

is then — a public utility being under consideration — an investment to be assumed in that intangible element, the water-right.

Sometimes by reason of local development and high values of riparian lands and an already established use of the stream flow for power, the cost of settling with the riparian owners and of eliminating adverse use of the water may be large. At other times the situation is such that equally good rights to use water may be secured without any cost except the cost incident to the construction of the project features and the acquisition of the necessary lands and rights of way.

Water-Rights have Value. — The fact that in the first case it will have to be conceded that the owner of the public utility is entitled to have the cost of the water-right which he holds made a part of the rate-base and that at least to the extent of cost (reasonable and actual proper cost being assumed), this water-right has or should be made to have value, justifies the public in concluding that the other water-right which has cost nothing should have a similar value, whether the same be made a part of the rate-base or not. Water-rights, then, are to be regarded as having market value. When the water is developed and is actually being put to use or when the need of putting the water to beneficial use is proximate, the existence of such value is easily recognized. When an investment has been necessary to quiet title to adverse rights and to meet other expense of securing the water-right, the propriety of including its cost in the rate-base is unquestioned.

Water-right Value in the San Joaquin and Kings River Canal Case. — The Supreme Court of the United States in "San Joaquin and Kings River Canal and Irrigation Co. *vs.* The County of Stanislaus" (233 U. S. 458) in reference to the fundamental principle of taking the value of water-rights into account when rates are to be fixed, says, in its decision reversing the decree of the lower court:

"By a statute of March 12, 1885, the boards (of County Supervisors) are authorized to fix these rates for their several counties, but so that the returns to the parties furnishing the