment Table I (Ex. 121; R.T. 1182-1185). With that change, and after recomputing the corresponding general overheads and depreciation, RCNLD is increased to $3,120,065. If, contrary to Howard's conclusion, one assumes that the material indirect costs would in that case not be incurred, the net effect of the adjustment to reflect material purchased through the contractor is shown on Adjustment Table IA. Under that modified adjustment, the staff's RCNLD figure is increased to $2,988,749.

Houck's study also assumes that though certain work would be performed "in place" by subcontractors, the general contractor would not receive any markup on these "in place" costs (Ex. 1, p. 6-1; R.T. 293-374, 376-378). Houck, on cross-examination, recognized that the general contractor would still be required to supervise and coordinate the in-place installations (R.T. 374-376). Howard concluded that the general contractor, consistent with normal construction practice, would add a markup to the subcontract price for that additional responsibility (R.T. 1187). Adjustment Table II of Exhibit 121 reflects the adjustment necessary to add a 10 percent markup to the in-place costs, in addition to the contractor's overhead and profit on the materials which the contractor himself installs.

The evidence, in our opinion, supports the reasonableness of the proposed upward adjustments to the staff's estimate for contractor's overheads and in-place work described above. The corresponding RCNLD figure, using the staff's estimates for general overheads and accrued depreciation, is $3,157,213 (Ex. 121, Adjustment Table II). Other adjustments will be discussed later.

The substantial difference in general overhead allowances as between the Stetson and Houck studies is shown by the following totals:

Stetson (Ex. 102, Table II-19)	$782,236 (19.47% of RCN)
Houck (Ex. 1, Table 8-A)	299,500 (7.58% of RCN)
Difference	$482,736(a)

(a) By way of comparison, the Webb-Krieger appraisal applied a rate of 11.65 percent to its RCN estimate of $3,372,067 to reach its allowance of $392,838 for general overheads (Ex. 7, Tables 13, 14).

The difference in the Houck and Stetson total percentages for general overheads reflects different percentages applied by each of them to the several components, based on their respective assumptions, techniques and data sources. Houck's percentages were derived, in part, from a source used by both engineers (Ex. 20 - American Society of Civil Engineers Manual No. 45), in part from one of the Monterey studies (Application No. 41463, footnote 5, supra), and in part from his assumptions that portions of the reconstructed system would become operable at successive six-week intervals with assumed savings in net interest expense during construction, and assuming that half ($3,600) of his estimated ad valorem tax liability of $7,100 would be incurred "should the constructing agency be a private company" (Ex. 1, p. 8-2).

The Company, asserting that its general overhead estimates were based on "standard engineering practice and construction experience", maintains that the evidence furnishes no support for the "exceptionally sparse general overhead allowance of Mr. Houck" (Op. Br., p. 21), and that "...if the Commission does not adopt Stetson's appraisal in toto...Mr. Houck's valuation should at least be adjusted to reflect Mr. Stetson's estimate of general overheads" (Op. Br., pp. 21-22).[8/]

8/ This adjustment, by itself, is made in Adjustment Table III of Exhibit 121. The corresponding RCNLD figure then becomes $3,088,250 as of April 24, 1967. The same adjustment, cumulated with other combinations of adjustments, is shown in Adjustment Table VI and Studies VIII, IX, XII and XIII of the same exhibit.

The accrued depreciation studies, like those for general overheads, also reflect the different assumptions, techniques and data sources used by the staff and Company witnesses. Their RCNLD results, excluding the Daly facilities, are shown below as of April 24, 1967:

	RCN Incl. Gen. OH's	Accrued Depreciation	RCN Less Accr. Depr.	Percent Accr. Depr.
Brown (Ex. 2, p. 4-2)	$4,250,120	$1,360,760	$2,889,380	32.0
Howard (Ex. 102, p. II-45)	4,799,893	1,281,770	3,518,123	26.7

The Company, discussing the specifics of the differences between Brown's and Howard's depreciation studies (Op. Br., pp. 22-27), asserts that while Brown based his estimates on a number of sources, including prior PUC staff reports and estimates by other staff members and gave "every consideration" to such reports (R.T. 617), he was unable to explain why he "persistently" estimated similar facilities to have shorter average service lives in the La Sierra study than in other studies he considered, "nor could he provide any assurance that he had gone through any reasoning process at all in rejecting these near-uniformly longer estimates for the same facilities" (Op. Br., p. 23).

The staff (Br., pp. 7-8) asserts that while the three engineers (Brown, Krieger and Howard) all used the "age-life" method to determine accrued depreciation for the La Sierra system none developed average service lives from statistical mortality experience of that system, but relied almost entirely on data from other systems in reaching their respective "informed judgments" concerning average service lives, survivor curves and salvage values for the La Sierra system. Selecting three comparative items involving estimated service lives (booster pumps, galvanized steel pipe and asbestos cement pipe), the staff, in reply to the Company's criticism of Brown's methods and results, argues that Howard's estimates lack the "expertise" and "objectivity" of Brown's opinions;

that Howard's conclusions on booster pump lives, unlike Brown's, were "biased", and that the Company's criticism of Brown's opinions on steel pipe service lives "...demonstrates the lack of understanding of the procedure used in group depreciation accounting...."

With respect to asbestos cement pipe, the staff, quoting out of context only a portion of the Company's statement on the expected service life of that class of pipe (see Southwest Op. Br., p. 25), asserts that the quoted portion is "arbitrary" because it claims "exact knowledge in an area where all the experts are required to make judgment estimates of unknown results" and also "contradicts the use of 75 years by Mr. Howard" (Staff Br., p. 8). Reference to the Company's complete statement and to Howard's testimony, however, discloses no basis in the record for the staff's claim of arbitrariness or contradiction (see Southwest Op. Br., p. 25, last paragraph; also R.T. 1206-1207).

Brown also assumed that smaller sizes of steel pipe, services and meters would have a shorter service life. The evidence, however, reveals that there is no appreciable difference in average service lives of those facilities based upon their size (R.T. 1205-1206, 1207-1209; cf. R.T. 568-580).

It is not surprising, in a case as long and vigorously contested as this one has been, that the proponents of various valuation criteria and estimates should assert that their methods and results are superior to those of their opponents. Although we are bound to reach an independent judgment on market value based on what the record discloses, we are not required, in so doing, to adhere to any particular theory, assumption, technique, or opinion espoused by the witnesses employed by the several parties, with regard to either the tangible or intangible properties here being valued. In reaching our final conclusions, however, we should not ignore whatever errors or inconsistencies the record may reveal concerning the methods or opinions of the experts.

The various combinations of adjustments proposed by the Company in Exhibit 121 (generally described in footnote 7, supra) show that, in addition to other combinations, those relating to accrued depreciation and general overheads are as follows (all as of April 24, 1967):

(a) Adjustment Table V applies Stetson's percentages for accrued depreciation to Houck's RCN figure, with a corresponding RCNLD of $3,111,510.

(b) Table VI applies Stetson's depreciation to Houck's RCN adjusted by Stetson's overheads, with an RCNLD estimate of $3,328,700.

(c) Study XII applies Stetson's depreciation to Houck's RCN, adjusted to use Stetson's general overheads and assumption regarding the purchase of materials, with a corresponding RCNLD of $3,733,199.

(d) Study XIII does the same as Study XII, but also adopts Stetson's assumption regarding in-place costs to arrive at an RCNLD of $3,777,057.

Physical Facilities - Daly Water Company

The City submitted no evidence with respect to market value of the Daly Water Company physical facilities. Hence, Stetson's and Howard's RCNLD appraisal of those facilities ($77,483 as of April 24, 1967 - Ex. 102, p. II-47), utilizing the same procedure as in valuing the Southwest facilities, is undisputed in this record.

The City, arguing that this Commission lacks jurisdiction to find any value for the Daly properties and that, in any event, "...the Company concedes Daly has no value except as the captive of Southwest...." (Cl. Br., pp. 3-4), has questioned the Company's assertion of Daly's marketability by contrasting Stetson's total estimates of Daly's market value (Ex. 102, p. VI-3; $241,433 as of April 24, 1967, $235,751 as of December 16, 1969) with the transaction by which Southwest acquired the Daly stock in December, 1956 for $52,500 (R.T. 1643).

The Company argues (Op. Br., p. 28) that the price paid in 1956 for the Daly stock does not affect Stetson's and Howard's

conclusions, as it is questionable whether that sale - more than ten years ago - is entitled to any consideration (citing Evidence Code, Section 815); further, the dollar amount paid in 1956 does not take into account the "unique price-depressing circumstances" that influenced that sale (Ex. 137; R.T. 1651-1655), but which are not relevant in determining the market value of those facilities. The Company, finally, asserts that even if the Daly stock transaction were to be considered, the City furnished no evidence of the adjustment that would be necessary to reflect the substantial appreciation and improvements that other portions of the record show occurred between 1956 and 1967 (cf. R.T. 1105; Exs. 122, 123).

We have considered and weighed the RCNLD and other valuation data for the Daly properties in light of evidence and argument concerning both their value and their use in supplying water in the Company's La Sierra District system.

Physical Facilities - The Opinion of Walker Hannon

Walker Hannon, the Company's Executive Vice-President, used a different method than any of the engineers in estimating the value of the Southwest and Daly physical facilities as of April 24, 1967 (R.T. 1124-1128; Ex. 117).[9/] He placed a value of $550 on in-tract facilities for each of 6,000 services, plus $150 per service for "backbone facilities" (i.e., source of supply, storage, pumping and transmission facilities) to arrive at his estimate of $700 per service and his total of $4,200,000 for physical plant.

Hannon testified that he relied on his and the Company's experience in constructing and selling waterworks facilities and had also referred to an article in the December, 1965 American Waterworks Association Journal (which estimated a cost of $1,000 per service)

9/ Hannon's value estimates for intangible components and for total market value as of April 24, 1967 and December 16, 1969 will be considered later in discussing those subjects.

in reaching his conclusions. The Company urges that his "very practical and realistic" method not only justifies adoption of his conclusions, but also provides an appropriate check upon the opinions of the engineers, and further supports "the reasonableness and conservativeness" of Stetson's appraisal (Op. Br., p. 29).

The City, not otherwise objecting to Hannon's qualifications (R.T. 1094-1102), argues that his and the Company's experience with the "dollars-per-service" method is not supported by evidence of only a single "arms length" transaction, in 1957, whereby the City sold some mains, services and a reservoir to the Company for $5,000 (Cl. Br., p. 9; R.T. 1643-1644).[10/]

Water Rights

Southwest and Daly have long established histories for application to beneficial use of percolating ground water pumped from the Arlington Basin of the Santa Ana River system, which for many years has been in a state of overdraft resulting in considerable litigation. Annual reports of such pumping have been filed with the State Water Resources Control Board. Although the Arlington Basin water rights have not been quantified by formal adjudication, a physical solution has been reached (by a judgment in a proceeding instituted by the Orange County Water District in October, 1963 against all major producers in the Santa Ana River watershed above Prado Dam) whereby certain average annual quantities of water are required to pass Riverside Narrows and Prado Dam, but without any apparent restriction on ground water pumping.

10/ Section 813 of the Evidence Code provides that the value of property may be shown only by the opinions of a qualified expert or the owner. Hannon, executive vice-president of Southwest, does not fall into either category. The City, by failing to object to the admissibility of Hannon's opinions on the ground of competency, must be deemed to have waived that objection (cf. Cucamonga County Water Dist. v. Southwest Water Co., 22 C.A. 3d 245, 263-264).

Colorado River water has been imported for use within the Santa Ana River system since the early 1940's, and Northern California water is expected to be imported, commencing in 1972, to assist in meeting water demands of the system. Imported water is expensive and the record indicates it will continue to increase in cost. Thus, the right to pump local water is a valuable right which can be measured by comparison with the differential in cost of using imported water.

The State Water Code (Secs. 1005.1, 1005.2; R.T. 1307-1308, 1762-1764) affords protection to pumpers of ground water in several Southern California counties, including Riverside and San Bernardino Counties, when such pumpers reduce or cease their extractions of ground water and use an alternate supply from a non-tributary source. Both Colorado River and Northern California water would be water from non-tributary sources in the Arlington Basin, which is usually treated hydrologically with the adjacent Riverside Basin. By making the necessary filings with the State Water Resources Control Board, the use of non-tributary imported water and the concomitant reduction or cessation of ground water pumping preserves the ground water pumping right without lapse, reduction or loss in such right.

The water supply of the Riverside-Arlington Basin is derived from imported water, Santa Ana River flow, precipitation on valley lands, inflow from the tributary watershed, subsurface flow and return flow from applied water. As a result of the substantial changes in land use, since the end of World War II, from irrigated agriculture to urban and suburban development in the Upper Santa Ana River drainage area, as well as in the Riverside-Arlington Basin of that area, it has become necessary to import large quantities of water to the Upper Santa Ana River area to meet ever-increasing water demands.

Evidence regarding the value of the Southwest and Daly water rights was received from Thomas Stetson (Ex. 102, pp. III-1 to III-19) and from William Carroll (Ex. 6). Despite substantial differences in their conclusions, the two engineers were in near agreement on a number of important points. Both agreed on the basic geology and hydrology of the Arlington Basin and that the basin is in overdraft, and both measured the extent of the Company's water rights on a prescriptive theory, using the highest production for five continuous years prior to the date of valuation and assuming a water requirement of 4,000 acre-feet per year for the La Sierra system, as of 1967.[11/] Both engineers used "alternative source" methods to value the water rights, with substantial variance, however, in their assumptions and techniques. Stetson also considered comparable sales as a value indicator. Their conclusions, as of April 24, 1967, are as follows:

	Stetson (Ex. 102, p. III-17)	Carroll (Ex. 6, p. VI-1)
Southwest	$ 905,000	(Combined Southwest
Daly	145,000	and Daly)
Totals	$1,050,000	$ 85,000

11/ Carroll based his water production estimates on recordations filed by the Company with the State Water Resources Control Board, using controlling years of 1962 and 1952, respectively, for Southwest and Daly and terminating both pumping histories on December 31, 1966 to arrive at his estimated production of 3036 A/F for Southwest and 336 A/F for Daly (Ex. 6, Tables 5, 6). Stetson, checking those figures against Company records on quantities of water sold each year, discovered some minor discrepancies (R.T. 1278-1279). His resulting figures, through calendar year 1967, as shown in his report are 3,029 A/F for Southwest and 483.07 A/F for Daly (Ex. 102, Tables III-1 and III-2). The Company urges that Stetson's figures are more accurate and should be used in these proceedings (Op. Br., pp. 37-38). The City asserts that Stetson's use of the year 1967 was erroneous and that the correct figure for the Daly "prescriptive history" is 336 A/F (Cl. Br., p. 11).

Although the Company claims deeded overlying rights as well as prescriptive rights in the Arlington Basin (Exs. 127, 128, 129; R.T. 1273, 1275-1276; Ex. 102, p. III-1; R.T. 809, 811), both engineers limited their studies to quantifying and valuing only the pumping histories of Southwest and Daly, though Stetson stated that "Due to their ownership of overlying rights they probably have additional unexercised rights" (Ex. 102, p. III-1) and that "the minimum claim of right would be based on the pumping history" (R.T. 1275-1276).

The Company argues that its claim to overlying rights should be considered as a "plus value", as such rights are not dependent upon an overdraft or adjudication (Op. Br., pp. 39-40, citing authorities). The City maintains (Cl. Br., pp. 11-16, citing authorities) that the Company, though it may have overlying rights in property it owns in fee, does not have the right to assert that it is operating as an overlyer unless the fee owners of all the land in its service area have deeded their overlying rights to the Company. The City further asserts that as Stetson and Carroll agreed, for valuation purposes, to quantify and value the pumping histories on a prescriptive theory, the Company's claim of a "plus factor" for unexercised overlying rights not otherwise considered in the valuation process is "confusing and fallacious" (Cl. Br., p. 15).

The City contends, finally, that a knowledgeable buyer would consider litigation costs in developing a prescriptive pumping history into an adjudicated right, as well as the possibility of a reduction in the quantity of his pumping rights to meet an adjudicated basin "safe yield" figure (Cl. Br., p. 16). Stetson's water rights study did not refer to the contingency of further litigation as being of concern to a knowledgeable buyer (R.T. 1443). He testified on cross-examination, however, that a knowledgeable buyer of unadjudicated water rights in the Arlington Basin would take into account how imminent an adjudication might be at the time of purchase,

and that, in his opinion, an adjudication proceeding "is not far off" because of the basin's overdraft status and the increased cost of imported water (R.T. 1436-1445).

Water rights in California are considered to be a bundle of interests and privileges in water recognized and enforced by law. They include both real property rights and usufructuary rights (Rogers & Nichols, "Water for California", Vol. 1, pars. 147, 150). This Commission has no adjudicatory power with respect to the ownership, possession, nature, or quantity of water rights claimed by parties in proceedings before it. Our jurisdiction, in a proceeding of this kind, is limited to making an award of "just compensation" for the bundle of tangible and intangible properties of a public utility sought to be acquired by a political subdivision, together with an award for severance damages if any be found. As previously indicated, we shall consider and weigh the opinions of the experts and the arguments of counsel, both as to water rights and other compensable components, in reaching our own conclusions on market value of the properties exhibited by this record.

Both Stetson and Carroll recognized that there are several methods by which water rights may be valued (Ex. 102, p. III-7; Ex. 6, pp. I-1 to I-2). Stetson selected from standard methods what he considered to be the two most reliable value indicators - the increased cost of obtaining water from the most feasible alternative source and comparable sales. He ultimately reached a value opinion, after considering water quality factors, quite close to that derived from comparable sales.

Carroll used a variant of the alternative source method, specifically designed for these proceedings, to stress - assertedly from the viewpoint of a knowledgeable seller or buyer - the need for upgrading the quality of the ground water supply which the record shows contains above-normal concentrations of nitrates and total dissolved solids and to emphasize that a "knowledgeable person"

would place "some judgment factors" on whether he believed some type of litigation would develop within the next five years "which would place a premium on the fact that a prescriptive pumping history was owned by him" (Ex. 6, p. IV-4).

Carroll, after studying several alternative systems, including use of bottled water for drinking and cooking purposes, concluded that a theoretical "basic system", using a mixture of 40 percent basin groundwater and 60 percent imported water, the latter from a connection to the Metropolitan Water District's Upper Feeder, would not only be the least expensive alternative source but would reduce concentrations of nitrates and total dissolved solids, at each well, from 110 mg/l of nitrates to about 45 mg/l and TDS from 1,100 mg/l to about 500 mg/l (Ex. 6, p. V-1). He estimated the net annual cost of such a system at $250,720 (Ex. 6, p. V-3), and compared that figure with his higher estimated costs for other alternative sources of supply (Ex. 6, Table No. 8, p. V-10). He also estimated that the use of bottled water for drinking and cooking (6,000 services at $1.60 per week per bottle) and groundwater for other purposes would cost about $500,000 annually, but that such an approach "is subject to considerable error in preparing estimates and making assumptions as to use" (Ex. 6, p. V-8).

Carroll capitalized the difference in annual cost - $17,280 - between his "basic system" and the next least expensive system (the MWD recharge alternative, which he estimated to cost $268,000 - Ex. 6, p. V-6), using a period of ten years and a six percent interest rate, to reach a figure of $125,000, which he then reduced, after making two "judgment decisions", to $85,000 as his opinion of the combined market value of the Southwest and Daly water rights. The two judgment decisions he made were: (1) that a willing buyer and seller would agree that "for this particular situation" a period of ten years (as an incentive to the buyer) and an interest rate of

six percent are appropriate, and (2) that a discount factor should be applied, as the purchase of water rights in an unadjudicated basin could only be an "insurance premium" (Ex. 6, p. VI-1; R.T. 90). The City argues that adverse value factors so predominate this record as to render the Southwest-Daly water rights practically worthless, and it urges that Carroll's opinion be accepted as the maximum value for such rights (Cl. Br., p. 26).

Stetson, utilizing normal alternative source methods and regarding a connection to the Metropolitan Water District's Upper Feeder as the least expensive alternative source of supply, estimated $661.50 per acre-foot, or $2,323,234, as the total capitalized value of the Southwest-Daly water rights, capitalizing annual costs in perpetuity and using actual MWD water prices as of April 24, 1967 (Ex. 102, pp. III-7 to III-14). That figure is more than twice that which he ultimately concluded to be the value of the water rights, as of April 24, 1967, after also considering comparable sales and water quality factors.

Although Carroll did not use a standard alternative source method, he did compute the cost of a connection to the MWD Upper Feeder of two sub-systems using MWD water (for direct supply and for basin recharge) as one of his four alternative sources of supply (Ex. 6, pp. V-3 to V-6), capitalizing annual costs over a 10-year period and assuming future price increases for MWD water. The Company asserts that it is thus possible, by applying standard alternative source methods (i.e., capitalizing in perpetuity the annual cost by which the least expensive alternative source exceeds the annual cost of the existing system and using actual 1967 MWD water prices) to derive from Carroll's report the capitalized cost of the same alternative source, based on Carroll's assumptions, and to compare his figures with Stetson's figure of $2,323,234. Those comparisons (Exs. 124, 125) disclose that Carroll's capital

and annual purchased water costs would be considerably greater than assumed by Stetson, and that the greatest discrepancy is in the annual cost of MWD water.[12/]

The Company urges (Op. Br., pp. 44-45) that whatever conclusions are reached with respect to the impact on value of the nitrate concentrations in the water supply, Carroll's approach "violates a basic rule of valuation proceedings and cannot be used to determine the value of the water rights" (citing cases), and that "...even if one concludes that the presence of nitrates does deflate the value of the water rights, this provides no justification for either the hypothetical approach, or the hypotheses, which Mr. Carroll employed" (Op. Br., p. 46).

The Company cites, as an example, Carroll's assumption that his "basic system" would reduce nitrate concentration from 110 to 45 mg/l (Ex. 6, p. V-1), and asserts that as the record indicates "considerable doubt" that the concentration is as high as 110 mg/l (R.T. 787-788, 1297-1298; Ex. 102, p. III-16), not as much MWD water would be needed as Carroll assumed, "whatever the level to which the nitrates were to be reduced" (Op. Br., pp. 46-47). Furthermore, the Company urges, "...in light of the imperfect state of knowledge regarding the effect of nitrates on health, and the fact that there is no maximum mandatory nitrate level (R.T. 792-796, 1298-1299;

12/ Using MWD water as a direct supply, the computed figures show: $1,324.50 per A/F for 3,512 A/F, or a total of $4,651,644 for water rights alone (Ex. 124). Using MWD recharge water, the figures are: $954 per A/F for 3,512 A/F, or a total of $3,385,568 (Ex. 125). Also, with respect to Carroll's hypothetical "basic system" (using a blend of 40% groundwater and 60% MWD water to reduce the nitrate level to 45 mg/l), by using 1967 MWD prices the annual cost of the "basic system" is reduced by $90,000, from $250,000 to $160,000 (Ex. 6, p. V-3; Ex. 126; R.T. 1300-1301). The Company urges that Carroll's entire approach should be rejected, as the ultimate value under his method depends so directly on "speculative" assumptions as to future water prices; but if his method be used, his value for existing water rights would at a minimum have to be increased by $90,000, capitalized, or $1,500,000 (Op. Br., p. 45).

Ex. 54, 102, pp. III-15 to III-16), it would also be reasonable to construct a hypothetical 'basic system' under which nitrates are reduced only to 90 parts per million" (Op. Br., p. 47). The Company, in Exhibit 126, has made such a computation, which indicates that the annual cost of Carroll's "basic system" is reduced from $250,000 to $80,000 when 1967 MWD prices are used. The value of the water rights, the Company asserts, would therefore be increased by $175,000 per year, capitalized, or to a value of $2,917,000 (R.T. 1299-1303). Carroll's testimony on cross-examination also reveals the higher value of the water rights that would be reached under his system by modifying his assumption regarding the quantity of MWD water used for mixing (R.T. 802, 806-808).

The Company argues (Op. Br., pp. 47-48) that as the presence of nitrates is "at most" a possible health hazard to infants under six (or even three) months (R.T. 116, 793-794, 1306-1307, 1520), the health problem could be dealt with simply by furnishing bottled water to families with infants under six months of age (R.T. 1306-1307; see R.T. 797-800). The cost of this approach, the Company asserts, would be far less than any of the methods assumed by Carroll (R.T. 1307, 1520; 800-801; cf. also R.T. 1309).

Stetson, using the comparable sales method based on data showing the rising trend of water rights values in Southern California (Ex. 102, graph following p. III-15), and also considering the effect on value of the nitrate concentration in Southwest's water supply, reached a value of $300 per acre-foot, or an aggregate of $1,050,000 as of April 24, 1967, which is substantially less than that derived from any of the conventional alternative source methods (Ex. 102, pp. III-16 to III-17; R.T. 1475, 1515-1516).

The record shows that there has been no significant reduction in the sales price of water rights with other impurities exceeding the limits prescribed by the U. S. Department of Public Health (R.T. 1311-1312, 1479, 1761-1762). The Company asserts that

"...neither the City nor its expert produced evidence of any sale of water rights - of whatever quality - which varied significantly from the price included in Mr. Stetson's study, upon which he largely based his value of $300 per acre foot." The Company asserts that, to the contrary, analysis of the purchases of water rights by the City of Riverside, disclosed in the testimony of Ross (Director of the City's Public Utilities Department), "further substantiated the range of value testified to by Mr. Stetson, despite the fact that almost all of those sales occurred under the deflating influence of the threat of condemnation, and many were in the same basin as the rights of Southwest and Daly" (Op. Br., p. 49; R.T. 1655-1687, 1714, 1764; Exs. 138-145). The Company asserts, further, that "the City's documentation with regard to those prior purchases, reflecting a policy to acquire water rights to meet the growing needs for the precious fluid, strongly reinforces Mr. Stetson's conclusion as to the demand for water in the area (Exs. 138, 140[5], 143[6], 145; R.T. 1655-1657, 1669, 1670; compare R.T. 1310-1311)".

The Company argues (Op. Br., p. 50, citing authorities) that the value of water rights is largely independent of the quality of the particular water supply, as the rights may be exercised, it asserts, without diminution and so long as rights of others are not adversely affected, at any other point within the same underground basin. The Company also argues that the rights would be preserved, even if pumping from the basin were abandoned, by importation of non-tributary water and the filing of in-lieu-of-pumping reports pursuant to Sections 1005.1 and 1005.2 of the Water Code (Op. Br., p. 50).

The Company asserts, finally, that Carroll's study has magnified the significance of the nitrate concentration to the point of virtually obliterating the value of rights otherwise admittedly worth more than $1,000,000, and that "...even Krieger's early work papers contain a notation referring to a water rights value of $1,241,000 (Ex. 55), but Mr. Krieger was not authorized to perform a study or testify to the value of the water rights" (Op. Br., p. 51; R.T. 841).

The City argues that though Carroll's value of $85,000 for the water rights should be considered as the maximum, "...in reality the value should approach zero, since even his rational approach to solving the [nitrate] problem was predicated on reaching a goal of the 'upper limit'; a limit of 45 parts per million nitrate that results in City well abandonment when exceeded" (Cl. Br., p. 26; R.T. 1641). The City asserts that Stetson's standard alternative source studies (Exs. 124, 125, 126) were improper and were not comparative with Carroll's results, because Stetson based his figures on the existing groundwater supply instead of first blending it down, as Carroll did for his "basic system", to a "usable" quality containing not more than 45 mg/l of nitrates (Cl. Br., p. 16). Arguing that a knowledgeable buyer would realize he would have to spend considerable sums to rectify the nitrate and TDS concentrations and to reduce pumping histories to adjudicated rights, the City asserts that such a buyer would place only that value on the pumping histories which he could justify (Cl. Br., pp. 25-26).

The City asserts that as the above-cited Water Code provisions have not been tested in the courts, the retention of a pumping history to an "unusable supply", if local wells had to be abandoned and imported water used, would have no value to a knowledgeable buyer (Cl. Br., pp. 23-24). So far as this record shows, the indicated concentration of nitrates in the groundwater supply appears to present possible health hazards only to infants six months old or younger. Although we disclaim competence to evaluate such hazards, we can note that Stetson's testimony discloses that it would be feasible - and far less costly than Carroll's uncertain estimate of $500,000 - to deal with the nitrate problem by providing a five-gallon bottle of water, once a week, to each home in the service area with an infant of that age, at a total annual cost of between $3,000 and $3,500 (R.T. 1306-1307). Moreover, as we have previously noted, the Water Code "in-lieu-of-pumping"

statute appears to be designed to afford protection to owners of developed pumping rights in the specified counties, provided annual filings are made with the Water Resources Control Board, if cessation or reduction in groundwater extraction occurs as the result of application to beneficial use of an alternate water supply from a nontributary source. (We do not, of course, pass on the question of whether ownership of an unadjudicated pumping or prescriptive "history" would be considered as equivalent to ownership of a "right" for purposes of invoking the protective provisions of the Water Code.)

Hannon adopted Stetson's opinion of the value of the Southwest-Daly water rights as of April 24, 1967 - $1,050,000 (Ex. 117; R.T. 1129-1130).

In reaching our ultimate conclusions on this controversial water rights valuation issue, as well as on other valuation questions presented by this record, we shall give consideration to both positive and negative factors that may affect the opinions of the experts.

Land and Land Rights

There is little disagreement between the conclusions of the appraiser retained by the Company, Arthur L. Sewall (Ex. 103), and those of the City's appraiser, John C. Donahue (Ex. 5), as to the values of the real property interests situated in the La Sierra District. Both expressed identical, or nearly identical, opinions as to 21 common parcels for which Southwest claims the fee; where they differ, the discrepancy is small. Donahue did not value either the specific Southwest and Daly easements or Southwest's claimed "blanket" easement. Those easements, however, were valued by the Company's witnesses, Sewall, Stetson and Hannon.

Land Ownership

Sewall valued the 21 Southwest fee parcels, as of April 24, 1967, at $174,675. Donohue valued the same parcels at $153,670 (Summary, Op. Br., p. 52). The Company, noting Sewall's explanations

for his slightly higher values for Parcels Nos. 1 and 3, 8 and 18 (Op. Br., pp. 53-54), asserts that as neither Donahue nor any other witness for the City rebutted Sewall's fee property opinions, they should be adopted as the market value of such properties. Sewall also placed a value of $7,900 on land owned in fee by Daly at Wells Nos. 608 and 607 (combined as his "Parcel No. 22"), using the same method as he used for the Southwest fee property (R.T. 1082). The Company, noting that there was no other evidence as to the value of Parcel No. 22, urges that Sewall's opinion also be accepted as the market value of the Daly fee properties.

The City has not referred, in its Opening Brief, to Sewall's value opinions concerning the Southwest and Daly fee properties. Instead, disparaging Sewall's and Stetson's qualifications to render value opinions on real property and property rights, the City devotes its Opening and Closing Briefs almost exclusively to their methods and conclusions (and those of Hannon) concerning values of the water line easements owned by Southwest and Daly, especially the "blanket" water line easement claimed by Southwest to cover 9,620 acres of land in the La Sierra District (City-Op. Br., pp. 26-29; Cl. Br., pp. 26-28).

Easements

The Company asserts that the Southwest and Daly water line easements are real property rights and, as such, are constitutionally required to be considered in determining just compensation; moreover, the Company states, Paragraph X(c) of the City's petition expressly includes the Company's water system rights-of-way and easements - "whether existing by grant, prescription or otherwise" - within the property to be acquired (Op. Br., pp. 54-55, citing authorities; cf. R.T. 1241-1242).

The easements fall into two general categories: (1) specific easements outside the blanket easement and (2) the blanket easement, which the Company asserts has value for three different purposes:

(a) quitclaim releases, (b) retained specific easements upon execution of quitclaims, and (c) relocation rights (Ex. 103, Parcels 23, 24, 25; Ex. 102, pp. IV-1 to IV-8).

Sewall valued the various Southwest and Daly specific easements outside the blanket easement (his Parcels 23 and 24) by first determining, in the same manner as for his Parcels 1-22, the market value of the fee and by then applying a factor of 25 percent against the fee value to derive the value of the easement (Ex. 103, Parcels 23, 24; R.T. 1083; see also, Ex. 102, p. IV-1). His values for those easements came to $2,915 for Daly and $11,900 for Southwest, as of April 24, 1967.

Stetson, averaging the values for Southwest's 21 fee parcels at about $8,000 and estimating a slightly less total square footage than did Sewall for the Southwest-Daly specific easements outside the blanket easement, applied the 25 percent factor against his $8,000 average fee value to derive values of $10,700 and $1,600, respectively, for the Southwest and Daly specific easements outside the blanket easement (Ex. 102, pp. IV-1, IV-2 (Table IV-1), IV-3 and IV-4 (Table IV-2)).

The Company, asserting the acceptability and propriety of Sewall's method for valuing such an easement, urges that his conclusions be adopted as the market value of the Southwest and Daly specific easements outside the blanket easement, as of April 24, 1967 (Op. Br., p. 55).

The Company, pursuant to a "blanket" easement, claims "a permanent easement and right of way to excavate for and lay, construct, maintain, operate, repair, alter, replace and remove a line, pipe or lines of pipe...in, over and across..." approximately 9,620 acres of land (Ex. 127, 128, 129; Ex. 103, Parcel 25; Ex. 102, p. IV-3 and Plate 2; R.T. 1084, 1131-1134). The Company states that though such an easement is somewhat more difficult to value

precisely, "On its face, a property interest of this proportion over an area of such magnitude - especially in an expanding area as described by Dr. Rostvold and Mr. Hannon (R.T. 1033-1066, 1099-1100) - is a holding of considerable worth.", and that it must be valued by the Commission (Op. Br., p. 56; Reply Br., pp. 28-29).

Everett Ross, the City's Director of Public Utilities, suggested that the easement will not be of value to the City of Riverside when it takes over operation of the water system (R.T. 1637, 1639-1640, 1647). The Company asserts (Op. Br., p. 56) that, even if true, this would be irrelevant because the "just compensation" to be fixed here is based upon the "market value" of the property being acquired, "...and that value is not determined by the value of the property to a particular purchaser, and certainly not to the government entity acquiring the property in condemnation proceedings" (Op. Br., pp. 56-57, citing cases). The Company also argues that Ross' opinion in that regard should be disregarded and considered stricken from the record, because he did not use the market value criterion applicable in this case; i.e., "what a willing purchaser of a water company would pay for the blanket easement as part of an open market purchase of the La Sierra properties." (Op. Br., p. 57, citing Sacramento & San Joaquin Drainage Dist. v. Reed, 215 C.A. 2d 60, 64, 29 Cal. Rptr. 847 (1963)).

The record, the Company asserts (Op. Br., pp. 57-60), shows that there are several uses to which a blanket easement is put both by private water companies and, to a lesser extent, also by public water systems. The water purveyor, by virtue of the blanket easement, can lay water lines without the need to obtain rights-of-way from private landowners or limiting its installation to public rights-of-way. Following installation of lines, the Company can then retain a specific easement over the area within which the lines have been placed - again without the necessity of purchasing such a right - and can convey by quitclaim, and for a payment, the balance of the easement upon the lot to which service has been provided. Southwest,

the record shows, is currently realizing $100 per lot, or $100 per acre, for such quitclaims (R.T. 1136), which sum represents reimbursement, to some extent, of the Company's administrative costs of handling the quitclaims (R.T. 1604). Finally, the Company states, should a government agency subsequently require the relocation of the lines, because, for example, of flood control construction, the relocation costs will be borne by that agency rather than by the water purveyor if there is such a preexisting blanket easement. The relocation costs savings Southwest asserts it had realized from its blanket easement through April, 1967 amount to $52,862 (Ex. 102, p. IV-8, Table IV-4).

Sewall, Stetson and Hannon recognized the foregoing benefits in valuing the blanket easement (R.T. 1084-1086, 1134-1138, 1314-1319; Ex. 103, Parcel 25; Ex. 102, pp. IV-3 through IV-8).[13/]

The Company notes (Op. Br., pp. 58-59) that following Ross' "rather surprising and unsupported statement" that the easements have "no value" or, at most, "some possible nominal value" (R.T. 1639 - cf., however, Ross' contrary admissions on cross-examination, R.T. 1647), Mr. Jack Comstock, a retired water company executive with some 43 years experience at another private water company owning a sizeable blanket easement (R.T. 1688, 1689), testified to the uses and values of such an easement to a water company (R.T. 1689-1695). According to Comstock, the blanket easement derives its benefit "principally as a matter of economy" (R.T. 1690).

13/ The Company, conceding that Stetson and Hannon are not "real estate appraisers", asserts that the opinion of experts familiar with the use of easements "for a particular specialized purpose" is admissible and often is entitled to more weight in determining the value of the easement than an opinion of an expert conversant only in real estate (Op. Br., p. 58, footnote 7, citing cases).

The three witnesses who valued the blanket easement agreed as to the three factors, indicated above, which influence its market value, but each applied the factors somewhat differently to reach their conclusions, which are as follows:

Arthur Sewall	$ 565,500	(R.T. 1583)[14/]
Thomas Stetson	700,000	(Ex. 102, p. IV-7)
Walker Hannon	1,042,000	(Ex. 117)

Stetson, estimating that about 4,800 acres in presently undeveloped portions of the 9,620-acre blanket easement area would require quitclaims, for an income of $40 per acre, projected future income of $192,000 from quitclaim releases. He considered this to be the 1967 value "because the amount by which this income will increase as land value appreciates is estimated to equal the amount by which the future income should be discounted to obtain present value" (Ex. 102, p. IV-6). Assuming that 0.56 acre has been retained as specific easements where quitclaims were made from 11.67 acres of the blanket easement, as shown to date (Ex. 102, Table IV-3), Stetson applied that ratio to the 4,800 acres of the blanket easement to estimate 230 acres of retained specific easements. He then assumed the "traditional 25 percent of fee value" to derive his value of $460,000 for the retained specific easements (Ex. 102, p. IV-6; R.T. 1754-1758). Finally, Stetson capitalized "savings", at 6 percent,

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14/ Sewall, correcting a mathematical error in his original value of $1,250,000 for specific retained easements, after quitclaims (Ex. 103, Parcel 25, 4th unnumbered page), reached the following total value, as of April 24, 1967, for the three factors comprising the blanket easement:

1. Future Quitclaim Releases (4,500 Ac. @ $45 per acre)		$ 202,500
2. Specific Retained Easements (as corrected - R.T. 1532-1587)		288,000
3. Relocation Rights (Ex. 103, Parcel 25, Table No. 3 - $53,000, or an average of $4,500 per year capitalized at 6%)		75,000
	Total	$ 565,500

resulting from relocation work in already-developed areas of the blanket easement, using the April 1967 value of those costs, averaged at $4,405 per year, to yield a value of $73,417 for relocation rights (Ex. 102, pp. IV-6 to IV-7; p. IV-8, Table IV-4, which is identical to Sewall's Table No. 3 of Ex. 103, Parcel 25).

Stetson's values for the three above-described elements of the blanket easement are summarized as follows (Ex. 102, p. IV-7):

Quitclaims	$ 192,000
Specific Easements	460,000
Relocation Rights	73,400
Total	$ 725,400

Stetson concluded that the "fair market value" of the blanket easement on April 24, 1967 was $700,000 (Ex. 102, p. IV-7).

Hannon derived his values for land and land rights, as of April 24, 1967, by a method quite different from those of Sewall and Stetson, whose methods also differed from each other with respect to valuing the blanket easement (R.T. 1139). Adopting Sewall's fee property and specific easement values, he estimated the value of the blanket easement "very simply" by multiplying the entire area of the blanket easement (9,620 acres) by a value of $100 per acre for quitclaims, to reach his total of $962,000. He then capitalized, at 6 percent, the average annual amount of relocation costs - or "relocation savings" - between 1957 and 1967 ($80,000), and added that capitalized item to the $962,000 figure to reach his total value of $1,042,000 for the blanket easement (Ex. 117; R.T. 1137-1138). Shown below are his total values for land and land rights, as of April 24, 1967 (Ex. 117):

Fee Properties	$ 182,575
Specific Easements	14,815
Blanket Easement	1,042,000
Total Land and Land Rights	$1,239,390

The City, not challenging the testimony of the Company's witnesses concerning their values for fee properties and specific easements, but confining its argument primarily to certain items capitalized by Sewall and Stetson in connection with the blanket easement, asks us to disregard entirely their testimony on the blanket easement as lacking in expertise (Op. Br., pp. 26-29; Cl. Br., pp. 26-28).

Although not faulting Sewall's "standard method" of applying an appropriate percentage - in this case 25 percent - to the fee property in appraising easements (which if applied to the entire 9,620-acre area would have resulted in much higher values than those derived by the different approaches of Sewall, Stetson or Hannon - Southwest, Reply Br., p. 26; R.T. 1035), the City questions Sewall's use of the capitalization method only for relocation cost savings but not for income generated from quitclaims of given parcels of land (Op. Br., pp. 26-28; Cl. Br., pp. 27-28).

The Company, stating that the City failed to explain why its witness, Ross, considered capitalization appropriate only for quitclaims but not for relocation cost savings (R.T. 1638-1640, 1648-1650), argues that avoidance of relocation costs, as a result of possessing the blanket easement, is a "recurring savings" justifying capitalization of the average annual avoided relocation costs, but that income from quitclaims of given parcels of land is "non-recurring", so that capitalization of such income would be contrary to basic principles of land appraisal (Rely Br., pp. 27-28).

The Company, finally, argues that as the evidence of Sewall, Stetson and Hannon is "essentially undisputed by any credible or legally pertinent evidence to the contrary[8]...the Commission clearly should value Southwest's blanket easement at an amount within the range established by these witnesses" (Op. Br., pp. 59-60; note especially footnote 8, p. 59; Reply Br., pp. 28-29).

Organization Expense and Going Concern Value

The Company asserts that as its La Sierra water system "is now in a position to realize the fruits of its development" and is located in a geographical area in which "marked population growth and intensified land use are highly probable within the next two decades", the value of its facilities is substantially more than simply their reproduction cost. Both organization expense and going concern value, the Company urges, are intangible components of value of the utility that must be included in determining just compensation (Op. Br., pp. 60-65, citing cases and transcript references).

The City, conceding that organization expense is "a legitimate item of evaluation and consideration", asserts that Stetson's estimates of organization expense for Southwest - $45,000 - and for Daly - $2,500 - (Ex. 102, p. V-2), cannot be justified, as Southwest's annual reports to this Commission, for several years including 1967 through 1970, never have shown organization expense in excess of $1,500, and that such reports for 1969 and 1970 both indicate a zero valuation for organization expense attributable to the Company's La Sierra System. As for going concern value, the City argues that such a value must relate to the earning power of the properties in order to justify a valuation in excess of reproduction cost new less depreciation. Asserting that the Company's earning power has declined during the past several years, according to its annual reports filed with the Commission, the City urges that "nothing should be allowed for going concern value" (Cl. Br., p. 31). The City submitted no evidence on organization expense or going concern value.

The only witnesses to testify to the value of Southwest's organization expense and going concern value were Stetson and Hannon. Stetson's values for organization expense, noted in the preceding paragraph, were concurred in by Hannon (R.T. 1143), and were based

on an examination of cost data concerning the various start-up costs usually associated with that intangible item of expense. Also, the City's petition (par. Xf) expressly recites that the property to be acquired includes the items normally considered as "organization expense" (Southwest - Op. Br., p. 61). The Company urges that in the absence of any other testimony the Commission's findings as to the value of both components must be predicated on the testimony of its two witnesses, Stetson and Hannon, and that the reasonableness of Stetson's estimates for organization expense "is confirmed by the decision in the Monterey Peninsula proceedings, where the Commission awarded $107,000.00 for organization expenses. 63 PUC at 545" (Op. Br., pp. 60, 61).

Stetson's estimate for going concern value, the Company asserts, is similarly based on accepted standards of valuation, and reflects the recognized fact "that the property of a public utility in operation is of much greater value than the value of the property absent its operational status" (Op. Br., pp. 62-64, citing cases; Ex. 102, p. V-2; R.T. 1322). The Company urges that the present mature operational status of the La Sierra System and the area's growth potential are factors which are "particularly applicable in this case" (Op. Br., pp. 64-65).

Stetson, after considering a number of different methods of estimating going concern value - admittedly a difficult task - used nine percent of Reproduction Cost New Less Depreciation to estimate $316,600 for Southwest and $6,950 for Daly as going concern values as of April 24, 1967 (Ex. 102, p. V-3; R.T. 1323-1324). That percentage, the Company asserts, compares with the range of 2.3 percent to 14.3 percent of RCNLD used by Marston and Agg in their book, Engineering Valuation (Ex. 102-p. V-3), and also compares with Krieger's estimate of six percent in his work papers (Ex. 55) to which he did not testify (R.T. 839-843), although it had previously been his opinion that an allowance should be made for going concern

value in an RCN appraisal (R.T. 845) and he had used similar percentages in other studies (R.T. 845-846). That method, and Stetson's estimate of nine percent, the Company states, have received prior judicial sanction in California and elsewhere (Op. Br., pp. 65-66, citing cases).

Hannon utilized a different method of estimating going concern value, which reached a higher but - the Company asserts - an also justifiable result. Using Stetson's estimate of a two-year construction period for the La Sierra System, and assuming the Company would not receive a return on its investment during that period, Hannon, the Company asserts, "reasoned that the loss of an estimated six percent return on the RCNLD of the facilities for the two-year construction period should be regarded as the value of obtaining the system already in operation" (Op. Br., pp. 65-66). Hannon placed a value of 12 percent (2 x 6%) of his RCNLD, or $504,000, as the combined organization expense and going concern value of the Southwest and Daly facilities in the La Sierra District, as of April 24, 1967 (Ex. 117; R.T. 1142-1143).

Increase in Value

We have previously indicated our reaffirmance of the interim decision on the Company's 1970 alternative motion to dismiss this proceeding (supra, p. 2). The City, again raising the question of our jurisdiction to consider, in the initial award, "appreciation factors based on general economic trends", restates its former argument that the "proper forum" for consideration of such factors can only be the supplementary proceedings provided by Sections 1417-1419 of the Public Utilities Code (Op. Br., p. 30, et seq., citing cases). The City states that "Faced with the Commission directive and the contingencies thereby raised, the City offered evidence on the 'increased value' issue in the form of an up-dated capitalized earnings evaluation (Exhibit 134)" (Op. Br., p. 30).

The Company maintains that the question of - and reasons for - including evidence of appreciated value in the main proceeding already have been considered by the Commission and its interim decision has now become "the law of the case for these proceedings" (Reply Br., p. 29, referring to the Company's Motion, filed January 27, 1970, its Reply Memorandum in support of the motion and the Commission's interim order, Decision No. 77583).

We note, parenthetically, that the City, in its written argument in opposition to the Motion to Dismiss, did not dispute the Company's contentions that the value of its property had increased during the delay of two years and eight months following the date of filing of the City's petition and that valuation of that property as of the petition's filing date would result in prejudice to the Company. Nor, we also note, did the City respond to or discuss, there or in its briefs here, the authorities cited in Southwest's Reply Memorandum, which the Company then argued, "establish that Riverside's failure diligently to prosecute this action is a serious question indeed.", and that "In fact, the prejudice resulting to Southwest raises issues of considerable constitutional magnitude" (Southwest, Reply Memorandum, filed March 27, 1970, pp. 2-3).

The City argues that its second (1969) Wainwright & Ramsey capitalized earnings study (Ex. 134) constitutes evidence of "increased value" and that the "appreciation" in this case is really "depreciation", because the Company's annual reports to the Commission, admittedly used in deriving the conclusions reached in Exhibit 134, show a deterioration in its financial condition since April 24, 1967 and that this is "conceded" by Southwest's current rate increase application for its La Sierra System, Application No. 52540, supra (Op. Br., pp. 34-35).

The Company, replying to the foregoing argument (Reply Br., pp. 29-30a), asserts that the City ignored the documentation in this record of the "unprecedented rise" in the cost of constructing

an alternative system which occurred between April, 1967 and December, 1969 (see Southwest, Op. Br., pp. 67-69), and that the 1969 Wainwright & Ramsey study, by using a multiplier - or "judgment figure" - of 12.9 to supersede the original multiplier of 16 (Exhibit 134, p. 4), unduly emphasized "the short-term financially calamitous circumstances" with which the utility with the rest of the economy have been plagued.

The Company asserts "That the City was able to derive such a conclusion from the Wainwright & Ramsey reports does not reflect depreciation in the value of the Company, but reflects the unreliability of the capitalized earnings approach as a guide to present value" (Reply Br., p. 30).15/

The Company asserts, finally, that "The City has furnished no reason why the Commission should not accept the uncontradicted testimony concerning the increase in value which occurred between those dates", and that, though criticising the composition of the cost factors on which the Engineering News Record (ENR) construction cost index is based (City, Op. Br., p. 35), the City "does not deny - as it cannot - that these include the principal components of the water facilities which are the subject of these proceedings" (Southwest, Reply Br., pp. 30-30a).

The Commission, aware that "hard cases sometimes make bad law", resolved the question presented by the inordinate delays in this case between April, 1967 and December, 1969 (see chronology,

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15/ The first (1967) Wainwright & Ramsey capitalized earnings study derived a figure of $1,935,318.83 as the "Estimated Market Value of La Sierra District" as of December 31, 1967 (Ex. 8, Tables 1, 2 and 3). The second (1969) study derived a figure of $1,632,867.94 as the estimated market value of the La Sierra District as of the year ending December 31, 1969 (Ex. 134, Tables IV and VI).

Interim Opinion, pp. 1-3), by permitting the Company to make its appreciated value showing in the main proceeding, subject to challenge by the City and to later supplementary proceedings if necessary. In reaching that decision, the Commission reasoned that in ruling on the serious constitutional questions raised by the Motion to Dismiss it would be necessary, if the petition were not to be dismissed outright, to consider alternative forms of relief to avoid those issues. Accordingly, considering the time and expense already incurred - and to be incurred - in these proceedings, the Commission elected, from the several procedures suggested by the Company, to update the valuation date to December 16, 1969, at which time the City (which had previously been negotiating with the Company on the possibility of reaching an agreed settlement; see City's Argument in Opposition to Motion to Dismiss, p. 2) was first ready to begin a substantial presentation.

Whether this Commission has inherent power, in such circumstances, to update the valuation date specified in Section 1411 of the Public Utilities Code, is a question that we think is not entirely free from doubt. If only a procedural question is involved, as we believe to be the case, the updated valuation date, in our opinion, would preserve the substantial rights of the parties to a just compensation award in the original proceeding, without prejudice to whatever adjustments in that award might be required as the result of supplementary proceedings. If, as the City contends, a jurisdictional issue is presented, then the parties - unless they can reach an agreed settlement - may face the prospect of litigating that issue in addition to whatever else in this record they may consider needs rehearing or court review. We would be less than candid if we did not admit the possibility of error in our resolution of the Company's alternative motion to dismiss the petition.

The asserted appreciated values have been identified in this record with sufficient clarity to permit comparison with the April 24, 1967 values claimed by the Company. Accordingly, in stating our own opinion on the market value of compensable components, we shall make a similar comparison on the way to making our ultimate findings of just compensation and severance damages. Though somewhat unusual in a proceeding of this kind, such a comparison may facilitate later segregation of 1967 and 1969 values should that be necessary.

Dr. Rostvold, the land use analyst retained by the Company, testified to the pronounced price appreciation that occurred in all sectors of the economy during the period from April, 1967 to December, 1969. He also attested to the reliability of the Engineering News Record indexes of cost trends, and to the soundness of the procedures by which Stetson used the ENR construction cost index to update the value of Southwest's physical facilities (R.T. 1066-1068). Also, the Company asserts, ASCE Manual No. 45 (Ex. 20) confirms the rise in construction costs that has been occurring in the United States for many years, and also observes that "one of the best [studies of trends of construction costs]...[is] the Index of Construction Cost of the Engineering News Record" (Ex. 20, p. 34). The Company asserts, further, that to the extent Houck (the staff witness) was asked questions relating to this subject, his testimony provides further support for Stetson's "methodology, source material, and conclusions" (Op. Br., p. 68; R.T. 275-277; see also, color graph summarizing ENR indexes of cost trends, Ex. 122, pp. 66-67).

The Company (Op. Br., pp. 68-69) has made a detailed analysis, with exhibit and transcript references, of the methods used by Stetson, Howard, Sewall and Hannon in updating the several compensable components of the La Sierra System; i.e., physical facilities, water rights, land and land rights, and organization expense and going concern value.

In substance, Stetson determined what he considered to be the appropriate percentage cost increase (25 percent), and then recomputed the age and depreciation of the physical facilities to determine their value as of December 16, 1969, using a net percentage factor of 18 percent resulting from applying a depreciation rate of seven percent. Howard used the same technique to update the RCNLD figures derived by the Commission staff. The staff's figures, as adjusted by Howard, are included in the Summary of Adjustments in Exhibit 121 (R.T. 1221-1222). Hannon also utilized the same net percentage increase to update his figures from April, 1967 to December, 1969. The techniques used for updating the other components (water rights, real estate values, organization expense and going concern value) are sufficiently indicated on page 69 of the Company's Opening Brief and need not be detailed here.

At this point, we consider it appropriate, before discussing the staff's original cost rate base study (Ex. 3) and the City's capitalized earnings approach to total market value of Southwest's La Sierra System (Exs. 8, 134), to indicate our own opinion on the values of the compensable components of the Southwest and Daly properties in the La Sierra District, as of April 24, 1967 and December 16, 1969. We have tabulated those values in Appendix B to this decision, but will reserve for later treatment the question of severance damages.

Additional Studies

The Company urges that neither the staff's rate base study (Ex. 3) nor the two capitalized earnings studies prepared and presented by the City's financial consultants, Wainwright & Ramsey (Exs. 8, 134), should be accorded the same weight as the detailed appraisals of the individual components of the water system. All of those studies, the Company asserts, exclude from consideration assets of value which will be transferred to the City in connection with the condemnation, and insofar as those studies are affected by

rate base, they are predicated upon historical costs, which have little connection with fair market value especially at a time of steeply rising prices. To the extent that those studies are based on a capitalization of projected earnings - the argument continues - they are "necessarily indefinite and subject to considerable variation depending on the assumptions one makes." (Op. Br., pp. 70-71). This is perhaps best demonstrated, the Company asserts, by comparison of the two Wainwright & Ramsey reports, in which by varying multipliers the second report was able to contradict the first (Ex. 134, p. 4) and reach a value in 1969 lower than that derived in 1967, during a time of rising prices and a falling market (Op. Br., p. 71).

The Company, pointing to the fundamental differences between original cost rate base reflected in Exhibit 3 and the fair market value of the Southwest properties (Op. Br., p. 71-72), asserts that the rate base is of reduced significance to a private purchaser, "because of favorable tax consequences with respect to any amount paid in excess of rate base (R.T. 672-674), and is of no significance to a public entity purchaser, such as the City of Riverside, because the City is not subject to rate regulation by the Public Utilities Commission (R.T. 674-675)". Hence, the Company argues, "Exhibit 3 is of virtually no significance to the determination of fair market value in these proceedings."

The Wainwright & Ramsey studies of capitalized earnings, the Company urges, are of only slightly more value as these, too, fail to take into account, or to attribute any value to, property held for future use (R.T. 742-746), or to the blanket easement or inchoate water rights (R.T. 746). Also, the Company asserts, the earnings study excludes construction advances and contributions in aid of construction, despite the Company's ownership obligations for the latter (operation and maintenance expense, ad valorem taxes, replacements), and did not treat as indebtedness of any kind the

amount of $470,146.25, representing construction advances for the La Sierra System as of December 31, 1967 (erroneously indicated as "$430,146.25" in the Company's Opening Brief, p. 72 - cf. Ex. 8, Table 1; R.T. 166-167, 761-765).[16] Thus, the Company asserts, "this amount was in effect deducted from the Wainwright & Ramsey valuation, despite the fact that the City will acquire the facilities purchased with these advances", and that advances and contributions "offset asset values and they are a source of financing, and consequently they comprise part of the entity to be acquired. Therefore, they should be included in the over-all value of the company" (Op. Br., pp. 72-73, quoting from testimony by Dr. Schultz in rebuttal to the Wainwright & Ramsey studies, R.T. 1741).

The Company, analyzing other asserted defects of the Wainwright & Ramsey studies (Op. Br., pp. 73-76), urges that "a more balanced" application of the capitalized earnings approach is set out by Dr. Schultz.[17]

Schultz, making adjustments for what he considered to be the inadequate rate of the Company's return in the most recent year

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16/ Accounting procedures for construction advances and contributions are provided, respectively, in Accounts 241 and 265 of the Commission's Uniform System of Accounts for Water Utilities, Classes A, B and C. See, also, the Commission's Uniform Water Main Extension Rules, 60 CPUC 318 (1962), as amended, 69 CPUC 221 (1969).

17/ A study, in question and answer form with six attached exhibits - "Valuation of the La Sierra District Water System" - was presented for the Company by Dr. Robert E. Schultz, a professor of finance in the Graduate School of Business, University of Southern California. The attached exhibits include Dr. Schultz' qualifications and a number of tables and graphs. The study was mailed to the parties prior to its offer in the record on June 28, 1971 (R.T. 1725-1726). His written questions and answers on direct examination - but not the attached six exhibits - appear at R.T. 1726-1746 and include numerous references to the six exhibits. We consider it reasonable, at this point, to reopen the record for the sole and limited purpose of including Dr. Schultz' entire prepared direct testimony, with the attached exhibits, as Exhibit 149 in this proceeding. His live testimony, on cross and redirect examination, is at R.T. 1771-1809.

and the tax-free status of the Company upon acquisition by a public entity, and also treating as indebtedness construction advances and contributions in aid of construction, determined, using a "modified" capitalized earnings approach, that the market value for the La Sierra System for 1969 is $4,375,029, plus the value of water rights and the blanket easement, which are excluded from the rate base (R.T. 1742-1745). The Company asserts that if the capitalized earnings approach is to be given any consideration in the determination of market value in these proceedings, "plainly it is this application of the [capitalized earnings] approach which must be utilized" (Op. Br., p. 76).

The Company, finally, asserts that consideration of all the evidence points to a range of values for the combined Southwest and Daly facilities, as of April 24, 1967, between $5-1/2 million and $7 million, and that the range as of December 16, 1969 is between $6-1/2 million and $8 million. The Company has attached to its Opening Brief, as Appendices B and C, copies of the final summary pages of Stetson's study (Ex. 102) and of Hannon's study (Ex. 117). It urges that those figures are "eminently reasonable" and that the values submitted by the City are "unrealistic, incomplete, and unacceptable...and cannot in fairness or good conscience be used as a predicate for determining the just compensation to which Southwest is entitled for the involuntary relinquishment of its facilities and property to the City of Riverside" (Op. Br., p. 77).

The City submits that "a review of the complexities of this case and a searching analysis of the entire concept of public utility regulation dictates that you should give serious consideration to accepting the capitalized earnings approach as the most effective means of establishing just compensation" (Op. Br., p. 7). We have searched the City's briefs in vain for authority for that statement.

The meat of the City's argument on the capitalized earnings approach, in both its briefs, appears to be that as a private investor in regulated utility properties would only be interested in their earning power as reflected in their allowed rates of return, and would not be concerned with tangible or intangible property values, the value of a utility enterprise to its owner - as indicated by its earning power - should be considered as the sole criterion for determination of just compensation, "...as it is obvious that a private investor interested in a return on his investment is not going to pay anything other than original cost rate base or its substantial equivalent" (Op. Br., pp. 9-10).[18/] The City, in short, insists that the capitalized earnings approach is the only proper method by which to derive the fair market value of the La Sierra System, and that the opinions of its financial consultants, Wainwright & Ramsey, constitute the only acceptable conclusions on total market value to be found in this record. (The 1967 and 1969 capitalized earnings figures derived by Wainwright & Ramsey, shown in footnote 15, supra, in connection with the discussion of appreciated values, are: $1,935,318.83 (1967) and $1,682,867.94 (1969).)

We find no merit in the City's claim of propriety or superiority for the capitalized earnings approach or for the conclusions of its financial consultants on that element in this proceeding.

18/ The staff's depreciated and adjusted original cost rate base study of the La Sierra System, as of April 24, 1967, which includes an estimate, for rate-making purposes, of Southwest's net Daly Water Company investment ($36,183.96 - Ex. 3, pp. 2-5), derives a "modified" figure of $1,501,886 for original cost rate base, which is the lowest valuation figure exhibited in this record for the La Sierra District properties of Southwest and Daly (Ex. 3, pp. 2-11). That study, of course, does not include other tangible or intangible property normally considered to have value in just compensation proceedings.

Although the income theory of value may have merit for other purposes, its use as an approach to, or measurement of, just compensation to be paid for condemnation of utility properties, such as are involved in this case, has been considered by the Courts and by this Commission to be too uncertain, as compared to the approach of valuing the reproduction cost new, depreciated, of physical facilities plus land and intangible assets - the so-called "RCNLD approach". The latter approach, the Company concedes, also has "elements of uncertainty", but "the uncertainty is not nearly so great as that inherent in predicting and capitalizing the future earnings - the method so heavily relied upon by the City" (Reply Br., pp. 3-11, citing cases).

The Company has urged, as another reason for rejecting the capitalized earnings approach here, that "The preference under California law for a reproduction cost approach rather than a capitalized earnings approach is confirmed by the provisions of the new Evidence Code with respect to eminent domain proceedings" (Reply Br., p. 11, citing Evid. C. secs. 820, 819). Those sections, respectively, expressly authorize consideration of reproduction cost new, less accrued depreciation, of "existing improvements", if the improvements enhance the value of the property for its highest and best use (Sec. 820), but refuse to permit consideration of "the capitalized value of the income or profits attributable to the business conducted"

on improved property, allowing only consideration of the capitalized net rental value (Sec. 819).[19] The Company's argument on this point in our opinion has merit.

Finally, the Company, after an extended discussion of the City's arguments on the capitalized earnings question and its criticisms of Dr. Schultz' methods and opinions, urges that even if capitalized earnings were to be given some consideration in this case, the "disparate" conclusions of the two Wainwright & Ramsey studies could not be (Reply Br., pp. 12-17, citing cases).

IV. General Conclusions on Value Opinions

This record shows that the La Sierra Water System, since its acquisition by Southwest in 1956, has been serving water to an increasing number of customers in the La Sierra area and that the system and its facilities have been improved and expanded to meet the marked land and population developments that have occurred - and which this record shows are expected to continue - in the area of its operations. In short, the Company's La Sierra System, in our opinion, is a mature, well-managed water utility operation for the involuntary taking of which the Company is entitled to receive substantial payment.

This record, aside from presenting a number of legal issues which we have previously mentioned, contains a wealth of contradictory opinion and argument on virtually every aspect of valuing public

19/ The Company has referred to a discussion of Section 819 which appears in the 1966 Continuing Education of the Bar (CEB) pamphlet - "An Analysis of the California Evidence Code Provisions Relating to Evidence in Eminent Domain and Inverse Condemnation Proceedings" - from which it quotes the following (Reply Br., p. 12): "income or profits from the business conducted on the property being acquired cannot be capitalized to arrive at an opinion of value", and has referred, in that connection, to People v. Dunn, 46 C. 2d 639, 641. The Company states that though the Commission may not be bound by these provisions of the Evidence Code in this proceeding, the reasoning which underlies them is "fully applicable" and reinforces the recognition this Commission has given to the greater reliability of reproduction cost studies.

utility property faced with condemnation by a governmental agency. Indeed, in view of the substantial interests involved, it would be surprising if this case had been less vigorously - and imaginatively - presented than the record shows it to have been. We have carefully considered and weighed the value opinions and the arguments of counsel concerning the various properties exhibited in this proceeding, and have reached some conclusions as to the weight to be accorded to such opinions.

We recognize that a regulated public utility is seldom the subject of sale on the open market and, as a result, does not have a "market value" in the usual sense of that term. In consequence, if property has no such market value, its value when sought to be condemned, as here, becomes a question of real or actual value and every fact bearing upon such value may be shown; however, the "actual market value" is the measure, and not the value of the property in use to the owner or to the party seeking to condemn it - in this case the City of Riverside. In reaching our ultimate findings herein we have given due consideration to what is revealed by the entire record, as well as to those matters which, in our opinion, would be considered by the hypothetical "knowledgeable willing buyer and seller", as indicated earlier in this opinion.

Although present and potential earning power of a regulated public utility can affect its market value either positively or adversely, depending on a number of variable factors which we have considered and weighed in connection with the studies and testimony on that element in this record, we are of the opinion that "market value", or "just compensation", in this case should be approached by according greater weight and reliability to values represented by physical and intangible assets of the properties involved.

The range of value opinions on tangible and intangible compensable components - except for land - is quite extensive, as our discussion in the preceding portion of this decision indicates. We have given little weight to the Webb-Krieger RCNLD study (Ex. 7) because of its numerous omissions and obviously contrived results, and to the staff's original cost rate base study (Ex. 3) because of the emphasis in such a study - which we concede may have some value as a starting point for valuation - on historical rather than present day values. Greater weight has been accorded to the staff's RCNLD studies (Exs. 1, 2), adjusted, however, by Stetson's additive estimates for contractor's overhead for material purchases and a markup for in-place installations. Stetson's general approach to RCNLD values (Ex. 102), however, seems reasonable, and though we consider his ultimate RCNLD results somewhat high we have given his study considerable weight. Hannon's values for physical facilities (Ex. 117), based on his unorthodox "dollars-per-service" approach - for which there appears to be little justification except to place a high figure in this record - has been given only minimal consideration and weight in reaching our own conclusions.

No special comment seems necessary in connection with bare land values or the value of specific easements outside the blanket easement, as the respective opinions on those elements are in rather close agreement. The blanket easement, however, presents an intangible element we find difficult to evaluate on this record. The range of opinion here extends from Ross' view of "zero", "nominal" or "some" value (to the City, however) and Comstock's opinion that such an easement has value for "economy", on the low side, to the opinions of Sewall, Stetson and Hannon, indicated earlier, on the high side. To the extent that projected future income - or "savings" - have been estimated or capitalized from the three uses claimed by the Company for its blanket easement (i.e., quitclaims, specific retained easements and relocation rights), we question both the

certainty of those estimates and the propriety and reasonableness of accepting such substantial values (projected from present record facts) for the blanket easement as were found by Sewall and Stetson, and especially those derived from Hannon's "simple" method. We consider, however, that the Company's blanket easement has elements of value that would invite the thoughtful attention of a knowledgeable purchaser of the La Sierra System properties. Accordingly, we have included what we consider to be an appropriate value for the blanket easement in our opinion of the value of land and land rights.

Concerning water rights, we have considered that a knowledgeable buyer of the La Sierra Water System would realize the relatively poor quality of the Arlington Basin groundwater supply, as well as the basin's declining productivity and current unadjudicated status, in deciding what he would pay for the system's properties. We have also considered that Stetson's water rights valuation, based on comparable sales in a period of rising prices for water rights in Southern California, is a more reliable indication of market value than his alternative source derivations, even under standard valuation methods, and is certainly more reliable than the contrived "basic system" alternative source method used by Carroll to reach his excessively low value figure of $35,000, which the City argues should really have been "zero". We also have considered that as the basin's groundwater supply is in overdraft and is decreasing and that imported water prices are shown to be rising, the possession of pumping histories, for which protective annual reports have been filed with the Water Resources Control Board, would undoubtedly be considered by a knowledgeable buyer to have substantial value. Such a buyer, in our opinion, would also consider that the City has acquired pumping - or "prescriptive" - histories in the same general area as the La Sierra System at unit prices (per acre-foot) not substantially different from those shown by Stetson's testimony.

Finally, with regard to the components of organization expense and going concern value, on which the City presented no evidence, we see nothing unreasonable in Stetson's approach to valuing the former on the basis of cost data for usual organization expenses, and the latter on accepted valuation standards that give effect to maturity of the Company's La Sierra System in an area which this record shows to be undergoing a substantial suburban development and increase in population. We consider Hannon's higher values for those intangible elements, derived by different methods, to be subject to the same uncertainties and untested (on this record) valuation procedures inherent in his "high-value" opinions on physical facilities and the blanket easement, and to have been placed in this record primarily as support for his total market value figure of $8,047,245, as of December 16, 1969 (Ex. 117), which is the highest total market value estimate in this record.

With respect to increased values between April, 1967 and December, 1969, we see nothing unreasonable in the methods used by Stetson, Howard and Sewall in deriving their conclusions on such increases. There can be no doubt, as this record shows, but that pronounced price appreciation - which continued to the point of triggering executive economic controls in 1971 - was occurring over that two and two-third year period. Accordingly, and being aware that the propriety of including appreciated values in the initial award in this case may not be free from doubt, we have considered, nevertheless, that fairness to the Company, as well as to the City, justifies inclusion of what we think is an appropriate addition to our 1967 value figures for determination of the market value of the properties as of December 16, 1969.

V. Severance Damages

The severance damage issue arises, as has been noted in the early portion of this opinion, from the City's claim that it is not seeking here to acquire the Daly Water Company properties, and the Company's assertion that those properties not only were

included in the City's Resolution and Petition, but also are integrated and used with Southwest's facilities to supply water throughout the La Sierra System.

The measure of severance damages, as we have noted earlier, is the net value of the property not taken. The record shows that Daly has no significant liabilities (Ex. 130), and that value opinions on its tangible and intangible assets (over which Southwest has 100 percent control through its ownership of Daly's stock) were given by all witnesses called by the Company who expressed an opinion on value. We have previously noted the lack of any substantial showing by the City or the Commission staff on the value of the Daly facilities, except to the minor extent revealed by Carroll's water rights study (Ex. 6) and Brown's original cost rate base report (Ex. 3).

Accordingly, we are of the opinion that if the City does not acquire the Daly properties the Company will be entitled to severance damages in an amount we consider to represent the market value of those properties. This record does not disclose any salvage values or offsetting special benefits that might be urged by the City to reduce severance damages.

VI. Commission's Findings on Just Compensation and Severance Damages

1. Just Compensation

The Commission, having considered this record and having weighed the opinions and conclusions of the several witnesses and arguments of counsel concerning the value of the La Sierra District Water System of Southwest Water Company, situated in Riverside County, California, hereby finds that the just compensation, as of December 16, 1969, which said Southwest Water Company is entitled to be paid for the taking, by eminent domain or otherwise, by the City of Riverside, California, of the lands, property and rights comprising said La Sierra District Water System, is the sum of $5,541,000.

2. Severance Damages

Should the City of Riverside not take the lands, property and rights of Daly Water Company, a corporation, we find that the just compensation, as of December 16, 1969, which said Southwest Water Company is entitled to be paid, as severance damages for the City's failure to take said properties, is the sum of $247,000.

3. Total Just Compensation and Severance Damages

The total just compensation and severance damages, as of December 16, 1969, which Southwest Water Company is entitled to be paid for the taking by the City of Riverside of the lands, property and rights comprising its said La Sierra District Water System, is the sum of $5,541,000.

No order is necessary.

Made and filed at San Francisco, California, this 12th day of SEPTEMBER, 1972.

President

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

Show Cause Hearing (June 15 before Examiner DeWolf; July 25, 1967 before Examiner Cline).
Cyril M. Saroyan, Attorney at Law, for the Commission staff (June 15, 1967); also (July 25, 1967) Leland J. Thompson, Attorney at Law, for City of Riverside; Howard M. Downs, Attorney at Law, and Walker Hannon, for Southwest Water Company; Gustave B. Weck, for the Commission staff.

Opening and Subsequent Hearings in Main Proceeding (before Examiner Gregory).
(March 4, 1969) Leland J. Thompson, Attorney at Law, for City of Riverside; Howard, Prim, Smith, Rice & Downs, by Howard M. Downs and Stuart R. Pollak, Attorneys at Law, and Walker Hannon, for Southwest Water Company; William C. Bricca, Attorney at Law, for the Commission staff.

Additional appearances; (December 16, 1969) Bruno A. Davis, for the Commission staff; (February 16, 1970) Best, Best & Krieger, by Arthur L. Littleworth, Attorney at Law, for Desert Water Agency, Joshua Basin County Water District and Albert A. Webb Associates, interested parties.

Oral Argument on Motion to Dismiss Proceeding (June 4, 1970).
Additional appearance: Howard, Prim, Smith, Rice & Downs, by Stephen Tennis, Attorney at Law, for Southwest Water Company.

APPENDIX B

Commission's Value Opinions - Compensable Components of Southwest Water Company's La Sierra District Water System as of April 24, 1967 and December 16, 1969

Compensable Components	April 24, 1967		December 16, 1969	
	Southwest Water Co.	Daly Water Co.	Southwest Water Co.	Daly Water Co.
Physical Properties	$3,000,000	$ 73,000	$3,540,000	$ 86,000
Water Rights	800,000	120,000	857,000	142,000
Land and Land Rights	500,000	10,000	571,000	10,000
Organization Expense and Going Concern Value	290,000	8,000	326,000	9,000
Totals	$4,590,000	$ 211,000	$5,294,000	$ 247,000