

STATE OF NEW YORK
CONSERVATION DEPARTMENT
DIVISION OF WATER POWER AND CONTROL



WATER POWER AND CONTROL COMMISSION
Water Supply Application No. 2189-B

SPRING VALLEY WATER WORKS AND
SUPPLY COMPANY

Eighth Application

SECOND MODIFYING DECISION

OFFICIAL RECORD

TO REMAIN IN THE CUSTODY OF THE WATER POWER AND CONTROL COMMISSION

State of New York
Department of Conservation
WATER POWER AND CONTROL COMMISSION

Water Supply Application No. 2189-B

In the Matter of the Application

- of the -

SPRING VALLEY WATER WORKS AND
SUPPLY COMPANY

for the approval of the acquisition of land and the construction of a dam for an impounding reservoir in Rockland County, New York.

Eighth Application

SECOND MODIFYING DECISION

Application filed	September 26, 1951
Original decision	July 23, 1952
Modifying decision	June 2, 1953
Second Modifying decision	March 1, 1955

2189-B

SECOND MODIFYING DECISION ON WATER SUPPLY APPLICATION NO. 2189

PROCEEDINGS

Henry L. deForest, Vice President of the Spring Valley Water Works and Supply Company, acting in the name and on behalf of that company, on September 26, 1951 filed an application with the Commission for approval of the plans of said company for the acquisition or taking of an additional water supply, the taking or condemnation of lands for such new source of water supply and of the construction proposed in connection therewith. This application was approved by the Commission on July 23, 1952. Thereafter by a supplementary decision dated June 2, 1953, the Commission modified the requirements contained in Condition A of the original decision to extend the time within which proceedings were required to have been started before the Regulatory Agencies of New York and New Jersey for approval of a plan to finance the project.

Among the paragraphs contained in the original decision was a further condition which reads as follows:

- "C. Proceedings for the acquisition of lands stated in "B" above shall not be started before and must be started within six months after approval of the proposed plan of financing the project by the Regulatory Agencies of New York and New Jersey. Within two years after such approval or at the latest by June 1, 1956 the applicant must have submitted to this Commission evidence that these lands already have been acquired or that proceedings leading to such acquisition are still pending. This date will be extended by the Commission only upon application and for good cause shown."

On January 3, 1955 the Spring Valley Water Works and Supply Company filed a petition, duly verified, by George H. Buck, its President, requesting an extension to June 1, 1955 of the time limit within which proceedings must be started for the acquisition of the land for the reservoir project as provided in the above mentioned Condition "C".

After due notice to all parties to the original proceeding on this application, a hearing was held on this latest request before John C. Thompson, Executive Engineer of the Commission, in the Rockland County Court House in New City, on January 19,

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1955 at 10:00 o'clock in the forenoon. At this hearing the Commission considered the said request and heard testimony thereon. The applicant was represented by LeBoeuf, Lamb and Leiby (Craig Leonard, Esq., of counsel); The Rockland County and Clarkstown Anti-Reservoir Association appeared by Stephen G. Doig, Jr., Esq., its attorney. The town of Clarkstown appeared by Edward G. Roepe, Esq., Town Attorney. Donald G. Partridge, Esq., appeared for Edna G. Collins, a property owner.

After due study of this request and of the testimony thereon given at the hearing the Commission finds as follows:

FINDINGS OF FACT

1. In the matter of approval of the proposed plan of financing this project by the Regulatory Agencies of New York and New Jersey, the Public Utilities Commission of New Jersey acted last and concluded its proceedings with a favorable decision on July 20, 1954. Previously thereto the New York Public Service Commission had acted favorably on the plan.
2. The time limit contained in Condition C thus expired on or about January 20, 1955 unless extended by the Commission.
3. Progress since July 20, 1954 in the acquisition of property was slow because the company allegedly has desired to negotiate in every instance rather than proceed with condemnation. These negotiations for various reasons were time consuming.
4. At the time this request for modification of Condition C was filed some 100 parcels of land already had been acquired for the reservoir site but there remained about 60 additional parcels still to be acquired by the company.
5. The company then deemed it desirable to carry on negotiations for the acquisition of these 60 remaining parcels and, therefore, requested the extension of time for compliance with Condition C.
6. However, by January 19, 1955 the date of the hearing on this request, the company had started condemnation proceedings to acquire all of the remaining parcels of land. This action, nevertheless will not preclude the continuation of negotiations for them.
7. Even though the requirements of Condition C now appear to have been complied with, the company still desires an extension of time in this matter to guard against any possible procedural defects which it claims could delay the entire project.

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8. An extension of time imposed by Condition C of the Commission's decision of July 23, 1952 should be granted.

DETERMINATION

Therefore, Condition C of the original decision of July 23, 1952 can be and hereby is revised to read as follows:

- C. Proceedings for the acquisition of lands stated in "B" above shall not be started before approval of the proposed plan of financing the project has been obtained from the Regulatory Agencies of New York and New Jersey. Thereafter such proceedings must have been started by June 1, 1955 and by June 1, 1956, the applicant must have submitted to this Commission evidence that these lands already have been acquired or that the proceedings leading to such acquisition are still pending. These dates will further be extended by the Commission only upon application and for good cause shown.

In all other respects the said decision shall remain as originally written.

MODIFYING DECISION

WHEREFORE, the Water Power and Control Commission does hereby modify the decision on the said application of Spring Valley Water Works and Supply Company as requested.

IN WITNESS WHEREOF, the Water Power and Control Commission has caused this determination and modification to be signed and has caused its official seal to be affixed hereto and has filed the same with all maps, plans, reports and other papers relating thereto in its office in the city of Albany, this 1st day of March, 1955.

WATER POWER AND CONTROL COMMISSION

Louis A. Welle
Conservation Commissioner - Chairman

Carl H. Hain
Assistant to the Chief Engineer,
Dept. of Public Works, Alternate

Attest:

John H. Thompson
Secretary to the Commission

Edward J. Ryan
Assistant Attorney General, Alternate

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