

Chapter 11

The Battle for the Tuolumne

One of the most divisive and fascinating chapters in the history of the Modesto Irrigation District was precipitated by the determination of the City and County of San Francisco to tap the Tuolumne River for its domestic water supply.

Although in later years the three entities – the Modesto and Turlock Irrigation Districts and the City of San Francisco – were to work together developing the Tuolumne’s resources, both districts at first were “unalterably opposed” to San Francisco being on the river. The bitter early fights were to generate recall elections in the MID, split the Modesto and Turlock districts in a manner that for some time threatened further cooperation in the development of the original Don Pedro Reservoir, and generated intense emotions among the people.

Long before the great 1906 San Francisco earthquake and fire proved that city’s water supply to be tragically inadequate, San Francisco was looking to the Sierra for water.

In 1882 the San Francisco and Tuolumne Water Company of Sonora had proposed carrying Tuolumne River water to San Francisco from Jacksonville, a community flooded nearly a century later by the construction of New Don Pedro Reservoir. In 1888 two years before Yosemite National Park was created, George M. Harris stressed the value of the Hetch Hetchy Valley as a reservoir site and offered all his rights on the Tuolumne River, including title to his lands in Hetch Hetchy Valley, for \$200,000. The offer was repeated in 1894.

But it was not until the turn of the century that San Francisco’s interest was stirred by Charles S. Grunsky, who, ironically, had made the original surveys of the Tuolumne and Stanislaus Rivers for the Modesto Irrigation District. Grunsky, who subsequently was fired by the MID in a dispute over the cost of completing the planning for the Modesto system, was by now San Francisco’s city engineer.

Grunsky turned to an 1899-1900 United States Geological Survey report which suggested that a reservoir in Hetch Hetchy Valley could furnish “the City and County of San Francisco and unending supply of pure water.” He called this to the attention of San Francisco Mayor James D. Phelan, who immediately instructed Grunsky to study 13 possible municipal water sources: Spring Valley Water Works, Lake Tahoe,

Yuba River, Feather River, American River, Sacramento River, Eel River, Clear Lake and Cache Creek, Stanislaus River, Mokelumne River, Tuolumne River, Bay Shore gravels and the Bay Cities Water Company, a scheme which looked to the American and Cosumnes Rivers for its water supply.

There are strong indications that, even before the study was completed, the decision was made to move on the Tuolumne on the basis of Grunsky's earlier Modesto Irrigation District surveys.

Mayor Phelan, Grunsky and Marsden Manson, who was to succeed Grunsky as city engineer and who shared his predecessor's enthusiasm for the Tuolumne, quietly put up the money to finance privately the necessary surveys and water filings. Acting as a private citizen, Mayor Phelan filed for water rights on July 29, 1901.

Manson later was to comment, "If we had attempted an appropriation through the board of supervisors, the cat would have been out of the bag – so we paid the expense ourselves."

Although the *Stanislaus County News* was expressing concerns over the Phelan-Grunsky filings as early as January 1902, the cat did not get "out of the bag" until more than a year later when the water rights were transferred by Phelan, Grunsky and Manson to the City of San Francisco and the city applied for a United States Department of Interior permit to develop the upper reaches of the Tuolumne, which by this time, had been included in Yosemite National Park.

Concerned about the invasion of the bay city into its watershed, the Modesto and Turlock districts were elated in June and again in September 1903 when President Theodore Roosevelt's interior secretary, E. A. Hitchcock, denied San Francisco's applications on the ground that he had no authority to grant such rights-of-way. This position prevailed until the 1906 discovery of an earlier attorney general's opinion.

Still under pressure from Phelan, Grunsky and Manson, the city continued to pursue the goal of tapping the Tuolumne River. Subsequent developments, however, indicated the new San Francisco administration of Mayor Eugene Schmitz, who had succeeded Phelan in 1902, may not have been too dismayed at the adverse decision. It had other ideas about which water supply to tap.

Early in 1904 a request was made by San Francisco to meet with the Modesto and Turlock boards to discuss the city's development of the Tuolumne. The two district's declined to meet. They flatly opposed the proposal and held there was nothing to talk about.

In Modesto the debate raged on, with the town's newspapers split on the issue. On March 31, 1904, the *Morning Herald* editorialized that opposition to allowing San Francisco to obtain water from the Tuolumne was a "dog-in-the-manger" attitude.

That same day, the *Modesto Evening News* countered with a series of "on-the-street" interviews on whether or not the two irrigation districts should "treat" San Francisco to reservoir sites in the headwaters of the Tuolumne.

Reaction generally was negative.

Outspoken J. S. Wootten declared himself "unalterably opposed to having anything to do with San Francisco in this matter, first, last and all time."

Downtown merchant G. P. Schafer prophetically commented:

We have a priceless heritage in our prior water rights, why not stay with it? We have just emerged from a dozen years of litigation. Why enter into an alliance with San Francisco that will surely lead to litigation more grievous than that?

Banker and farmer J. R. Broughton, whose daughter Esto years later was to play a key role as a state legislator in improving the operations of the MID, added, "No agreement with San Francisco can be binding. A law passed by Congress giving us all the water we want from the reservoirs is the only way I can see out of this matter." Such a law still was nine years away.

George T. McCabe, who nine years later took a major part in the last-ditch battle in Washington, D. C., against the project, flatly declared there "is no reason to, treat, San Francisco when our rights are established." Subsequently, McCabe traveled throughout the San Joaquin Valley in an effort to enlist farmers and public agencies in support of the districts' opposition to the invasion by San Francisco.

It was Oramil McHenry, the Modesto Irrigation District's largest landowner and son of the MID's first board president, who had the most to say:

We are right in contending that we have the rights to the water and that San Francisco cannot enter into any contract guaranteeing that to us. The claim of the La Grange Mining Ditch (later to become the Waterford Irrigation District's source of supply) must also be respected as well as ours.

The *Herald* in its article this morning presumes to state that we are playing "dog in the manger" on the account of our inability to make use of the dam sites. The fact that we cannot use them at present is not a justification for giving them away and allowing San Francisco to take them without a protest on our part.

The storage of water will ultimately be required, not only on account of the acres in our two districts at present, but because by surveys already made, it is very evident that at least 400,000 acres of additional land can be irrigated...It appears to be only a question of time, if they share the water with us, when complications will arise and we will be sure to get the worst of it.

McHenry was the first to sign a petition presented to the MID Board of Directors declaring: “We have vested interests and see no reason to enter into any agreement with San Francisco at this time!”

On June 14, 1904, the Modesto board instructed Attorney L. L. Dennett to petition the U. S. Department of the Interior not to permit any filings for reservoir or dam sites upon the Tuolumne River “until such time as adequate provisions can be made for public needs.”

Later that year, the City of San Francisco enlisted the support of three Alameda County cities and tried again to confer with the two irrigation districts, offering to build additional storage to capture floodwaters for late-season use by the irrigators.

The Turlock board was willing to meet with San Francisco representatives, but made it clear it was “not yielding an inch” from its opposition to San Francisco’s invasion of the watershed. Modesto directors flatly refused to meet on the basis that nothing could be accomplished and it would be a waste of time.

In the colorful newspaper style of the era, the Stanislaus County News filled its entire front page on August 5, 1904, with a defense of the Modesto district’s position and called upon citizens from throughout the San Joaquin Valley to “seize their swords and bucklers in preparation for a more desperate defense.”

One lengthy sentence stated the case:

It is that we oppose San Francisco’s transporting any moisture from the Tuolumne watershed for consumption abroad, for the reason that all such moisture as the said watershed yields is necessary for redemption from aridity and fructification of the lands of the San Joaquin Valley tributary to the streams of such watershed; that obviously nature in depriving the plains of the moisture needful to render them tenable to man, and depositing moisture amply adequate thereto in the mountains immediately adjacent, had schemed it as a task for the future men who were to inhabit the valley that the land and water should be brought together; the waters of the Sierras belong to the lands of San Joaquin Valley just as completely as the disintegrating sands of the rocks of those mountains out of which the soil of the valley was formed belonged and do belong to the valley.

Comes now San Francisco in the business with the intent and design to interrupt this beneficent and Divine plan; she would lay hold of and carry off large quantities of this vivifying fluid, upon which the very life of our valley here depends, and leave us the aridity and desolation which is our doom if needed moisture be denied us.

Two weeks later, the *News* reprinted under the headline “Chronicle Thinks We Are Farmers” an article from that San Francisco paper, which seemed to have a facility for stirring strong reactions from Valley people. The report said that directors of the Modesto and Turlock Irrigation Districts were “said to be honest and substantial farmers without much knowledge of the water needed by their districts...” The *Chronicle* urged the city to proceed to take water from the Tuolumne with or without the districts’ consent.

The year 1905 was an upsetting year for water development. Los Angeles was moving on the Owens Valley and rumors persisted that the Rockefellers were trying to make a power grab of the Tuolumne and other San Joaquin Valley rivers.

In early 1906 some 1,200 landowners in the Modesto and Turlock Irrigation Districts petitioned the San Francisco Board of Supervisors to abandon the Hetch Hetchy scheme on the basis that the irrigation districts’ prior water rights on the Tuolumne were threatened.

In February the San Francisco board, dominated by Mayor Schmitz, promptly concurred and formally adopted a resolution abandoning the project.

Victory once again seemed at hand, although events later proved the San Francisco mayor was not as concerned about the threat to the Valley farmers’ water as he was interested in promoting another scheme; buying out the Bay Cities Water Company for \$10.5 million.

Had it not been for the disastrous April 18, 1906 earthquake and fire two months later, the decision might have prevailed. The woeful inadequacy of San Francisco’s water system in fighting the disastrous fires raised a hue and cry for action. Mayor Schmitz appointed a panel of engineers to investigate 11 new sources for water, but the panel failed to make a recommendation, reportedly because it could not accept the Bay Cities Company proposal wanted by Schmitz.

In the absence of any recommendation, the San Francisco Board of Supervisors favored Mayor Schmitz’ project.

Neither Schmitz nor the irrigationists had counted upon the persistence of San Franciscans Phelan, Grunsky, Manson and friends who, following the Bay Cities Water Company decision, pressed for an investigation into corruption in the Schmitz administration. This resulted in indictments and convictions on

graft and other charges. While Schmitz's conviction was overturned in the appellate court, he and 16 members of the San Francisco Board of Supervisors resigned. Their successors were more receptive to the Hetch Hetchy plan.

(As a personal sidelight to the relations between Modesto and San Francisco, it might be noted that William H. Langdon, who as San Francisco's district attorney prosecuted Schmitz, subsequently met and married the widow of the Modesto area's largest and most progressive farmer who opposed San Francisco's being on the river, Oramil McHenry. Langdon, a great friend of Governor Hiram Johnson, later became a California Supreme Court justice.)

Meanwhile, as President Teddy Roosevelt started his second term, the Hetch Hetchy advocates spent much time between 1903 and 1906 convincing the President of the project's merits. They had considerable assistance from conservationist Gifford Pinchot, who founded the U. S. Forest Service and later was to become governor of Pennsylvania. Pinchot forecast that Lake Eleanor alone would serve the domestic water needs of San Francisco for 50 years or more, urging that damming the Hetch Hetchy Valley be delayed to "preserve it in its original beauty" as long as possible.

Roosevelt's new secretary of interior, James R. Garfield, held a hearing in July 1907 and in May 1908 approved San Francisco's Tuolumne River development.

With this approval, the City of San Francisco in November 1909 votes 6-to-1 support of \$600,000 in bonds for the purchase of privately owned land within Yosemite Park around Lake Eleanor and Hetch Hetchy. A \$45 million construction bond issue was voted by a 20-to-1 margin in 1910.

The year 1910 marked the start of the administration of President William Howard Taft. Secretary of Interior Richard A. Ballinger, ordered the city to show cause why the Hetch Hetchy Valley permit should not be revoked. President Taft and Ballinger were reported to oppose the Hetch Hetchy Project primarily due to the efforts of the Sierra Club and fellow preservationists. A hearing on the issue concluded with Interior Secretary Ballinger requesting the Army Engineers to investigate San Francisco's Hetch Hetchy proposal both as to feasibility and alternate sources of water.

The engineers' report, not submitted until February 19, 1913, recommended in favor of San Francisco, a decision which apparently relied heavily upon a comprehensive 401-page report which had been filed by the City of San Francisco.

San Francisco had hired John R. Freeman, a world renowned hydraulics engineering specialist later to be president of the American Society of Engineers, to prepare its case for submission to the Army Engineers. In so doing, Freeman designed down to the last detail the system which ultimately was constructed – reservoirs at Hetch Hetchy, Lake Eleanor and Cherry Valley, power plants at Early Intake and Moccasin Creek, aqueducts and roads – and provided detailed engineering and cost breakdowns for all aspects of the extensive project.

In Freeman’s own words, the report was prepared over a two-year period with the assistance of “a staff of skilled engineers.” Yet, the two organizations which were to submit the primary rebuttals to the report – the combined Modesto and Turlock Irrigation Districts and the Sierra Club – were given but two months to respond.

Freeman and his associates, often chiding the Sierra Club for being “solitude lovers,” contended that construction of Hetch Hetchy Reservoir would offer outstanding recreation benefits to the state. He even suggested that a grand hotel could be built to provide for the many visitors to the new reservoir. Freeman showed scenes of the recreation advantages of other municipal reservoirs from Boston to Norway, from New York to Scotland and Wales. Furthermore, he contended that building a high Hetch Hetchy Dam would prevent the later need for flooding Tuolumne Meadows for reservoir purposes.

“It will make Hetch Hetchy Valley more beautiful and a far more useful instrument of pleasure than it is today,” declared the report, adding that it would eliminate a major mosquito problem. The mosquito issue later was raised by the House of Representatives Committee on Public Lands in endorsing the Hetch Hetchy Project, claiming that in the spring there were too many mosquitoes in the canyon to make camping pleasurable and later in the summer it was too hot to camp.

In 1907 the City of San Francisco had told then-Secretary of Interior Garfield that it wanted only Lake Eleanor and Cherry Creek for dam sites. By the time Freeman filed his report, San Francisco had spent \$1 million acquiring land in those areas. Freeman’s plan was a whole new proposal centered on Hetch Hetchy, ignoring the needs of the irrigation districts. San Francisco City Engineer M. M. O’Shaughnessy said the districts had “all the water they want and have no kick coming.”

A 300-page irrigation supplement to the basic Freeman report charged, among other things, that Modesto and Turlock farmers were “water-logging” the land by over-irrigating. It was summarized as follows:

These investigations make it plain that the (Modesto and Turlock) districts now comprise all of the arable land lying between the shores of the Stanislaus River on the north and the Merced River on the south, the rough foothill country on the east and the swamp lands of the San Joaquin River on the west, and thus contain broad areas that naturally should have looked to the Stanislaus River and the Merced River for their irrigation supply and there is no important area of irrigable land remaining which should naturally look to the upper Tuolumne River.

In effect, it was proposed that the irrigation districts redesign their systems to accommodate the City of San Francisco if additional water were needed. At the same time, the engineers contended there was more than enough water in the watershed for all three entities.

Throughout the report, the influence of engineer Grunsky, who made the original surveys for the Modesto district, was apparent. He had leaned toward the Stanislaus River as the MID’s best source of water and wrote San Francisco’s evaluation of the Stanislaus River for irrigation vs. domestic water use.

Modesto Chief Engineer H. S. Crowe and Turlock Chief Engineer Burton Smith in an extremely limited time compiled a comprehensive reply. They pointed out that from 1901 until 1912 the number of property owners in the two districts had increased from 1,211 to 6,317 and the assessed valuation of the land had increased fivefold. Yet, only half the total area of the districts had been brought under irrigation.

They further contended that the estimated needs of San Francisco were being expanded at a great rate.

In 1902 Grunsky had said the city would take only 60 million gallons a day from the river. Ten years later, Freeman said the city should have 500 million gallons per day – 57 percent of all the water available in dry years. At the same time, Freeman recommended that all reservoir sites upstream from Hetch Hetchy, Lake Eleanor and Cherry Valley should be reserved for the city because ultimately the storage would be required to meet the city’s needs.

The Modesto and Turlock engineers challenged Freeman’s basic assumptions, including the use of Montana and Colorado irrigation statistics to determine the San Joaquin Valley’s needs. The former have growing seasons not exceeding 100 days per year, while in this Valley the season extends for as many as 250 days per year. The MID and TID engineers declared:

We believe that we have comprehensively and conclusively shown that there is not a sufficient amount of water in the watersheds of the Tuolumne River for the Modesto and Turlock Irrigation Districts and the City of San Francisco and its neighboring cities...San Francisco acknowledges the prior rights of the Modesto and Turlock Irrigation Districts to the waters of the Tuolumne River, but desires in its brief to limit the quantity of water to be used by these districts.

We are entitled to the water to the amount of our original appropriations, provided that we can make beneficial use of the same and in that event, we contend that there will not be water for San Francisco and its neighboring cities sufficient to meet with the least of their demands.

Stating that ultimately the districts will require additional storage to meet their needs, the irrigation engineers pointed out this must be found on the Tuolumne River and its tributaries and “San Francisco is attempting to secure the three choicest sites in the entire watershed and also desires that all permits for reservoir building on the public lands upstream from Hetch Hetchy, Lake Eleanor and Cherry reservoir sites be reserved in favor of the municipalities of the Greater San Francisco.”

Urging that San Francisco look to the Sacramento Valley watershed for its water, the Modesto and Turlock districts concluded their plea by declaring:

There is no Sierra stream north of Sacramento that can possibly be so complicated with adverse rights, both moral and legal, as the Tuolumne River. Adverse claims on these streams can be purchased at a reasonable cost for no land is dependent on it or is shown to be of value. Before water can be taken from the Tuolumne for use outside the San Joaquin Valley, there is certain to be long and bitter litigation.

But it all boiled down to a question of economics and Freeman’s basic question:

Should the Cities of Greater San Francisco be compelled to spend some \$10 million or \$20 million extra for another, less desirable source of domestic water supply in order that 10 or 20 solitude lovers have this beautiful valley mostly to themselves?

The 1913 Army Engineers’ report which was to influence Congress concluded that the answer to this question was an emphatic “No!”

Arguing in support of the use of Hetch Hetchy by San Francisco, the Army Engineers expressed graphically the argument later to be used by San Joaquin Valley water users who fought the export of any water from the basin.

“On account of the fertility of the lands under irrigation and their aridness without water, the necessity of preserving all available water in the Valley of California will sooner or later make the demand for the use of Hetch Hetchy as a reservoir practically irresistible,” declared the Army’s report in justifying

its recommendation that San Francisco not be required to delay building a dam across Hetch Hetchy Valley.

Long before the Army Engineers' report was filed, Interior Secretary Ballinger had resigned and his assistant, Walter A. Fisher, succeeded him. Following a personal inspection of Hetch Hetchy Valley, Fisher was believed by the Sierra Club representatives to be on their side. An additional hearing on the issue was not held, however, until mid-November 1912, by which time President Taft had been defeated by Woodrow Wilson.

It was at these hearings that the Turlock and Modesto districts first indicated they might accept the suggestion made some eight years earlier by San Francisco and withdraw their opposition if they were assured an adequate supply of water.

MID attorney E. R. Jones, who participated in the hearings, reported to his board that his TID counterpart, P. H. Griffin, "made a proposition, which was ratified by me, to the effect that if the city would agree to turn loose during the months of July, August, September and October the amount of water necessary to irrigate the two districts – such water to be paid for by the districts at the actual cost of storage – all opposition on the part of the districts would be withdrawn. Jones' report continued:

This proposition was made immediately after a statement was made by Mr. Freeman that there was water enough to give San Francisco all she wanted, supply all the needs of the two districts and still allow a large quantity to run to the ocean. It put the city up against a peculiar condition – either they had to agree to accept our proposition or admit they had not enough water for all parties.

Before the local San Francisco representatives had time to discuss the matter. Mr. Freeman jumped up and very emphatically declined to do anything of the sort.

The Secretary (Interior Secretary Fisher) then asked why not, saying that the proposition seemed a very fair one, and they had just stated that there was water enough for everyone. Freeman attempted to explain, but his statements were very feeble in the opinion of all disinterested, and he was told by the Secretary that he was not satisfied with the explanation made.

Jones added that, while Secretary Fisher gave no indication of what his decision would be, the Modestan was satisfied that Fisher "will see the districts are fully protected in all respects in case he grants the city the right to Hetch Hetchy."

In his report to the board, MID Engineer H. S. Crowe backed up Jones' statement that "the eminent engineers had paid very little attention to any other source of supply. Their bias was very evident

and called for some sharp comments from the Secretary,” stressing that some sources “had been condemned without any examination whatever.”

Secretary Fisher ordered Freeman and his San Francisco employers to prove more adequately that the Tuolumne River was the only reasonable source and also to submit new cost estimates using comparable labor figures. On the Tuolumne River project, labor had been computed at the then-minimum wage of \$2.25 per 9-hour day while costs on all other competing projects were figured on San Francisco’s charter requirements of \$3. Per 8-hour day minimum.

This demand on San Francisco for additional information caused what may have been a fatal delay for the opponents. The city was given until December 23, 1912, to comply with the request. The Army Engineers would not file their final report until after receiving and studying San Francisco’s supplemental information.

While admitting there were other suitable sources for San Francisco, the Army Engineers recommended granting the Hetch Hetchy Project permits strictly on engineering and economic grounds. This came two months before Wilson’s March 13th inauguration.

There were no federal environmental impact requirements in those days.

Three days before leaving office, Secretary Fisher concluded that a restrictive permit probably should be issued, but he questioned his authority to do so without further congressional action. Time had run out so he left in force his predecessor’s restraining order.

President Wilson’s secretary of interior was Franklin L. Lane, who had been San Francisco’s city attorney in the days when Mayor Phelan had initiated the Hetch Hetchy Project and made the first filings. Within a week of assuming office, Lane made it clear that, while congressional action would be required, the Department of Interior would support the city’s position fully.

Well aware that a permit would be subject to the comings and goings of secretaries of the interior, San Francisco concurred and approached Manteca Congressman John Raker, whose district included Yosemite National Park. In 1911 during the previous session of Congress, Raker, a firm supporter of the San Francisco position, had introduced legislation to authorize the Hetch Hetchy Project. No action had been taken on the measure when the 62nd Congress adjourned.

Within a month after Lane took office, Raker introduced a new bill. Four revisions subsequently were introduced in the 63rd Congress as negotiations among all interested parties, except for the Sierra Club, progressed. The fifth and final version which ultimately became law was presented August 1, 1913. Hearings were held two days later by the House of Representatives Committee on Public lands.

Ever since the 1912 secretary of interior hearings, Modesto and Turlock attorneys had been negotiating with San Francisco and the Interior Department for language which would protect the rights of the two districts.

By early February 1913 the districts told the secretary of interior that they did not want to be “placed in the light or in the position of consenting to” San Francisco’s plan. However, they did note the need for additional irrigation flows from July to October and laid down their minimum requirements which might bring accord from the irrigation districts. In the months to follow, San Francisco acceded to the demands. They were incorporated in Raker’s final bill.

The restrictions which remain in force today are:

1. That the city must recognize the prior rights of the Modesto and Turlock Irrigation Districts and shall Release enough stored water to maintain a flow of 2,350 second feet measured at La Grange Dam. From April 15th to June 15th, the peak flood periods, this minimum flow shall be 4,000 second feet. The House Public Lands Committee report on Raker’s bill stated, “It should be borne in mind that San Francisco does not contemplate interfering with the natural flow of the Tuolumne. The intent is to store floodwaters which come from melting snows and leave the normal flow of the river uninterrupted.”
2. The Hetch Hetchy Dam must be 200 feet high. “This means,” the committee report says, “that the city will expend from \$500,000 to \$1,000,000 in excess of initial expenditures necessary for its immediate needs. The intent is to build the dam high enough to provide adequate storage to meet the conditions of the grant, and is primarily a benefit for the irrigationists.”
3. San Francisco is prohibited from selling or letting to any corporation or individual except a municipality, water or irrigation district the water or electrical energy generated at the project. This was to prevent any private monopoly from obtaining control of the city’s water supply, according to the committee report.
4. The Modesto and Turlock Irrigation Districts, which at that time included 257,000 acres, are allowed to expand to 300,000 acres.
5. After domestic needs of the city are satisfied, the irrigation districts may purchase as much surplus water as they can use beneficially. Water to be used for the generation of electrical energy by the city shall be released into the Tuolumne River without charge to the districts.

According to the House of Public Lands Committee report, these conditions were “acquiesced in” by San Francisco and the irrigation districts as “the result of an amicable settlement between the two parties.”

The city had held out, however, against a final restriction that it “shall not divert beyond the limits of the San Joaquin Valley any more of the waters from the Tuolumne watershed than, together with the waters which it now has or may hereafter acquire, shall be necessary for its beneficial use for domestic and other municipal purposes.” Freeman had suggested that surplus water could be used for intensified farming in the San Francisco Bay area. This restriction would prevent that. It was incorporated into the bill, however, and San Francisco did not fight the issue in order to move the legislation.

At a joint meeting on August 13, 1913, MID and TID directors adopted a formal resolution declaring everything possible had been done to protect the districts’ rights and the bill, as amended, was the best that could be achieved “owing to the conditions existing in Washington.” The two boards telegraphed the House Public Lands Committee their endorsement, but emphasized that the amendments must be preserved. Four months later, this telegram had a vital role in defeating a last-ditch effort to kill the bill.

Now, according to the House Public Lands Committee, the legislation had the support of the Departments of Interior and Agriculture, the Army Engineers, California’s two United States senators and 11 of the state’s representatives in congress, the governor and Legislature of California, the landowners of the Modesto and Turlock Irrigation Districts, the Commonwealth Club of California, and many members of the Sierra Club. All opposition, except for a “small group” of “nature lovers,” had been withdrawn, according to the committee’s report.

The Raker bill passed the House of Representatives on September 13, 1913, with little debate and a strong 183-to-43 margin.

There remained considerable unhappiness with the legislation throughout the Central California farming community, however.

The San Joaquin Valley Water Problems Association directors adopted a resolution which declared that “no water should be diverted from the San Joaquin Valley for domestic or other purposes, but should be retained in the valley for the irrigation of the arid lands.”

After the U. S. Senate Public Works Committee endorsed the proposal unanimously on September 24, 1913, Raker's bill was to have been heard promptly by the full Senate. Action was delayed until December, however, at the request of California Senator John D. Works, whose postponement request stated: "Ninety-nine per cent of water users in the irrigation districts are strongly opposed to it, and claim that they were betrayed by those who consented to the compromise measure."

The spark that really solidified the opposition to the act was a mid-October *San Francisco Chronicle* editorial which stated, in part:

If the Raker bill passes in its present form and it becomes necessary for the people of this city to accept it, we should accept only in pro forma and under protest and especially reserving all (water) rights under State law.

To this, the *Modesto Morning Herald* replied:

This reflects the sentiments of a good proportion of San Francisco people and of such men as Engineers Manson and Grunsky. From a local viewpoint, it would seem that if we are to have a fight, we might as well have it now and get this thing settled.

The *Herald* called for all of the San Joaquin Valley to rally against passage of the act in the Senate, maintaining that it was no longer just a Modesto-Turlock battle but a Valleywide war to keep outsiders from taking the water needed at home.

Newspapers in Oakdale, Merced, Stockton, Bakersfield and other Valley towns were condemned by the *Modesto Morning Herald* and the *Turlock Daily Journal* for being latecomers in joining the fight to preserve the Valley's water rights, claiming that farms in the entire San Joaquin Valley were in peril. By late October, the *Stockton Record* was demanding that San Francisco turn to the north coast streams for its domestic water. Identified specifically were the South Fork of the Eel River and Putah Creek. The Eel still is untouched and probably never will be tapped because it since has been classified as a wild and scenic river. Lake Berryessa was developed on Putah Creek by the U. S. Bureau of Reclamation in the 1950s.

The Modesto Irrigation District board, repudiating its earlier endorsement of Raker's bill, immediately voted \$2,500 to finance the fight to oppose its passage. Another \$1,000 was added to the battle fund later.

Leaders and members of the San Joaquin Valley District of the Federated Women's Club of California exploded when they received a letter from San Francisco Mayor "Sunny Jim" Rolph and the

State Women's Club president, a San Franciscan, urging support of the Raker Act in the U. S. Senate. After hearing George T. McCabe, secretary of the Stanislaus County Board of Trade, give Mayor Rolph's letter a "thorough scorching," the ladies voted to contact every chapter in the state and to alert them that Rolph's statements were "not in accord with the actual facts" because all of the Tuolumne River's water was needed in the valley.

The *San Francisco Chronicle* added fuel to the fire in early November by editorializing:

Under the laws of California the right to store and use every drop of floodwater belongs to this city without any strings on it whatever except that we proceed with due diligence to put it to beneficial use.

The bureaucrats of the Federal Government are endeavoring to make use of an alleged power to grant or withhold a right-of-way to unlawfully, hatefully, unjustly, and tyrannically substitute their individual will for the laws of this state.

We deserve Congress to pass the Raker Bill because when a robber has the drop on you it is best to compromise for the time being.

After receiving a petition signed by 98 percent of the water users in the Modesto Irrigation District and approximately 60 percent of the TID irrigators, the Stanislaus County Board of Supervisors added \$2,500 to the anti-Raker bill fund started by the MID. The Turlock district, however, refused to make such an appropriation, holding to its earlier commitment to support the legislation. TID Engineer Smith considered that a reversal of his district's position would be an attack on his integrity.

The bitterness in the Modesto district caused by Turlock's refusal to join the fight did not dissipate for some time and may have contributed years later to Modesto's initial reluctance to join Turlock in the development of Don Pedro Reservoir.

As long as the Turlock board refused to withdraw its endorsement of the Raker bill, Stanislaus County's Congressman Denver Church refused to withdraw his endorsement. He declared, after canvassing his district, that his position was unchanged, to which the *Modesto Morning Herald* editorialized:

Such a statement does not speak very well for the intelligence of Mr. Church and all the canvassing he did was at his ranch in the remote Fresno County foothills where he remained until the hour of his departure East, despite urgent invitations to visit the Water Problems meeting at Merced and also to visit other portions of his district and consult with his constituents. Poor old Denver.

As the Senate debate opened December 2nd, Congressman Church and the Turlock board continued to maintain their position in support of the Hetch Hetchy legislation. Mass protest meetings were held throughout the Turlock district. The Hickman Board of Trade called for the recall of the entire TID Board of Directors.

On December 3rd the U. S. Senate debate continued and a petition containing 20,000 names collected by the *San Francisco Examiner* favoring the Hetch Hetchy Project was presented to the Senate. Senator Works countered by submitting the names of 2,760 Valley water users opposed. Congressman Church still refused to budge in his support.

San Francisco Mayor Rolph, personally leading the city's fight in Washington, D. C., and anticipating that the Turlock district would hold firm, wired the TID for its current stand. Faced with almost unanimous opposition to the Raker bill from the district's farmers, the TID wired back, "Public sentiment has greatly changed in the irrigation districts since the committee was in Washington...The people of these two districts are unquestionably against the bill or any bill permitting water to be taken out of the Valley."

With that, the Turlock district finally released Representative Church from his commitment and the congressman immediately wrote Senator Works that he now was convinced that the Raker bill would result in "the ultimate disaster of irrigation water," adding, "I regret to say that the men who represented the irrigationists were deceived and soon after their arrival home their acts were repudiated."

But for most senators, the original MID-TID support of the Raker bill was uppermost in their minds. *San Francisco Examiner* publisher William Randolph Hearst personally headed a team of that paper's newsmen in the Nation's Capitol. As the final vote approached, a special Washington edition of the *Examiner*, datelined December 2nd, was placed on every senator's desk. Prominent on the front page was the August 13, 1913, telegram in which the Modesto and Turlock Irrigation Districts had endorsed the Raker bill as approved by the House Public Lands Committee called upon their Representatives in Congress to "use their best efforts to pass the bill." No mention was made of the Modesto Irrigation District's subsequent reversal of its support and its vigorous last-ditch campaign nor of the overwhelming opposition by a vast majority of San Joaquin Valley water users. Turlock's repudiation of the act, of course, came two days after the special edition had been printed.

By mutual consent, a deadline of midnight December 6th had been set to end consideration of the bill.

As the hour approached, Senator Vail Pittman of Nevada, the chief spokesman for passage of the bill, had the last words. He charged that 99 per cent of the bill's opponents had never seen the inside of California. That was an obvious reference to the Sierra Club and national preservationist groups who were sitting on the sidelines watching the irrigationists fight the bill they had opposed for so long.

While this was the first and possibly the only time the Modesto Irrigation District and the Sierra Club and its supporters had stood on the same side in a major struggle, neither organization was willing to form an alliance for a common cause.

A postmortem report by the preservationists explained that, although their goals were the same, they could not actively join the water users in the battle because their reasons for opposing the legislation were different.

How well the irrigationists would have welcomed the preservationists' support is not known. Following the earlier Department of Interior hearings, MID representatives thought the preservationists' arguments were "childish" and were surprised at the attention they received. Whether a united front would have been successful will never be known, for at three minutes before midnight on December 6th the Senate voted 43-to-25 for passage of the Raker Act.

Senators agreed, however, that had it not been for the last ditch fight of the water users, the bill would have passed without a dissenting vote.

Upon signing the bill, President Wilson labeled it an excellent demonstration of "conservation for use."

This phrase again showed the influence of Pinchot, who had testified before the House Public Lands Committee: "The fundamental principle of the whole conservation policy is that of use – to take every part of the land and its resources and put it to that use in which it will best serve the most people."

It should be noted that the U. S. Forest Service, which was fathered by Pinchot, today follows a multiple-use concept and refers to the national forests as the "Land of Many Uses." The same concept does not extend, however, to national parks.

In spite of the restrictions upon the city, irrigators generally distrusted San Francisco.

Within less than a month after the bill became law, the Modesto Irrigation District, joined by the San Joaquin Valley Water Problems Association and the Modesto-Turlock Water users Association, brought suit to quiet title to the district's water rights which predated those of San Francisco. Litigation brought by irrigators individually and collectively continued throughout the two decades of Hetch Hetchy Project construction.

San Francisco fought back by attempting to block construction of the Valley districts' proposed Don Pedro Dam. California Water Commission Chairman E. A. Chandler reported to the MID and TID boards in April 1919 that the city was claiming it had priority rights to the water which would be stored in the proposed reservoir.

That fall 152 water users successfully petitioned the Modesto Irrigation District to appoint prominent Modesto attorney W. C. LeHane, a frequent critic of the MID and anti-San Francisco activist, to prosecute suits against the city to force compliance with the Raker Act and to induce Oakland and other east bay cities not to join the Hetch Hetchy Project. The water users believed that if other bay area communities did not join the Hetch Hetchy system, it would be "doubtful if San Francisco alone could bear the expense of taking the Hetch Hetchy water out of the San Joaquin Valley."

LeHane was fired in June 1920 after a majority of the Modesto Irrigation District directors were replaced in a recall election in which local newspapers charged LeHane with being the "boss" of the MID board.

As late as January 1933 when Hetch Hetchy diversions were about to begin, the Modesto and Turlock districts sued San Francisco for adjudication of their water rights in an unsuccessful attempt to block the city from diverting any water from the Tuolumne River.

Several riparian water users on the Tuolumne joined as intervenors in the action, but the case never went to trial.

The case, in which more than 60 documents were filed, was to prove a significant factor in the city's subsequent agreement to cooperate with the Valley districts in the development of the Tuolumne River watershed. As a condition of the so-called "first agreement" between San Francisco and the MID and TID reached February 29, 1940, the case was dropped.

In the meantime, several private holders of water rights downstream from Hetch Hetchy had brought independent suits against San Francisco. In May 1939 the California Supreme Court found that diversions to San Francisco had not harmed them but, in fact, may have been beneficial.

Since the signing of the 1940 agreement, the city and the irrigation districts have worked together in harmony – with little open discord – while San Francisco built Cherry Valley Dam and two powerhouses, and the three entities joined in building New Don Pedro Dam in the 1970s.