

Decision No. 18001

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
EL CAMINO CANAL COMPANY, a corpora-)
tion, for an order fixing just, reas-) Application No. 11719
onable and non-discriminatory rates)
for water.)

In the Matter of the Application of)
CALIFORNIA TEHAMA LAND CORPORATION,)
EL CAMINO IRRIGATION DISTRICT and) Application No. 13270
EL CAMINO CANAL COMPANY for approval)
of the transfer of certain irrigation)
works.)

In the Matter of the Application of)
FINNELL LAND COMPANY to sell and trans-) Application No. 13292
fer certain property to EL CAMINO)
CANAL COMPANY.)

IN THE MATTER OF THE APPLICATION OF)
PACIFIC LAND CORPORATION to sell and) Application No. 13293
transfer certain property to El Camino)
Canal Company.)

Athearn, Chandler & Farmer, by Albert E. Chandler,
for Applicant in Application No. 11719.
Fred C. Pugh, for T. R. LePage, J. W. Dewitt,
G. F. Wiegand, Andrew Schafer, James Hickman,
Emil Guderjohn, A. L. Hickman, C. T. Byran,
E. A. Hurker, John A. Hanson and Signa J. Hanson,
Protestants.
H. B. Seymour, for El Camino Canal Company and
California Tehama Land Company.
George Harrington, for El Camino Irrigation District.

WHEITSELL, Commissioner:

O P I N I O N

These applications, all involving the properties of
the El Camino Canal Company, have been filed with this Com-
mission under the belief that the company is a public utility
in its service of water to certain consumers--twelve in
number--on its system.

The first application filed, No. 11719, is a request by El Camino Canal Company for an increase in rates as to these twelve consumers. A hearing on this application was held before me at Tehama, California, at which time certain of the consumers appeared, protesting the jurisdiction of the Commission to entertain the application on the ground that they were receiving irrigation water from the Canal Company under contracts, and not as public utility consumers, and that the ElCamino Canal Company was not a public utility.

From the evidence adduced at this hearing it appears that the El Camino Canal Company holds its properties under transfers from the Finnell Land Company and the Pacific Land Corporation, which transfers have not been authorized by this Commission. If the El Camino Canal Company is a public utility, so as to entitle it to make an application before the Commission for a rate increase, it follows that its predecessors, the Finnell Land Company and the Pacific Land Corporation, were also public utilities for the reason that the record shows that the Canal Company has operated these properties in the same manner and to the same extent as did its predecessors, and since the Canal Company has acquired these properties, it has made no additional dedication of them to public use. Assuming as a fact that the predecessor companies were public utilities, under section 51(a) of the Public Utilities Act these transfers would be void, since they have not been authorized by order of the Commission, as is required by that section.

This situation was pointed out to Counsel for the El Camino Canal Company, and in response, Applications Nos. 13292 and 13293 were filed by the Finnell Land Company and the Pacific Land Corporation, respectively, asking that the Commission authorize the transfer of the properties of each

company to the El Camino Canal Company.

Prior to the filing of these latter applications, Application No. 15270 was filed by the California Tehama Land Company and the El Camino Irrigation District, requesting this Commission to authorize the transfer of the properties belonging to the El Camino Canal Company to the El Camino Irrigation District.

Application No. 11719 was reopened, and Applications Nos. 15270, 15292 and 15293 were set down for hearing before me on the 8th day of December, 1926, at San Francisco. At that time it was agreed upon by and between the parties that all matters should be consolidated for the purposes of hearing and decision. At this hearing certain consumers of the Canal Company, represented by counsel, appeared in protest to the granting of the application for authority to transfer the properties of the Canal Company to the Irrigation District on the ground, among others, that all of such consumers were holders of contracts with the Canal Company or its predecessors in interest, under which contracts the Canal Company must deliver irrigation water to the protestants, and that the Commission is without authority to abrogate these contractual rights by authorizing the transfer to the Irrigation District.

The matters were orally argued, and were submitted after the filing of briefs by the parties, and are now ready for decision.

After a careful review of the record, I am of the opinion that the El Camino Canal Company has dedicated its properties to the service of water to these twelve consumers, and is a public utility; and I am of the further opinion that its predecessors, Finnell Land Company and the Pacific Land Corporation, were also public utilities in their rendering of a similar service to these same consumers.

In order that the Canal Company may obtain a valid legal title to the properties owned by it, I recommend that Applications numbered 13292 and 13293 be granted.

I feel that Application No. 13270, asking authority to transfer the properties from the El Camino Canal Company to the El Camino Irrigation District should be granted, subject, however, to the condition that the Irrigation District will continue to serve the twelve consumers of the Canal Company in all respects as they have been served by the latter company.

With respect to Application No. 11719, asking for an increase in rates, I am of the opinion that there is not sufficient evidence in the record to justify an increase at this time, and I recommend that the same be dismissed without prejudice.

O R D E R

Applications as above named and numbered having been filed with this Commission, public hearings having been held thereon, all matters having been duly submitted, and being now ready for decision.--

IT IS HEREBY ORDERED that said Application No. 13292, filed by the Finnell Land Company, requesting authority to sell and transfer certain property to the El Camino Canal Company, be, and the same is hereby granted.

IT IS HEREBY FURTHER ORDERED that Application No. 13293, filed by the Pacific Land Corporation, for authority to sell and transfer certain property to the El Camino Canal Company, be, and the same is hereby granted.

IT IS HEREBY FURTHER ORDERED that Application No. 13270, filed by the California Tehama Land Corporation, El Camino Irrigation District and El Camino Canal Company, seeking approval by

this Commission of the transfers of properties of the El Camino Canal Company to the El Camino Irrigation District, be, and the same is hereby granted, subject to the condition that the El Camino Irrigation District will continue to serve the lands of the twelve present consumers ~~xxx~~ in all respects as they have been served by the El Camino Canal Company.

IT IS HEREBY FURTHER ORDERED that Application No. 11719, filed by the El Camino Canal Company, for an order fixing just, reasonable and non-discriminatory rates for water be, and the same is hereby dismissed without prejudice.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of February, 1927.

Emmery
H. B. Bourdige
C. Seaver
Leon C. White
Thos. D. Peritt
Commissioners.