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Superior Court of California
County of Los Angeles

DEC 09 2016

Sherri R. Carter, Executive Officer/Clerk

By E. Garcia, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CITY OF CLAREMONT, a general law city,

Plaintiff,

vs.

GOLDEN STATE WATER COMPANY, a
California corporation; DOES 1-1000; and
ALL PERSONS UNKNOWN CLAIMING AN
INTEREST IN THE PROPERTY,

Defendants.

Case No. BC 566125

STATEMENT OF FINAL DECISION

RULING ON CITY'S COMPLAINT IN EMINENT DOMAIN:

This is a right-to-take proceeding filed under California's Eminent Domain Law. The City of Claremont seeks to take from Golden State Water Company, an investor-owned water utility, those assets used by Golden State to deliver water to subscribers in the Claremont service area and to use those assets to operate a City owned water system in the same service area.

The Court finds that Golden State, through evidence introduced during a 21-day bench trial, has rebutted the presumptions established by Eminent Domain Law for the taking of its property for use as a municipal water utility. Golden State has rebutted the statutory presumption that the City's taking is "a more necessary use." CCP sections

1 1240.650(c) and 1240.610. Golden State has rebutted the statutory presumptions that “the
2 public interest and necessity require the project” and that “the project is planned...in the
3 manner that will be most compatible with the greatest public good....” CCP sections
4 1240.030(a) and (b). Golden State has rebutted the presumption that the taking of its
5 business software for customer billing and record keeping “is necessary” for the
6 condemnation project. CCP section 1240.030(c).

7 The Court shall find for Golden State and shall dismiss the City’s First Amended
8 Complaint in Eminent Domain.

9
10 **OVERVIEW OF CITY’S ACTION IN EMINENT DOMAIN:**

11 Defendant Golden State Water Company (“Golden State”) is an investor-owned,
12 PUC-regulated water utility that is the sole provider of water to 11,000 subscribers (or
13 service “connections”) within the City of Claremont and to about 300 subscribers outside the
14 City. The water service serves over 35,000 people. Its subscribers include residences,
15 businesses, educational institutions, churches and charitable non-profit organizations, and
16 governmental agencies.

17 The City of Claremont (“City”) has initiated this legal action to take by eminent
18 domain the assets owned by Golden State that are used to provide water in Claremont (and
19 to the 300 subscribers outside its borders). The assets that the City seeks to acquire from
20 Golden State include water wells, adjudicated water rights, 10 reservoirs, tanks, booster
21 pumps, 150 miles of underground pipelines, other infrastructure, real properties, and
22 business systems used to deliver water (collectively referred to as “the Claremont Water
23 Assets”).

24 The City, if it is successful in acquiring the Claremont Water Assets, intends to use
25 the Assets to operate a municipally-owned water system to sell water from the same
26 sources to subscribers in the same service area. The City itself does not have experience
27 in operating a water system, so the City has entered into a contract with the City of La
28 Verne, an adjacent city and the operator of its own municipal water system, to manage the

1 water system for Claremont for five years. Claremont will pay to La Verne all expenses plus
2 a ten percent fee for its operation of the Claremont water system.

3 The City offered Golden State the sum of \$56,335,000 for its Claremont Water
4 Assets before it filed this action. (Exh. 228-1.) Golden State rejected the offer. Golden
5 State filed its answer to the First Amended Complaint in Eminent Domain raising objections
6 to the City's right to take Golden State's property. Where the right to take is contested, the
7 Court is to "hear and determine all objections to the right to take." CCP section
8 1260.120(a).

9 The Court conducted a bench trial over 21 days on the eminent domain issues,
10 receiving evidence on June 14-16, 20, 21, 23, 24, 27-30, July 1, 6-8, 11-15, 2016 and
11 hearing final arguments on August 11. Twenty-six witnesses gave testimony (two by
12 deposition), and more than 250 documentary exhibits were received into evidence.

13 If the City prevails in this trial, there will be a second phase trial to determine the fair
14 compensation the City must pay to Golden State to acquire the Claremont Water Assets.

15 At this trial, attorneys Kendall MacVey, John H. Holloway and Christopher M. Pisano,
16 of the law firm Best Best & Krieger LLP, represented plaintiff City of Claremont, and
17 attorneys George M. Soneff, Edward G. Burg and Dinesh R. Badkar, of the law firm Manatt,
18 Phelps & Phillips, LLP, represented defendant Golden State Water Company.

19
20 **STATUTORY REQUIREMENTS FOR PUBLIC TAKING OF PRIVATE WATER UTILITY:**

21 The Court in this Statement seeks to apply the statutory requirements for eminent
22 domain to the circumstances of this case.

23 The case is governed by California's Eminent Domain Law, Code of Civil Procedure
24 (herein "CCP") sections 1230.010 through 1273.050. "The power of eminent domain may
25 be exercised to acquire property only for public use." CCP section 1240.010. Four findings
26 must be made to uphold a public entity's claim to exercise eminent domain powers. Three
27 of the findings are required by CCP section 1240.030, providing:
28

1 The power of eminent domain may be exercised to acquire property for a
2 proposed project only if all the following are established:

3 (a) The public interest and necessity require the project.

4 (b) The project is planned or located in the manner that will be most compatible
5 with the greatest public good and the least private injury.

6 (c) The property sought to be acquired is necessary for the project.

7 And, additionally, the statutory scheme provides that a governmental taking of property that
8 is already "appropriated to the public use" must be "a more necessary public use." CCP
9 section 1240.610 provides:

10 **[A public entity]... may exercise the power of eminent domain to acquire for**
11 **that use property appropriated to public use if the use for which the property is**
12 **sought to be taken is a more necessary public use than the use to which the**
13 **property is appropriated.**

14 CCP section 1240.650(a) provides that where a public entity seeks to take privately owned
15 property that is appropriated to public use, the public entity's use of the property is
16 presumed to be a "more necessary use." However, that presumption is rebuttable if the
17 public entity seeks to take property from a water public utility and intends to use the property
18 for the same purpose. CCP 1240.650(c) provides:

19 **Where the property which has been appropriated to a public use is ... water**
20 **public utility property which the public entity intends to put to the same use,**
21 **the presumption of a more necessary use established by subdivision (a) is a**
22 **rebuttable presumption affecting the burden of proof...**

23 The parties agree that Golden State is a water public utility. (A water public utility is
24 defined in CCP section 1235.193.) The parties agree that the City intends to use the Water
25 Assets that it takes from Golden State for the same use, namely, to deliver water to
26 subscribers in the Claremont service area. Golden State, therefore, may offer evidence to
27 rebut, and may prevail against, the City's assertion that its use of eminent domain to take
28 the Claremont Water Assets is "a more necessary public use" for those Assets. Golden

1 State may also offer evidence to rebut the presumption that the findings required by CCP
2 section 1240.030 have been established. CCP section 1245.230(b).

3 Nonetheless, the statutory presumptions favoring the City's exercise of eminent
4 domain affect the parties' proof burdens. Evidence Code section 606 provides: "The effect
5 of a presumption affecting the burden of proof is to impose upon the party against whom it
6 operates the burden of proof as to the nonexistence of the presumed fact." The burden of
7 proof thus imposes on Golden State the duty to introduce competent evidence to show—by
8 a preponderance of the evidence—the nonexistence of the presumed fact. Evid. Code
9 sections 115 and 500. Golden State's burden to overcome the presumptions favoring the
10 City, therefore, includes showing that it is more likely true than not true that the City's
11 acquisition of the Claremont Water Assets is not "require[d]" by "public interest and
12 necessity" and is not "a more necessary public use."

13 The order of proof is also altered by the statutory presumptions. Because Golden
14 State has the burden of rebutting the statutory presumptions, Golden State at trial presented
15 its evidence first, after which the City presented its case.

16 In 1992, the Legislature added CCP sections 1240.650(c), 1245.250(b) and
17 1245.193 to require that the condemnation of a private electric, gas or water utility be for "a
18 more necessary public use" (and to make that presumption rebuttable), and the legislative
19 history indicates the provisions were intended to strengthen with statutory authority the
20 ability of private utilities to oppose public acquisition through eminent domain. (The Court
21 takes judicial notice of the legislative history of the 1992 amendment, adopted as Senate Bill
22 1757, as requested in Golden State. See, Golden State RJN, filed July 19, 2016.)

23 The statutes do not provide guidance to interpret the phrase "a more necessary public
24 use" as used in CCP sections 1240.610 and 1240.650(c). However, the statutory phrase
25 "more necessary" can only be interpreted to require a comparison. The Court interprets the
26 statutory phrase "a more necessary public use" to require that the Court make a comparison
27 (based on the evidence provided at trial) between Golden State's actual operation of the
28 Claremont water system and the City's proposed operation of the same water system. The

1 City agreed to this interpretation, saying in a trial brief: "What the City will present at trial is a
2 comparison between the status quo of Golden State ownership as a regulated private utility
3 corporation with the City's proposed public ownership as a municipality." (City reply trial brief,
4 filed 6/8/16, 4:26-27.)

5 Under the Eminent Domain Law "a more necessary public use" sufficient to justify the
6 condemnation is initially presumed. However, to decide whether Golden State has met its
7 burden to rebut that presumption, the Court is required to consider all of the evidence to
8 weigh the benefits of municipal operation against the benefits of Golden State's operation of
9 the water system. Golden State, in short, must rebut the statutory presumption that the
10 benefits from municipal operation outweigh the benefits of the present operation of the water
11 system.

12
13 **RESOLUTIONS OF NECESSITY DO NOT TO STATE FACTUAL REASONS FOR**
14 **EMINENT DOMAIN:**

15 The City wants to appropriate Golden State's assets so that the City can be the water
16 provider in the Claremont service area. The statutory presumptions for eminent domain are
17 established by, and as of the date when, the public agency adopts resolutions of necessity.
18 CCP sections 1245.220 and 1245.230

19 The City Council adopted Resolutions of Necessity on November 25, 2014
20 (Exhs. 1300, 1301) and, again, on June 23, 2015 (Exhs. 1002, 1003). The Resolutions
21 recite the necessary findings for eminent domain required by statute. See, CCP section
22 1240.030. The Resolutions do not provide any factual findings for a taking of a privately-
23 owned and operated water public utility.

24 A city in adopting resolutions of necessity to condemn private property for public use
25 is engaging in a quasi-legislative act, and, for that reason, its governing body is not required
26 to make factual findings to support its exercise of eminent domain. *Anaheim*
27 *Redevelopment Agency v. Dusek* (1987) 193 Cal.App.3d 249; *Santa Cruz Redevelopment*
28 *Agency v. Izant* (1995) 37 Cal.App.4th 141, 150.

1
2 The City's original complaint, filed on December 9, 2014, did not list any reasons to
3 support its taking of the Claremont Water Assets. Only in the First Amended Complaint (the
4 operative complaint), filed June 24, 2015, did the City list reasons for the City's taking. The
5 FAC gives these reasons:

6 7. In response to a number of factors, including longstanding public concern
7 about GOLDEN STATE's escalating water rates; the significantly higher water rates
8 paid by ratepayers in the Claremont Water System as compared to neighboring
9 jurisdictions (including rates as much as four times the rates of the lowest
10 neighboring provider); lack of local control over water rates, service,
11 expenditures, and policy; lack of responsiveness and accountability of GOLDEN
12 STATE to concerns of the inhabitants and constituents within the Claremont
13 community; the lack of transparency in the operation of the Claremont Water
14 System, the CITY OF CLAREMONT began exploring the potential acquisition of the
15 Claremont Water System.
16

17 Even this enumeration is not represented to be a complete list of reasons for the
18 City's acquisition of the Claremont Water Assets. The City's attorneys in the course of this
19 litigation discovered facts that they added at trial to the reasons for eminent domain.
20 Golden State in discovery produced the ALDA Report (Exh. 440), a consultant's report hired
21 by Golden State that recommended the company undertake infrastructure improvements,
22 for instance, to increase reservoir capacity, and the City's attorneys (and its witnesses) then
23 argued those recommendations as among the reasons for the City's exercise of eminent
24 domain powers to take the Claremont Water Assets. These recommendations for water
25 system improvements were not known to the City Council, however, when it adopted the
26 Resolutions of Necessity.

27 The City, in its post-trial brief, offered a list of 12 "project objectives" for eminent
28 domain, saying such were "outlined" in the City's 2006 General Plan (Exh. 1016-326), the

1 City's EIR (Exh. 229-009) "and as testified to by City officials and experts." See, City's
2 Proposed Statement at 3:11-14. These sources do not inform the Court of any factual
3 findings upon which the City Council relied—and which Golden State is required to rebut—
4 in adopting the Resolutions of Necessity. The trial testimony given by the City's experts and
5 officials cannot tell the Court what were the priorities of the City Council. The EIR does not
6 speak to what the City Council sought in the Resolutions of Necessity. The 2006 General
7 Plan provides a baseline description for the City's infrastructure in 2006, devoting a half
8 dozen of its 623 pages to describing the water system operated by Golden State.

9 **A. The "Administration Record."**

10 The City argues that factual reasons for the City Council's adoption of the
11 Resolutions of Necessity are to be found in the "administration record." (City Obj./STD, filed
12 11/23/16, pp.4-5, 9, 22, 24-25, etc.) The Court was first advised of this "administrative
13 record" by the parties' Stipulation re City's Prima Facie Case filed on June 15, 2016. The
14 parties, therein, agreed the City would lodge a collection of documents, saying: "It is the
15 practice in eminent domain court trials for condemning public entities to present a prima
16 facie case. As part of the prima facie case, the City will lodge a certified Administrative
17 Record, identified as Exhibit 1001, with the Court." The Exhibit 1001 lodged with the Court
18 was a compact computer disc (CD ROM), not a paper exhibit. No index was provided for
19 the CD. The City, on November 23, filed a "Second Notice of Lodging Certified
20 Administrative Transcript." The index accompanying this Second Notice identified the
21 "administrative record" to include 300 different documents that were prepared between 2003
22 and 2014 and comprising 13,856 pages.

23 The Court during the trial received into evidence many of the documents that are
24 listed in the index to the "administrative record." (See trial trans., 7/15/16 p.m., p. 29:4-6.)
25 But the Court did not receive the entire "administrative record" into evidence. The Court, in
26 this case, was required to conduct a trial rather than a mandamus proceeding. An
27 administrative record is appropriate for a mandamus proceeding under CCP sections 1085
28 (traditional mandamus) or 1094.5 (administrative mandamus), but it is unnecessary in a trial

1 because in a trial each party may offer relevant documents into evidence. The Court was
2 required to conduct a trial rather than a hearing because it must “hear and determine all
3 objections to the right to take” and the Court may, as happened here, “set such objections
4 for trial.” CCP section 1260.110(b).

5 An administrative record is not required nor typical for the trial of a dispute arising
6 from a quasi-legislative act. *Anaheim Redevelopment Agency v. Dusek, supra*. The City
7 cited *Redevelopment Agency of City of Chual Vista v. Rados Bros.* (2001) 95 Cal.App.4th
8 309, 318, as requiring the Court to receive the “administrative record” into evidence. (City
9 Br., filed 7/5/16, p. 4:1-6.) The issue in Rados was whether the agency’s adoption of
10 resolutions of necessity was a gross abuse of discretion because the redevelopment plan
11 would provide an incidental benefit to a private party. In Rados the condemnee did not
12 have the right to challenge the statutory presumptions that favor condemnation. The Rados
13 Court allowed the agency to offer into evidence in support of the agency’s adoption of
14 resolutions of necessity a “report prepared for the hearing” by the City staff to support a
15 finding that the redevelopment plan was for the public benefit. There are no similar facts
16 here. The City did not offer any evidence to establish that the documents comprising the
17 “administrative record” were before the City Council, or its staff, when the Council adopted
18 the Resolutions of Necessity.

19 The City, furthermore, did not follow administrative record procedures. A party is
20 required to cite to appropriate pages of the administrative record to support its legal
21 argument. See, e.g., LASC Local Rule 3.231(i)(2). The City provided no citation to any
22 document in its “administrative record” at any time during or after the trial for any purpose.
23 The Court after a trial during which both parties had opportunity to present documentary
24 evidence is not required to review a CD displaying more than 13,000 pages to look for
25 reasons that could support the Resolutions of Necessity adopted by the City Council. The
26 Court assumes the City put all documents relevant to that issue into evidence at trial.

27 ///

1 **B. Issue of First Impression**

2 The present case interprets a unique statutory scheme. Golden State is authorized
3 by statute to offer evidence that rebuts the presumptions favoring the City's taking of Golden
4 State's property for the same use by eminent domain. The statutory right given to Golden
5 State should imply an obligation on the City's part to disclose the specific factual reasons
6 upon which the City's elected Council relied to enact the Resolutions of Necessity. That is,
7 said more broadly, when a private utility is given a statutory right to rebut the presumptions
8 favoring a taking for public ownership, there should be a requirement, implied by the
9 statutory right, that the governing body of the public entity shall make factual findings to
10 support the taking so that the private utility may know what case it must rebut. The Court's
11 examination of the eminent domain statutes and case law, however, do not appear to
12 require that disclosure, and the Court, therefore, will endeavor to address the diverse
13 reasons offered by the City in its operative complaint and at trial for the taking of Golden
14 State's property.

15
16 **THE "PROJECT" DOES NOT INCLUDE POSSIBLE WATER SYSTEM IMPROVEMENTS:**

17 The City's witnesses testified that, if the City acquired the Claremont Water Assets by
18 eminent domain, it would have the opportunity to make capital investments to improve the
19 water system. The City's witnesses testified that the following capital improvements could
20 be possible once the City exercised eminent domain to acquire the Claremont Water
21 Assets: improved fire flow pressure in Claremont's Claraboya area; increased reservoir
22 capacity; getting more water from existing wells and new wells; reducing the number of
23 pressure zones; creating facilities for use of recycled water; and improving rainwater
24 catchment at Thompson Creek Spreading Grounds.

25 These proposals for improvements (and any others) are irrelevant because they are
26 not part of the "project" that is the purpose for the proposed condemnation of the Claremont
27 Water Assets. The statutory scheme requires the public agency to define the "project" for
28 which it seeks to take property. CCP sections 1240.030(a), (b) and (c). The City has

1 defined the project in its Resolutions of Necessity as the “public ownership, operation, and
2 maintenance of the Claremont Water System to provide water service to the public
3 (hereinafter, the Project).” (Exhs. 1002, 1003). The City’s final EIR states that no new
4 facilities or expansion of operations are proposed as part of the Project (Exh. 229-89, -125, -
5 233, -236, -237 and -244) and that “the City intends to step into the shoes of [Golden State]
6 and to provide the same exact service to all connections that [Golden State] currently
7 serves.” (Exh. 229-249.) The City, thus, defines the “project” to be acquisition and
8 operation of the water system “as is.”

9 Any consideration that the City might invest public funds to improve the service, if it is
10 not contained in the project description, is speculative and would bias the issue to be
11 determined—whether the taking of the “project” is for “a more necessary public use”—in
12 favor of the public entity to the detriment of the private interest. See, *City of Stockton v.*
13 *Marina Towers LLC* (2009) 171 Cal.App.4th 93.

14 The City appears to be arguing that the water system will be improved because
15 public ownership will assure greater investment in the water system. The City officials,
16 however, disavow making any such plan for greater investment. The record is
17 uncontradicted that the City has not planned, and is neither proposing nor promising, any
18 new or different capital investments in the water system. (Ramos, 6/15/16, 138:2-9; 176:17-
19 177:11) The City Manager testified that the City has no plan to build new water system
20 facilities or to change operation of the water system even if it is successful in this eminent
21 domain action. (*Id.*) And the City, while highlighting its support for sustainability projects,
22 like making greater use of recycled water, did not indicate it has any plans to expend public
23 funds to bring such projects into existence.

24 The City’s attorney argued that, after the City takes over the water system, and
25 operates it for a while to learn how it functions, then the City will decide what improvements
26 to make in the system to further the City’s goals. (MacVey arg., 8/10/16.) This argument is
27 antithetical to the finding the Court must make under CCP section 1240.650, subd. (c)
28 because it does not argue on the basis that City ownership of the Claremont Water Assets

1 “as is” will be “a more necessary public use” than continuing Golden State’s stewardship of
2 those Assets.

3 The Court, therefore, in deciding this case must disregard the testimony from City
4 witnesses that municipal ownership of the water system would trigger investment that might
5 advance the City’s goals. Such speculative evidence, in the Court’s view, is irrelevant to the
6 issues the Court must decide, especially whether the public interest and necessity require
7 “the project” and whether City’s taking of the existing water system will “as is” serve “a more
8 necessary public use.”

9 Post-trial the City has asserted that the evidence it offered that infrastructure
10 improvements could be made in the Claremont water system was merely for the purpose of
11 rebutting Golden State’s evidence that the Claremont water system as currently operated is
12 exceptional. (City Obj. to STD, pp. 23-24, 26, 27, etc.) The Court does not recall the City
13 putting any such limitation on that evidence. The City’s comments, however, confirm that
14 the City is not proposing infrastructure improvements as a benefit of eminent domain. To
15 the extent such infrastructure improvements that were recommended by the City’s
16 witnesses may be called “deficiencies” in Golden State’s operation of the present water
17 system, the City is not proposing to remedy those deficiencies. It has no plans to do so.
18 Therefore, the evidence that additional investment would improve the operation of the
19 Claremont water system is irrelevant to the issue of whether condemnation is “required” for
20 “the public interest and necessity” and is “a more necessary public use.” Moreover, the City
21 Council when it voted for the Resolutions of Necessity was unaware of any need for any
22 additional investment in the water system because the City’s attorneys say that the
23 deficiencies were only revealed to the City through discovery taken after the complaint was
24 filed. For this additional reason, the evidence offered at trial by the City of the need for
25 further infrastructure investment in the Claremont water system is irrelevant: the
26 presumptions established by the City Council’s adoption of the Amended Resolutions of
27 Necessity in June, 2015 did not presuppose the need for any changes in the Claremont
28 water system.

1
2 **DEFENDANT ESTABLISHES THAT THE CITY'S OWNERSHIP DOES NOT ASSURE**
3 **THE DELIVERY OF SAFE AND RELIABLE WATER IN THE CLAREMONT SERVICE**
4 **AREA:**

5 Golden State challenges the City's right-to-take on the basis that Golden State's
6 operation of the Claremont water system is demonstrably superior to the City's planned
7 operation with respect to water safety and reliability. Golden State argues that the "public
8 interest and necessity" does not "require" the City's exercise of eminent domain to take
9 Golden State's property; nor that the City's taking is "a more necessary public use."

10 Should this eminent domain action succeed, the City will hire the City of La Verne to
11 operate the Claremont water system. (Exh. 330.) The City's contract with the City of
12 La Verne to operate the Claremont water system assigns to La Verne operational control
13 over all aspects of "water system operation, maintenance, finance and capital investments."

14 Therefore, with respect to safe and reliable water, a comparison can be made:
15 Golden State's operation of the Claremont water system can be compared to La Verne's
16 prospective operation of the same system. And, because La Verne operates its own
17 municipal water system, an objective comparison can be made: Golden State's actual
18 record in Claremont can be compared with La Verne's actual record in operating its
19 neighboring municipal water system.

20 Golden State is a subsidiary of American States Water Company, a public company
21 traded on the New York Stock Exchange. Golden State has a single business: delivering
22 safe and reliable water to subscribers in the water systems it owns (at a profit). Golden
23 State owns 17 water systems in Southern California (and 39 state-wide). Golden State's
24 water systems that are nearest to Claremont are San Dimas, San Gabriel, Arcadia and four
25 water systems in Orange County. (Exh. 1416-0002.) Golden State's headquarters office in
26 Southern California is in San Dimas, 10 miles west of Claremont. Golden State has 14
27 employees working in Claremont and serving the Claremont water system; and it maintains
28 a customer service office in Claremont staffed by two employees that is responsible for

1 handling bill payments and dealing with customer inquiries and complaints. Golden State
2 also maintains a call center in Anaheim that is available around the clock 365 days a year to
3 respond to water system emergencies.

4 Golden State because of its size and its specialized and regulated business has
5 personnel who provide specialized services and training to each of its water systems.
6 Golden State provides training to its personnel in monitoring, testing, and maintaining safe
7 water standards. Golden State requires that its water quality control employees receive 35
8 hours of training each year in water safety and water testing. Water safety is a critical issue:
9 contaminated water is a health hazard.

10 The City does not assert, and does not offer evidence to show, that Golden State's
11 performance in delivering safe and reliable water to Claremont subscribers is deficient in
12 any way. Golden State, therefore, has rebutted any presumption that the delivery of safe
13 and reliable water makes condemnation of the Claremont Water Assets "a more necessary
14 public use."

15 Golden State also challenges the City of La Verne's track record with respect to
16 water safety in two particulars: its performance of water quality testing as required under the
17 State-mandated Lead and Copper Rule (LCR); and its reporting of lead exceedance results
18 in the Consumer Confidence Reports. The evidence, as summarized below, is not disputed.

19 Lead may be introduced into the body through household drinking water. Lead may
20 leach into the drinking water as it passes through corroded pipes in older homes to
21 household facets. Lead is a neurotoxin that is retained in the body and is a particular risk to
22 children and pregnant women. The State mandates that water utilities test for the presence
23 of lead in houses built before 1986 (in which year lead-containing water pipes were
24 outlawed). The lead test requires that tap water samples be taken from a certain number of
25 connections in older residences. The samples are measured for the presence of lead. The
26 test is failed if the lead content from the lowest 90th percentile sample exceeds 15 parts per
27 billion. The California Department of Public Health ("CDPH") may then require the water
28 provider to take various corrective actions including adding anti-corrosives in the water

1 supply, testing more frequently, and conducting a public education campaign to advise
2 subscribers of the health risk.

3 Lead Tests. Evidence offered at trial described La Verne's difficulties in obtaining
4 acceptable lead test results over the last ten years. The evidence at trial, which the Court
5 will only summarize here, is that La Verne passed the lead test in 2006 by invalidating 11
6 from the total number of samples; passed the lead test in 2009 only by submitting
7 resamples in 2010; and failed the lead test in 2012. The CDPH issued a notice of violation
8 to La Verne, ordering La Verne to complete a public education program, to conduct a
9 corrosion control study and to test more frequently. (Exh. 287.) La Verne hired an outside
10 consultant and learned from the consultant that low pH levels in reservoirs was suspected to
11 contribute to lead leaching into drinking water. (Exh. 290-2.) La Verne was taken off the
12 "watch list" by the State Water Resources Control Board in June of 2016 (on the first day of
13 the trial). (Exh. 1438-0001.)

14 Golden State proposed this finding in a post-trial brief: "Given La Verne's selective
15 resampling of lead test results from various sites in 2006 (which allowed La Verne to pass
16 the lead test in 2006) and in 2010 (which allowed La Verne to pass the lead test in
17 2009/2010), and the failures to pass the lead test in 2009 and twice in 2012, residents of La
18 Verne [in houses built before 1986] were exposed to unsafe levels of lead in drinking water
19 from August 31, 2006 through June 24, 2013, nearly seven years." (Golden State Proposed
20 Findings, filed 8/5/16.) The Court agrees to that finding.

21 On water safety, there is a dramatic difference between Golden State and La Verne.
22 Golden State operates 39 water systems state-wide. Golden State has never failed or been
23 cited for failing a lead exceedance test in any water system it operates. The website
24 maintained by the California Department of Public Health (CDPH) shows that La Verne has
25 never had a lead test (measuring lead results at the lowest 90th percentile) as good as
26 Golden State's worst result in testing Claremont water. (Exh. 608 [Claremont] v. Exh. 609
27 [La Verne].) As stated in Claremont's 2006 General Plan: "Potable water provided by
28

1 Golden State to Claremont has consistently met federal and state standards.” (Exh. 1016-
2 0328.)

3 Consumer Confidence Reports. State regulations require water companies to mail
4 annual water quality reports to all customers in their service area. (Exh. 605-110; Vagnozzi
5 6/16/16, p. 172.) The state regulations contain detailed requirements for the contents of the
6 consumer confidence reports and require the water systems file a separate certification with
7 the State attesting that the information in the distributed consumer report is correct and
8 consistent with the compliance monitoring data that was submitted to the State. (22 CCR
9 section 64483(a) and (c); Exh. 605-110.) There were material misrepresentations in La
10 Verne’s consumer confidence reports for 2010, 2011, 2012, 2013 and 2015.

11 La Verne’s 2010 consumer confidence report inaccurately reported the 90th
12 percentile results (at 13 parts per billion, that is under the legal action level of 15 parts per
13 billion, while the actual results were 24 parts per billion). Moreover, the number of sites that
14 exceeded the action level of 15 parts per billion was seven but the consumer confidence
15 report advised that no sites had exceeded the action level. (See, summary of 2009 tests
16 and 2010 retests of La Verne Lead Results, Exh. 677-2 and La Verne 2010 Consumer
17 Confidence Report, Exh. 267-2.)

18 La Verne’s submission to the State in 2011 showed that three sites had results that
19 exceeded the action level for lead of 15 parts per billion, while the 2011 consumer
20 confidence report advised that no sites had exceeded the action level. (Vagnozzi letter
21 dated February 17, 2011 and La Verne Lead Test Results, Exh. 284; and La Verne 2011
22 Consumer Confidence Report, Exh. 268-2.) The 2012 consumer confidence report advised
23 the residents of La Verne that no sites had exceeded the action level for lead, but in fact
24 three sites exceeded the lead action level. (Vagnozzi letter dated February 17, 2011 and
25 La Verne Lead Test Results, Exh. 284; and La Verne 2012 Consumer Confidence Report,
26 Exh. 269-2.)

27 La Verne’s 2013 consumer confidence report told the residents that zero sites
28 exceeded the action level for lead when in fact La Verne’s most recent lead test results

1 conducted in December, 2012 showed a 90th percentile lead level of 28 parts per billion and
2 showed that 13 sites exceeded the action level for lead of 15 parts per billion. (Vagnozzi
3 letter dated January 28, 2013 and La Verne 2013 Lead Test Results, Exh. 289-6; and
4 La Verne 2013 Consumer Confidence Report, Exh. 270-2.) La Verne's 2015 consumer
5 confidence report incorrectly represented that 19 sites had exceeded the action level for
6 lead; and, separately, misrepresented the action level for lead as 2 parts per billion. (La
7 Verne 2015 consumer confidence report, Exh. 272-2; and La Verne Consumer Confidence
8 Report Certification Form, Exh. 276.)

9 E. coli and Consumer Confidence Reports. Test results disclosed E.coli, the most
10 dangerous fecal coliform, in La Verne's drinking water supplied to 180 households in
11 February, 2011. La Verne issued notices to the affected residents to boil their water. The
12 CDPH's notice of violation cited two violations: (1) more than 5% of the samples taken from
13 the La Verne water system in February, 2011 were coliform positive; and (2) two repeat
14 samples taken in February, 2011 were E. coli positive. (Exh. 301-1, 2.) These were both
15 violations of the State drinking water regulations. La Verne personnel believed that its water
16 had been stored in certain reservoirs and mains for too long, leading to nitrification of the
17 drinking water. La Verne conducted tests in-house but a consultant discovered that more
18 than 15% of the nitrite tests were inaccurate because they reported negative values (an
19 impossibility). La Verne corrected the problems with the water nitrite levels in July, 2011. La
20 Verne, however, misreported the E. coli episode in its 2012 consumer confidence report.
21 The report should have stated that there were two positive samples for E. coli, not one, and
22 that the presence of E.coli was a Maximum Contaminant Level (MCL) violation. (E. coli has
23 never been found in any water system operated by Golden State.)

24 La Verne under its contract with the City of Claremont will be required to hire, train
25 and supervise employees to operate the Claremont Water Assets should the City succeed
26 in this action. La Verne is to "[m]anage and supervise all Operator employees and
27 contractors who provide services in connection with the Claremont Water System." La
28 Verne, significantly, will "[c]onduct all required water quality testing and submit test results to

1 the appropriate Government Authorities” and “[p]repare and distribute Consumer
2 Confidence Report as required by Applicable Law.” (Exh. 330-7.)

3 La Verne is not as qualified as Golden State to maintain the safety and reliability of
4 water provided in the Claremont service area. The City did not at trial offer evidence to
5 explain La Verne’s errors in testing and reporting lead exceedances and the E. coli episode
6 in La Verne’s drinking water nor any practices that La Verne has put in place to avoid such
7 mishaps in the future. The Court is particularly concerned about the misreporting on the
8 consumer confidence reports because the repeated failure to accurately report bad results
9 suggests concealment and that in turn suggests inattention by supervisory personnel to
10 accurate reporting to the public.

11 The Court is further concerned that two water systems, serving adjacent
12 communities, as do Golden State in Claremont and La Verne, and obtaining water from the
13 same sources, can have such divergent readings on lead exceedance tests. The Court
14 would expect that, if water quality were its top priority, La Verne would have investigated
15 and discovered why its lead test results are so border line under state standards; and have
16 corrected that problem long ago.

17 Possibly the quality problems experienced in the La Verne water system will not
18 spread into Claremont should the La Verne personnel assume operational control of the
19 Claremont Water Assets. However, the persons who were in charge in La Verne will be
20 responsible for hiring, training and supervising the La Verne employees who will operate the
21 Claremont water system.

22 Golden State is the superior operator of the Claremont water system compared to
23 La Verne with respect to water quality, safety and reliability. This is true, even apart from
24 La Verne’s recent test and reporting discrepancies, because Golden State has greater
25 expertise in water management, familiarity with the Claremont water system and provides
26 continuing training to its personnel on water quality issues.

27 The Court will dismiss the complaint because Golden State has proven that the City’s
28 plans for operation of the Claremont water system do not provide adequate assurance that

1 it will maintain water quality, safety and reliability in the Claremont service area at the level
2 now provided by Golden State.

3
4 **DEFENDANT REBUTS ANY PRESUMPTION THAT PUBLIC OWNERSHIP WILL LOWER**
5 **THE WATER RATES IN THE CLAREMONT SERVICE AREA:**

6 The City designated its City Manager as the "person most knowledgeable" regarding
7 any plans the City has for providing water service to water users of the Claremont Water
8 District if the Claremont Water Assets were acquired by eminent domain. (Ramos 6/15/16,
9 p. 73.)

10 The City Manager testified at trial that the possibility of lower water rates under
11 municipal ownership did not make the City's acquisition of Claremont Water Assets "a more
12 necessary public use."

13 **"Q. My question is, is an expected decrease in water rates a factor that makes**
14 **it necessary for the City to acquire the water system.**

15 **"A. No."** (Id. p. 116, also 153.)

16 The City Manager testified that lower water rates were not likely to be realized from the
17 City's exercise of eminent domain over the Claremont Water Assets. He said that he had
18 never represented to the Council or the public that water rates would be reduced as a result
19 of the City's taking of the Claremont Water Assets. (Id., pp. 75-77.)

20 Golden State, therefore, has rebutted any statutory presumption that lower water
21 rates "require" the acquisition of the Claremont Water Assets or make condemnation of the
22 Claremont Water Assets "a more necessary public use." Because water prices will be
23 higher, Golden State has rebutted any statutory presumption that the taking "will be most
24 compatible with the greatest public good and the least private injury."

25 The City, nonetheless, appears to make the argument that eminent domain is
26 required because Golden State's water rates, when compared to those in neighboring cities
27 with municipally-owned water systems, are unreasonably high. That is alleged in the First
28 Amended Complaint, wherein the City said that a factor favoring eminent domain was a

1 “longstanding public concern [about] the significantly higher water rates paid by ratepayers
2 in the Claremont Water System as compared to neighboring jurisdictions....” The City’s
3 counsel, in his opening statement, told the Court that eminent domain was justified, in part,
4 because Golden State charged its Claremont subscribers more than did neighboring
5 municipally operated water systems. The City introduced a chart that showed for five cities
6 the “average customer cost (20 CCF) in 2014-2015” as follows: Claremont (\$88.96);
7 La Verne (\$65.96); Pomona (\$52.68); Upland Water Company (\$46.10); and San Antonio
8 Water Company (\$20.20). (Exh. 1285-0001.)

9 The Court is uncertain as to the intended relevance of the customer cost
10 comparisons. Golden State’s water rates are set by the PUC for all water systems operated
11 by Golden State in Region 3. (Claremont is one of nine water systems that Golden State
12 operates in Region 3.) Rates charged to Claremont subscribers are set, in part, to permit a
13 return on the investment that Golden State has made in all of its service areas in Region 3.
14 Claremont subscribers, it could be argued, are paying water rates that allow Golden State to
15 earn a return on its capital investment in service areas outside of Claremont. (That
16 argument is rebutted by Exh. 1242-0003, as discussed later.)

17 But, if that is the City’s argument, other factors that may affect the water price
18 differentials even between even neighboring cities should be considered.

19 The City’s comparison ignores the fact that water consumption in Claremont per
20 average customer historically has been higher than in neighboring cities (and in Region 3).
21 (Exh. 692 and 504; Ramos test., 6/16/16.) If Claremont customers receive more water on
22 average, their water costs on average will be higher.

23 The City’s comparison also ignores the fact that the water systems will have different
24 cost structures and, for that reason alone, different water rates. Golden State, for instance,
25 replaces underground pipeline on a schedule, spending an average of \$1.3 million over the
26 last ten years for pipeline replacement, which is reimbursed through its rate structure. (Exh.
27 135-203 to 135-207.) The City of La Verne does not replace its underground pipeline
28 except upon wear-out, so its costs for pipe replacement alone are about \$1.3 million less

1 per year than Golden State's. The City's comparison water rate chart is unreliable and,
2 thus, irrelevant in an eminent domain trial unless comparison cost data is also provided for
3 the lower-priced water districts.

4 The City, in any event, appears to be making an argument that is inconsistent with
5 the testimony of its City Manager, to wit., that lower rates are not predicted and are not a
6 factor to support a finding that the exercise of eminent domain is "a more necessary public
7 use." But, whatever the relevance of the average cost per water customer, the City does
8 not identify and quantify the factors that affect the differential in water costs to make an
9 apples-to-apples comparison.

10
11 **DEFENDANT REBUTS ANY PRESUMPTION THAT PUBLIC OWNERSHIP WILL**
12 **RESULT IN GREATER CAPITAL INVESTMENTS IN THE CLAREMONT WATER**
13 **SYSTEM:**

14 The City, according to its City Manager, has no plans to make capital improvements
15 in the water system if the City is successful in acquiring the system through eminent
16 domain. (Ramos, 6/15/16, pp. 125, 134-136, 138.) A need for capital investment, therefore,
17 does not "require" the acquisition of the water system nor make public acquisition "a more
18 necessary public use."

19 The City, nonetheless, called Michael Thornton to testify as an expert witness.
20 Thornton testified that, if the City acquired the water system, he would recommend that the
21 City invest \$6.9 million over two or three year period to improve the performance of the
22 water system. To be specific, Thornton recommended installing pumps at the Pomello
23 Reservoir, making improvements at the Mountain Avenue Pump Station and upgrading the
24 Claraboya booster pump, and constructing a reservoir in the northeast area of the City and
25 another at Johnson Pasture. (Thornton test., 7/11/16.) Thornton suggested that the funds,
26 or a portion of the funds, needed to finance the investments could be borrowed at low
27 interest rates from the State of California. It is difficult for the Court to determine how
28 Thornton's testimony is relevant. He is suggesting capital improvements that the City

1 Manager testified that the City has no plans to undertake and is implying that the cost of
2 such improvements can be funded by further borrowing that can be repaid through higher
3 water rates charged to Claremont's subscribers. (Thornton testified he had no knowledge
4 about how the capital improvements he recommended would affect the water rates. Nor did
5 any other witness provide that information.)

6 The improvements recommended by Thornton are not within the "project" as defined
7 by the Resolutions of Necessity (and as required by CCP section 1240.030). The
8 improvements do not exist and, therefore, are not among the assets the City seeks to take
9 (or pay compensation for) by eminent domain. The improvements, according to the City
10 Manager's testimony, are not a reason that City ownership of the water system is "a more
11 necessary public use." The Court finds Thornton's testimony, and similar testimony by other
12 witnesses, has no relevance to the legal issues to be decided on the Complaint in Eminent
13 Domain.

14
15 **BOND FINANCING TO ACQUIRE THE WATER SYSTEM WILL INCREASE WATER**
16 **RATES, ASSUMING THE SAME LEVEL OF CAPITAL INVESTMENT IN THE WATER**
17 **SYSTEM:**

18 If this eminent domain action succeeds, the City intends to finance its purchase of the
19 Claremont Water Assets through the issuance of 30-year revenue bonds "payable only from
20 the water system's revenues." Claremont voters approved this finance mechanism by
21 passing advisory Measure W on the ballot on November 4, 2014. Measure W (Official
22 Sample Ballot, Exh. 1425) reads:

23 **Shall the City of Claremont be authorized to issue water revenue bonds up to**
24 **\$135 million to pay for acquisition of the Claremont Water System and**
25 **incidental expenses payable only from the water system's revenues?**

26 With 52% of Claremont voters voting, Measure W passed with 71.9% of the vote. (The 300
27 subscriber households in the Claremont service area but outside the City did not vote on
28 Measure W.) The Impartial Analysis of Measure W provides, in part, as follows:

1 **The City Council ... is considering the acquisition of a water enterprise system**
2 **and intends to use the revenue generated by the system to issue bonds to pay**
3 **the acquisition price.... The City's analysis shows that the system may**
4 **generate enough revenue to issue bonds up to \$80 million. [] [If the bond**
5 **amount is \$135 million] the estimated increase to a fixed capital charge of the**
6 **water rate on the average single family residence within the service area of the**
7 **Claremont Water System would be approximately \$28 per month, or \$336**
8 **annually. [] After bonds are issued, actual future water rates and charges**
9 **could increase or decrease during the repayment period beyond the City's**
10 **estimate. These changes could occur as a result of several factors, including**
11 **the cost of water, infrastructure repairs and costs of operation and**
12 **maintenance of the system. Water rates and charges will also vary on**
13 **consumer consumption.**

14 Arguments for and against Measure W were also included on the ballot. (Exh. 1425.)

15 Both parties called expert witnesses at trial to project the cost of revenue bond
16 financing over a 30 year period and, thus, the impact the debt financing would have on
17 water rates paid by subscribers in the Claremont service area through the year 2046. But
18 the City argued that the financial feasibility of using debt financing for the acquisition is not
19 an issue and is irrelevant, saying "The financial feasibility, i.e. the City's ability to finance the
20 acquisition of the Claremont Water System through the issuance of bonds, is irrelevant to
21 whether the City has a right to take the property." The City argued that the impact of the
22 debt service on water rates is irrelevant because the purchase price for the Claremont
23 Water Assets is unknown at present and will be determined only in a subsequent jury trial;
24 and because the City retains the right to decline to proceed with the acquisition if it
25 considers the price fixed by the jury as too high. CCP section 1268.510. (City's Brief re
26 Financial Feasibility Opinions, filed 6/27/16, p.2.)

27 Golden State argues, to the contrary, that the issue of whether water rates must be
28 increased to retire the bond financing for the City's acquisition goes to the determination of

1 whether the acquisition is “a more necessary public use” and is required by the “public
2 interest and necessity.”

3 Just compensation is not an issue that is to be considered or decided in a right-to-
4 take trial. CCP section 1260.110. The cost of acquiring the Claremont Water Assets is
5 raised here because, under the unique circumstances of this case, the proposed bond
6 financing will throw the burden of paying for the acquisition on the water rate payers rather
7 than on the City’s taxpayers. The parties—the City and Golden State both—argue that the
8 impacts of the acquisition on the rate payers is a significant determinant to whether the
9 acquisition through eminent domain serves the “public interest and necessity” and is “a
10 more necessary public use.”

11 The evidence in this case is that a majority of the City’s voters approved bond
12 financing and expressed their willingness, as rate payers, to pay significantly more in water
13 rates to fund an acquisition of the Claremont Water Assets through eminent domain. The
14 Court concludes, based on that evidence, that it cannot find that a projected increase in
15 water rates to pay for the public acquisition of the water utility in itself rebuts a presumption
16 that the acquisition is “a more necessary public use.”

17 The Court can make several findings based on the extensive evidence that it heard
18 regarding the financial feasibility of the City’s use of bond financing to fund the acquisition of
19 the Claremont Water Assets.

20 The expert evidence offered at trial establishes that the City can feasibly use revenue
21 bond financing to fund the acquisition of the Claremont Water Assets.

22 The bond financing will increase the water rates in the Claremont service area
23 beyond their current level, even if the acquisition price is not more than the \$56,300,000
24 previously offered by the City. The Court is persuaded by the testimony and analysis given
25 by Stephen Peters and Dr. Michael Hanemann that the debt service cost, even assuming a
26 \$56.3 million purchase price, will require increased water rates over 30 years.

27 The Court’s conclusion that bond financing will increase water rates depends in part
28 on the assumption that the City, as the owner of the municipal water system, will continue

1 Golden State's level of investment in the water system including replacing depreciated
2 facilities and making new investments as needed.

3
4 **DEFENDANT REBUTS ANY PRESUMPTION THAT A "SPECTRUM OF BENEFITS"**
5 **SUPPORTS ACQUISITION OF AN INVESTOR-OWNED UTILITY BY EMINENT DOMAIN:**

6 There is, the City contends, a "broad spectrum of benefits that can only be
7 realized ... through the City's acquisition and operation of the Claremont Water System."
8 (City's Proposed Statement, filed 8/5/16, 17:21-23.) The City describes these benefits
9 under the rubric "local control" and idealizes such "local control" as providing greater
10 transparency, local accountability, greater responsiveness, etc. The City's specification of
11 what such benefits are varies, and the Court, to obtain a definitional structure, has relied on
12 the allegations in the Complaint in Eminent Domain that list the problems the City seeks to
13 address through eminent domain. The problems that local control will mitigate are alleged
14 in the FAC, para. 7 (quoted ante p. 7) as follows:

15 "escalating water rates";

16 "lack of local control over water rates, service, expenditures, and policy";

17 "lack of responsiveness and accountability of GOLDEN STATE to concerns of the
18 inhabitants and constituents within the Claremont community";

19 "the lack of transparency in the operation of the Claremont Water System."

20 The Court has considered the evidence as to whether any such problems exist, and,
21 if so, to what degree, and whether Golden State has introduced evidence sufficient to rebut
22 a presumption that existence of such problems makes condemnation "a more necessary
23 public use."

24 Many of the problems identified by the City stem from the PUC's regulation of Golden
25 State's operations. The City thus complains of "the lack of local control over water rates,
26 services, expenditures and policy." The City's argument seems to contrast "local control"
27 with the procedures of the California Public Utilities Commission (PUC) in exercising
28 regulation over Golden State.

1 The PUC is an independent agency of the State of California. Golden State must
2 apply to the PUC to establish rates that it may charge to subscribers and must justify its rate
3 application by identifying assets that are used and useful to deliver water in specific service
4 areas. The PUC authorizes rates to permit a return on investment and to cover operational
5 expenses. The PUC, for its administrative convenience, requires a rate application to
6 include all water systems operated by Golden State in identified geographical regions. The
7 City of Claremont is located in Region 3, and, as a result, the PUC sets a rate structure to
8 provide a return on investment for the nine water systems owned by Golden State in
9 Region 3. The current allowed rate of return is 8.34 percent, but Golden State, through
10 operational efficiencies, may earn a higher return. Golden State's rate applications are
11 processed at the PUC's offices in San Francisco and hearings on rate applications are
12 usually held before a hearing officer or one of the commissioners sitting in San Francisco.
13 The paperwork submitted in support of rate applications are public documents, and the
14 hearings are public hearings. The City of Claremont has authorized its attorneys to
15 intervene in the rate setting process for Golden State's Region 3 for the past 15 years. The
16 rate applications submitted by private utilities may be challenged by the Office of Ratepayer
17 Advocates (ORA), an internal division of the PUC staffed by experts in the various types of
18 utilities. ORA describes its statutory mission as follows: "To obtain the lowest possible rate
19 for service consistent with reliable and safe service levels. In fulfilling this goal, ORA also
20 advocates for customer and environmental protections." (Exh. 99-2) ORA presents
21 informed opposition to applications for rate increases. The City's experts agree that ORA is
22 effective in challenging rate applications that are not justifiable.

23 Utility rates that are approved by the PUC are defined by statute as "just and
24 reasonable charges." Public Utilities Code section 451.

25 California has experienced a state-wide drought over the past decade. The PUC and
26 local water districts, including cities with municipally owned water systems, have responded
27 with various measures to reduce water usage, and these measures have been successful in
28 reducing water consumption substantially in many communities. The PUC has an ability to

1 encourage water reduction by a means that is not available to municipal water systems.
2 Without regard to cost variations, the PUC can allow water utilities that it regulates to
3 impose a tiered water usage charge so that large water consumers pay more for water after
4 exceeding specified volumetric levels.

5 The Court will now turn to a discussion of the evidence relating to the "spectrum of
6 benefits" that the City believes supports its acquisition of the Claremont Water Assets by
7 eminent domain.

8
9 **A. WATER PRICES PAID BY CLAREMONT SUBSCRIBERS:**

10 "Escalating Water Rates".

11 Water rates in the Claremont service area have, in fact, escalated in the past 10
12 years. What are the reasons? There is no evidence that Golden State did, or did not do,
13 something that caused the price escalation. The price escalations were caused, so far as
14 the evidence reveals, by extrinsic factors.

15 Golden State purchases nearly 40% of the water it supplies in the Claremont service
16 area from the Metropolitan Water District ("MWD"). MWD's charges for water have doubled
17 in the last ten years. (See, Exh. 1284-0006, from \$453 per acre foot in 2006 to \$942 in
18 2016.) Water that Golden State obtains from local wells is considerably less expensive than
19 MWD water, and Golden State obtains 60% of its water from local wells. Golden State has
20 maximized the water it can obtain from well sources, given the adjudicated rights that apply
21 (see Exh. 626) and the operating safe yield needed to protect future availability. Ben Lewis,
22 General Manager for the Foothill Region, testified:

23 **Q. Does Golden State have any practice with regard to the amount of**
24 **groundwater versus imported water that's used in Claremont?**

25 **A. Yes. We have a general practice in terms of how we operate the system.**

26 **Q. And what is that, sir?**

27 **A. What we do is that we maximize the groundwater system first. So the**
28 **system is designed such that it will employ any well that's available and put**

1 **that into the system first to meet the customer's demand. □ Imported water**
2 **supplements that supply.** (Lewis, 6/24/16, pp. 67-68.)

3 The City did not offer contrary evidence; the City Manager testified he does not know
4 whether the City will use more well water if the City should acquire the Claremont Water
5 Assets. (Ramos, 6/15/16, p. 141.)

6 Another cause for price escalation may be surcharges that are authorized by the
7 PUC to even out revenues in periods of falling water consumption. Such surcharges are
8 known as rate adjustment mechanisms (RAM); the surcharge imposed on water rates is
9 known as WRAM (water rate adjustment mechanism). The additional burden of WRAM
10 surcharges on a typical water bill is minimal. A water bill for a Claremont subscriber for the
11 billing period September 17-October 16, 2013, was entered into evidence as Exh. 515.
12 (The Court assumes the water bill is typical; no other water bill was introduced.) Exh. 515
13 showed the following charges:

14 Service Charge	\$16.15
15 Tier 1 – Water Usage –	\$15.58
16 CARW Prog Adm Surcharge	\$0.41
17 2011 WRAMMCBA Surcharge	\$1.49
18 2012 WRAMMCBA Surcharge	\$1.43
19 GRC Surcharges	\$0.40
20 CPUC Fee – 1.5% of \$35.46	\$0.53
21 City Tax – Claremont 5.5% of \$35.46	\$1.95
22 TOTAL CURRENT CHARGES	\$37.94

23 The City, should it operate a municipal water system, could eliminate the surcharges, but
24 their elimination would not significantly reduce the water cost to the average customer. The
25 surcharge, in any event, is not intended to be permanent. Its purpose, according to the
26 City's expert witness, Steven Weissman, is so "revenue will be the same regardless of level
27 of sales." (Weissman, 7/8/16 p.m., p. 84.)

1 The City mischaracterizes the WRAM surcharge as a “penalty” which is imposed
2 because the particular customer has reduced water usage. WRAM more accurately is
3 described as a temporary fee that is assessed against all customers when falling water
4 usage reduces the system revenues below that deemed appropriate by the PUC. The
5 surcharges would not likely cause “escalating prices” because the WRAM is relatively small
6 and would be more than offset, for most customers, by reduced water consumption and,
7 thus, lower total charges for water usage.

8 Another cause for price escalation may be tiered rates that are authorized by the
9 PUC to discourage high consumption of water during drought periods. Tiered rates
10 increase the unit price of water for consumption amounts that exceed specified levels.
11 Golden State, with PUC authorization, has imposed 3-tiered pricing in the Claremont water
12 system, and the tiered rates, and other conservation measures, appear to have reduced
13 water consumption substantially. Should the City acquire the water system, tiered rates
14 would end because cities are not allowed to impose differential rates for utility services, at
15 least without showing how it costs more to provide water to higher users. However, the
16 significant point is that the City at trial did not criticize tiered rates nor argue that it wanted to
17 acquire the Claremont Water Assets to end tiered rates.

18 There is no evidence that Golden State has been enriched through escalating prices.
19 Golden State’s authorized rate of return from the Claremont water system has remained in
20 the 8-9% range over the past decade. Golden State’s profit comes from earning an allowed
21 rate of return on invested capital, and operating efficiencies, rather than directly from price
22 increases.

23 Golden State has rebutted any presumption of “a more necessary public use” or that
24 the public interest and necessity “require” the project because the City’s acquisition will
25 cause an end of escalating water price increases. And, as noted elsewhere, the City’s
26 acquisition through eminent domain will necessarily increase subscriber water rates from
27 today’s level in order to service and pay down the bond indebtedness that the City will incur
28 to purchase the Claremont Water Assets.

1 High Water Prices.

2 Golden State's water system serving Claremont has been built from a collection of
3 separate water systems that Golden State acquired (even into the 1980s) and then
4 integrated together. (Gisler, 6/21/16 a.m., pp.18-27.) The system needs and can be
5 improved through targeted capital investment. (See, Exh. 440.) The cost of capital
6 improvements is passed on to the subscribers through higher water rates. Golden State
7 through computer modelling can predict the likelihood of pipeline fatigue but it has chosen to
8 maintain rather than replace some older pipelines to avoid imposing a higher burden on
9 rates. (Gisler, 6/21/16 a.m., pp 40-53; Exh. 135-003, Pipeline Management Program.)
10 There has been a high number of pipeline leaks in Claremont due to the age and condition
11 of buried pipe. (Exh. 16; Traffas 6/23/16, pp. 18-20.) And pipeline leaks will cause some
12 water loss.

13 The City is correct that Golden State's water rates are higher than those in nearby
14 municipal water systems. The City's acquisition plans, however, do not include a reduction
15 in the water rates. A principal cause for the high water rates is the level of Golden State's
16 investment in the Claremont water system, particularly its investment in replacing older
17 underground pipeline. Golden State has invested \$23 million in the Claremont system in
18 the past ten years, with half of that amount, an average of \$1.3 million per year, being used
19 to replace underground pipeline. (Exh. 675 shows the dramatic difference between Golden
20 State's investment in the Claremont system and La Verne's investment in its system over a
21 ten year period.) Golden State replaces one percent (about 1.5 miles) of its pipeline each
22 year, basing its decisions on a computer modeling program (known as KANEW). (The
23 Los Angeles Department of Water and Power's KANEW model calls for replacement of four
24 percent of its underground pipe each year.) La Verne, a neighboring municipal system,
25 does not replace underground pipeline as scheduled maintenance, and thus does not need
26 to pass on that cost in its water rates. The City has not argued that a reason for eminent
27 domain is its intention to reduce water rates by skipping pipeline replacement in the
28

1 Claremont water system. Capital improvements will be required in the years ahead to
2 maintain optimal efficiency in the Claremont water system.

3 The evidence suggests another reason for higher water rates. In 2011, the PUC
4 authorized 3-tiered water rates to discourage high water consumption, thus impacting water
5 rates in Claremont users. (Claremont, the Court was told, has reduced its water usage by
6 36%.)

7 The City does not argue that municipal ownership will reduce the water rates, and,
8 therefore, Golden State has rebutted any presumption that the City's acquisition is "a more
9 necessary use" or is "required" by the public interest and necessity to obtain lower
10 subscriber rates.

11 Confusion about Water Bills.

12 Several City witnesses testified that Claremont subscribers have complained to City
13 employees that they do not understand the Golden State bills, particularly as to the
14 surcharges. The PUC has authorized Golden State to impose a WRAM surcharge due to
15 the fact that reduction in water usage has affected the rate of return on the fixed costs
16 dedicated to the Claremont water system. The Court, however, does not conclude that
17 confusion about bills, without documentation of the number of complaints or specification of
18 the nature of the problem, is a factor that supports the City's use of eminent domain to
19 acquire a private water company.

20 Customer service likely will decline should the City acquire Golden State. The City
21 intends that customer calls outside business hours shall be routed to the police call desk.
22 Golden State, in contrast, maintains a 24 hour customer call center, staffed by trained, U.S.
23 based employees, in Anaheim 365 days a year.

24 25 **B. COORDINATION WITH THE CITY'S SUSTAINABILITY GOALS:**

26 1. City's Efforts to Increase Re-Used Water.

27 The City of Claremont has had a long-term commitment to sustainability, and, as that
28 concept applies to water, has developed a comprehensive plan to return used water into the

1 ground to recharge the groundwater. The City has encouraged creating permeable ground
2 surfaces, replacing plants requiring frequent watering and promoting the use of water saving
3 devices in homes.

4 Golden State has participated in efforts to conserve water. It implemented a turf
5 program (to replace grass) (Viers, 7/1/16 p.m., p.27) and distributed water saving devices at
6 schools and community meetings. Its employees, Alice Shiozawa and Tom Traffas, were
7 involved with the Claremont Sustainable City Plan Task Force, and Ben Lewis is a member
8 of the City's Water Action Group. (*Id.*, pp. 35 and 85, 63.)

9 A goal of the Sustainable City Plan is to "support development of small-scale
10 wastewater reclamation plants in the City, starting with sites on college campuses." (Viers,
11 7/1/16 p.m., p. 52; Exh. 1232, Claremont Sustainable City Plan Update.)

12 Wastewater is treated effluent, effluent that is recycled through a reclamation (or
13 scalping) plant. Recycled water by state law must be separated from potable water, and,
14 therefore, its use requires a separate pipe system (known as purple-pipe). Recycled water
15 may be used for agriculture and, in an urban setting, to water plants or wash outside
16 surfaces. Wastewater reclamation requires (1) source(s) of effluent, (2) a purple pipe
17 delivery system and (3) the funding for the treatment plant, the separate pipe system and
18 the operating expense. The cost of a small scale treatment plant is estimated to be \$5
19 million. (Viers, 7/1/16 p.m., p. 58.)

20 Funding a treatment plant presents a fairness issue if the funding is to be paid by rate
21 payers. Because the cost of the separate purple pipe system restricts the delivery of waste
22 water to limited areas for watering purposes, it can be argued that its cost should not be
23 imposed on the entire water system through higher rates. The Claremont Colleges are
24 investigating the construction of a wastewater treatment plant on campus property, getting
25 the effluent from college facilities, and using the treated wastewater to irrigate campus
26 grounds. Interested parties at the Colleges are investigating the concept; at this point, the
27 Colleges have not approved plans to proceed with a wastewater treatment plant.

28

1 The City's interest in developing sources of wastewater does not "require" the City to
2 spend millions to acquire the Claremont Water Assets. The City may proceed
3 independently to develop treatment plants, just as the Colleges are able to proceed with
4 their proposal without owning the water system providing potable water to the Colleges.
5 The City, at this point, has no plans, either proposed or approved, and no funding sources
6 to build a purple pipe wastewater system.

7 The City, at trial, suggested that PUC Order 103-A could be read to preclude the City
8 from constructing a wastewater facility. Order 103-A, para. 9 (Exh. 1015) provides: "Local
9 agencies acting pursuant to local authority are preempted from regulating water
10 production ... or other facilities (including the location of such facilities) constructed or
11 installed by water or wastewater utilities subject to the Commission's jurisdiction." The
12 Court's view is that Order 103-A does not constrain the City in any way from building a
13 wastewater facility because the Order applies only to facilities constructed by a utility that is
14 subject to PUC jurisdiction; it does not apply to any facilities constructed by a city.

15 The City has two other programs to promote the secondary use of water purchased
16 from Golden State. Gray water is water used for non-toilet household purposes, for
17 instance, laundry or dish washing, and it may be captured for outdoor uses. The capture
18 requires the retrofitting of the plumbing system so that the gray water is diverted to a holding
19 tank until used, for instance, for gardening. The City has an ordinance that permits the
20 capture and use of gray water. The City does not need to acquire the Claremont Water
21 Assets to encourage greater use of gray water. Gray water use is already occurring in
22 Claremont.

23 Storm drains may be used to capture rainwaters for secondary use. The City owns
24 the storm drains and, therefore, can use them to capture and divert rainwater without the
25 need to own the Claremont Water Assets. Storm drain capture is already occurring in
26 Claremont.

1 The evidence does not support a conclusion that the City "requires" the acquisition of
2 the Claremont Water Assets to improve its means of capturing and making use of
3 wastewater, gray water or storm drain waters.

4 2. Golden State's Interaction with City Officials.

5 One of the City's themes at trial was that Golden State employees have not been
6 communicative with City officials. This appears to be mistaken. Tom Traffas, the Claremont
7 superintendent, meets regularly with various City officials, and Ben Lewis, the Foothill
8 general manager, also meets occasionally with the City Manager. Both Traffas and Lewis
9 participate on the City's sustainability committees, as mentioned above. Golden State has
10 participated with the City in various water conservation programs, as mentioned above.
11 Golden State has not shared its water capital improvement plan with the City (Exh. A,
12 McVicker, p. 35), but the gas and electrical utilities serving Claremont also have not shared
13 their capital plans with the City. Golden State maintains a business office in Claremont.
14 Relations between the parties have been strained after the City's mailings to its residents
15 blaming Golden State for high water rates. Hopefully productive relations can be restored
16 between the parties. The Court does not find that the relations between the parties
17 supports the City's exercise of eminent domain in this right-to-take trial.

18 3. Coordination with the Operation of the City's Public Works Department.

19 Among the "spectrum of benefits" the City argued from the acquisition there could be
20 "coordination of System repairs with City services and City street repairs." (City's Proposed
21 Statement, p. 15.) No evidence was offered to support that suggestion. The City could
22 have called witnesses from La Verne or any other city with a municipal water system to
23 testify about any close interaction and cost savings realized by the city through direct
24 supervision over public works and the water system. Such economies are improbable: if
25 Golden State is replacing only 1.5 miles of pipeline each year, it is unlikely its schedule will
26 match up with street work undertaken by the City.

27 4. Meeting County Fire Code Standards.

1 The City criticizes Golden State for not addressing a need for greater fire flow in
2 Claremont's Claraboya area (located in the mountainous area in northwest Claremont). A
3 wild fire known as the Grand Prix Fire destroyed or damaged 29 homes in that area in
4 October, 2003. The fire chief who was on the scene testified that the hydrant pressures
5 were inadequate to sustain the fire fighting teams. (Hokanson, 7/14/16 p.m., pp. 14-17.)
6 Golden State addressed the problem in 2008 by obtaining PUC approval for the
7 construction of an above-ground water tank in Claraboya, but the project, when submitted
8 locally, was opposed on the ground the tank would be better if put underground. The
9 project was not built because of that opposition. (Kruger, 6/30/16 p.m., p. 26; Thornton,
10 7/11/16, p.m., pp. 63-64.) However, the fire flow in Claraboya does meet Los Angeles
11 County Fire Department standards for the single family residences that exist or may be
12 permitted in Claraboya.

13
14 **C. CITY'S CLAIMS THAT MUNICIPAL OWNERSHIP IS NECESSARILY SUPERIOR:**

15 The Court has reviewed the evidence offered re Golden State's performance with
16 respect to water quality, reliability, service, rates and levels of capital investment. Golden
17 State has rebutted any statutory presumption that the City's acquisition of the Claremont
18 Water Assets is required by the "public interest and necessity" or is "a more necessary
19 public use" as to those measures. Golden State has rebutted that the taking is "most
20 compatible with the greatest public good and least private injury."

21 The City, however, is arguing, or seems to be arguing, that municipal control of the
22 water company is per se superior to private ownership regulated by the PUC. That is a
23 dubious proposition because it implies that any investor-owned utility, no matter how well
24 run, can be obtained by eminent domain, assuming the public entity will pay fair
25 compensation, because "local control" is inherently better than the process that the
26 Legislature has imposed to regulate the rates, practices and investment decisions of
27 investor-owned utilities.

1 This is, at bottom, a political question and not one that can be framed and decided on
2 a statutory basis of whether municipal ownership is always “a more necessary public use”
3 than private ownership of a water company regulated by the PUC.

4 The Court will nonetheless make limited comments to address the City’s contentions.

5 1. Transparency and Competency in Water System Decision-Making.

6 The City makes the argument that the acquisition of an investor-owned utility is “a
7 more necessary public use” because the water rates and level of capital investment decided
8 in a public forum by an elected City Council is “more transparent” than the decisions that are
9 made by the professional managers of the investor-owned utility regulated by the PUC.

10 There will be greater transparency as to water issues, the City argues, because final
11 decisions will be made in Claremont by the City Council sitting in public session. The Ralph
12 M. Brown Act (Gov. Code section 54950.5, et seq.) requires the City Council to allow at
13 least limited public comment before it makes its final decisions. And water system
14 investment improvements having land use impacts will be analyzed under the California
15 Environmental Quality Act (CEQA) (Pub. Res. Section 21000 et seq.). And rate setting
16 decisions are subject to Prop. 218 (Cal. Const. Art. XIII D, section 6(b)(1) (“Revenues
17 derived from the fee or charge shall not exceed the funds required to provide the property
18 related service.”). (The City’s case is not helped by the testimony of its expert that local
19 decision-making in Claremont is particularly appropriate because the City has a “high
20 percentage of people with analytical skills and high-level degrees.” Weissman, 7/8/16 p.m.,
21 p. 81.)

22 Golden State’s decision-making, particularly about capital investments and water
23 rates, are not made at the local level. They are proposed by the company’s professional
24 managers and reviewed and approved in accordance with the PUC procedures. The
25 company’s proposals are presented as applications for approval, are vetted by the PUC’s
26 staff and considered at hearings conducted by hearing officers or a Commission member
27 meeting typically in San Francisco. The applications are scrutinized and often challenged
28 by the Office of Ratepayer Advocates (ORA).

1 While the rate applications are public, and the hearings are open to the public, the
2 PUC's procedures admittedly are not tailored for participation by individual rate payers.
3 Individual Claremont water users may not have an opportunity to provide effective input to
4 PUC proceedings.

5 The Legislature rather than Golden State, however, put in place the PUC procedures,
6 and those procedures are intended to regulate the monopolistic structure of utility service.
7 The overriding concern for the Legislature was the effectiveness of the regulation rather
8 than local participation in decision-making. The City has not demonstrated that Golden
9 State's decisions in its management of the Claremont water system are less than
10 competent. The issue is put in perspective by the testimony of John A. Bohn, a former PUC
11 Commissioner, who was during his tenure the designated "Water Commissioner." Speaking
12 of local decision-making, Bohn testified:

13 **What happens is that in the case of the localities, the price of water becomes**
14 **the all-consuming concern of the public. And whether or not it is ...you've got**
15 **to look into the future. [] And so it may well be that the prices are high locally,**
16 **but that in the judgment of experts is necessary to protect the infrastructure**
17 **going forward. And it may not be popular, but it may well be necessary. And**
18 **the price is much more visible than the infrastructure, which tends to be**
19 **hidden under the ground.** (Bohn depo., p. 67.)

20
21 The Court does not find that escaping from the procedures that are designed for the
22 PUC regulation of investor-owned utilities supports the exercise of eminent domain power to
23 acquire an investor-owned water utility.

24 **2. Ex Parte Communications.**

25 The City spent trial time describing complaints about and proposed legislation to
26 require self-reporting of ex parte communications between utility lobbyists and PUC
27 Commissioners. The City's expert, however, admitted that the complaints about the
28

1 ex parte communications did not involve Golden State “or any of the water companies.”
2 (Weissman, 7/8/16 a.m., p. 55.)

3 The likelihood of ex parte communications are much greater at the City level.
4 Council members are expected to be available outside of public hearings to discuss matters
5 coming before the Council with residents. The Council members will also likely
6 communicate frequently with the City employees who manage a municipally owned water
7 system.

8 3. Rate Setting by Region.

9 The PUC has established Region 3 to include nine geographically separated water
10 systems that are owned and operated by Golden State. Claremont is one of the nine water
11 systems in Region 3. The PUC sets a single rate of return for Region 3, meaning that the
12 basic water usage rates are the same in each of the nine water systems (though actual
13 charges to subscribers will vary according to the quantity of water consumed). The City
14 argues that the rate of return that Golden State earns from operating the Claremont water
15 system is higher than the average return for Region 3 and that, therefore, Claremont rate
16 payers are “subsidizing” other water systems in Region 3.

17 The Court has examined the evidence to determine if this claim is true, and, if it is, to
18 determine what is the degree of subsidy and whether the subsidy is always unfavorable to
19 Claremont rate payers. The parties introduced during the trial numerous charts to
20 summarize voluminous underlying business records. The Court, to address this issue, has
21 studied Exhibit 1242-0003. That Exhibit, a bar chart, purports to provide for the past five
22 years the following: (1) the Commission authorized rate of return for Region 3; (2) the actual
23 rate of return for Region 3; and (3) the rate of return for Claremont. Rate of Return refers to
24 the undepreciated value (i.e., original cost less accumulated depreciation) of the used and
25 useful assets that are devoted to operating a particular water system. Golden State typically
26 outperforms the PUC authorized rate of return, so the actual rate of return is the appropriate
27 comparison rather than the authorized rate of return. The Court’s calculation is provided in
28 the following tabulation.

YEAR	Actual R of R: Reg. 3	R of R Claremont	Difference: 3-2
2014	10.41%	11.26%	0.85%
2013	14.69%	15.32%	0.63%
2012	11.55%	11.06%	(0.49)%
2011	12.08%	13.13%	1.05%
2010	10.55%	5.57%	(4.98)%

The tabulation exposes that, in the five year period 2010-2014, Claremont overall benefitted from the rate of return established by the PUC for Region 3. In three of the five years the Claremont water system earned a higher return than the average of other water utilities in Region 3, but in the two remaining years the rate of return in Claremont significantly underperformed the average. The exhibit (Exh. 1242-0003) does not provide net revenue figures so as to allow the Court to calculate the monetary gain that the Claremont water system derived from the Region 3 in 2012 and 2010, (The City advises that the financial data to allow this calculation may be found in Exhibit 1149. (City Obj/STD, p. 72.) The City's argument that Claremont ratepayers subsidize Golden State's investments made in other water districts in Region 3 does not appear to be supported by the evidence for the five most recent years for which data is available.

4. Water Rates and Income Taxes.

The City argues that the taking is "a more necessary public use" because the City as the owner of a municipal water system will not have to set water rates at a level to earn a profit, and the City will not be liable for federal and state income taxes because a municipal water system does not earn profits. A municipality owned water system also does not pay property taxes.

The Court does not agree with the premise that an eminent domain acquisition of a private utility provides a benefit because the utility under municipal operation will not pay taxes. The tax loss caused when income or property taxes are avoided is merely shifted to

1 other taxpayers and they pay more in taxes; tax avoidance is a cost of the acquisition.
2 (Hanemann 6/28/16 p.m., pp. 86-88; Exh. 708.)

3 The City also argues that the higher rates paid by water users, for the purpose of
4 financing the eminent domain taking, is not a detriment because the water rates are being
5 used to purchase a valuable asset. (City's Proposed Statement, pp. 36-37.) This is circular
6 reasoning. Public acquisition by eminent domain cannot be justified by the fact that, after
7 fair compensation is paid, the public entity will own a valuable asset. If that were the case,
8 public acquisition could always be justified as an investment strategy. The statutory scheme
9 instead requires that the acquisition be "required" in "the public interest and necessity" and
10 be "a more necessary public use." The public acquisition must provide a demonstrable
11 public benefit apart from the value of the assets that are paid for in the eminent domain
12 process.

13
14 **THE STATUTORY PRESUMPTION IS REBUTTED AS TO BUSINESS SOFTWARE:**

15 The City seeks to obtain by eminent domain all of Golden State's property that is
16 used to provide water in the Claremont service area. Golden State's vice president testified
17 at trial that, should taking be allowed, the Company could not segregate and deliver its
18 software for billing and record keeping limited only to customers of the Claremont water
19 system. The software package is integrated to include all 39 water systems owned by
20 Golden State and is not divisible so that it can be provided for an individual water system.
21 Golden State, however, could provide a printout of the billing and usage information for the
22 customers of the Claremont water system. (Kruger, 6/30/16 a.m., pp. 23-27.)

23 This testimony is sufficient to overcome the presumption upon which the City relies
24 that Golden State's business software relating to the Claremont water system is subject to
25 condemnation. Because an alternate means is available for the City to obtain the customer
26 data it would need to operate the Claremont water system, namely to obtain a printout that it
27 could input into its own (or La Verne's) proprietary computer system, the presumption is
28 rebutted as to the taking of Golden State's business software. Such taking is not

1 compatible with the "least private injury" and is not property that "is necessary for the
2 project." CCP section 1240.030 (b) and (c).

3
4 **ORDER OF DISMISSAL:**

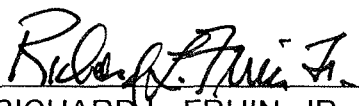
5 The Court issued its Statement of Tentative Decision on November 10, 2016. The
6 Court thereafter received and reviewed the parties Objections and Responses to the
7 Statement of Tentative Decision. The Court has addressed certain of the City's Objections
8 in this Statement of Final Decision. The City requested a further hearing under CRC
9 3.1590(k) to settle the Court's Statement of Final Decision. The Court declines the request
10 for a further hearing.

11 The Court has modified the proposed Judgment offered by Golden State to provide
12 that it is an Order issued under CCP section 1260.120(c). The Court has signed, entered
13 and herewith serves the signed Order dismissing the proceeding.

14 The parties are to collect the exhibit binders, exhibits, demonstrative exhibits and trial
15 transcripts from the Court Clerk and retain them for any post-trial proceedings.

16 The Clerk is directed to serve this Statement of Final Decision and the Judgment on
17 the parties by U.S. Mail on this date.

18
19
20 Dated: December 9, 2016


RICHARD L. FRUIN, JR.
Superior Court of California
County of Los Angeles

21
22
23
24
25 RLF/ep/jjs/
cdm/peh
Claremont vs.
Golden State
Water Co. 15d
11-10-16;
12-06-16; 27
12-07-16;
12-08-16; 28
12-09-16