

LEM

Decision No. 20341.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application of the )  
NORTH FORK DITCH COMPANY, )  
a corporation, for an order authorizing )  
it to mortgage property and to execute )  
mortgage and mortgage note. )

Application No. 15090

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Application No. 15091

C. F. Metteer, for applicant.

BY THE COMMISSION:

O P I N I O N

In Application No. 15090 North Fork Ditch Company asks the Railroad Commission to make its order authorizing it to make, execute and deliver to C. W. Clarke Co., a corporation, its promissory note and mortgage in the principal amount of \$211,000.00 for the purpose of retiring an existing note and mortgage and of financing the cost of additional construction work.

In Application No. 15091 North Fork Ditch Company asks the Commission to make its order authorizing it to make, execute and deliver to C. W. Clarke Co., a corporation, its five promissory notes and mortgage in the aggregate amount of \$13,995.00 for the purpose of paying certain short term notes now outstanding.

North Fork Ditch Company is engaged in the business of selling and distributing water for mining, mechanical, agricultural

and other purposes in portions of the Counties of Placer and Sacramento. The company reports outstanding, as of August 31, 1928, \$200,000.00 of stock, a \$150,000.00 long term secured note and \$11,995.00 of unsecured short term notes. The \$150,000.00 note is dated April 15, 1927 and is due June 15, 1930. Its issue was authorized by the Commission by Decision No. 18248. The \$11,995.00 of short term notes include six notes, due November 1, 1928, issued for terms of six months or less. All notes bear interest at the rate of six percent per annum.

It appears that all the notes and all of the stock, except directors' qualifying shares, are owned by C. W. Clarke Co. That company is willing to increase the mortgage indebtedness from \$150,000 to \$211,000 to enable applicant to acquire certain lands, consisting in the aggregate of 52.52 acres, and to construct certain additions and betterments, consisting of a dam and regulating reservoir and certain canal work. The estimated cost is reported as follows:-

Earthwork reservoir . . . . .	\$37,136.80
Earthwork canal . . . . .	4,415.93
Concrete and steel outlet works . . . . .	3,470.00
Diversion of main canal during construction	400.00
Change of county road after construction	200.00
Engineering . . . . .	2,282.84
Contingencies . . . . .	4,562.27
Lands for dam and reservoir site and canal	8,450.00

Total..... \$60,917.84

The construction of the proposed work will, it is alleged, be of great benefit in conserving water heretofore wasted, and, in the event of emergency breaks on the main canal, will meet a peak demand for at least three days. In addition, it will meet an increased demand on the system of at least 250 miners' inches which will result in additional income of at least \$5,000.00 annually.

A copy of the proposed mortgage securing the payment of the \$211,000.00 indebtedness is filed with Application No. 15090. It will be a first lien on applicants' properties, whether now owned or hereafter acquired and will secure the payment of a \$211,000.00 note dated October 25, 1928, payable on October 25, 1931, with interest at the rate of six percent per annum, and additional amounts up to \$5,000.00. The issue of notes, secured by the mortgage, in excess of \$211,000.00 is not now before the Commission, however, and the authority granted herein to execute the mortgage should not be construed as authority to issue notes in excess of \$211,000.00.

Coming to the request contained in Application No. 15091, it appears that during May of this year extraordinary flood conditions damaged the company's main canal and that in making repairs it borrowed from C. W. Clarke Co. the sum of \$13,995.00 which it evidenced by the six short term unsecured notes due November 1, 1928. It now proposes to execute a mortgage on all its properties, second to the mortgage securing the \$211,000.00 indebtedness, to evidence the amount and to issue five new six percent notes, each in the amount of \$2,799.00, maturing serially on October first of each of the years 1929 to 1933 inclusive. A copy of the proposed mortgage is filed with Application No. 15091.

#### ORDER

North Fork Ditch Company having applied to the Railroad Commission for permission to execute mortgages and to issue notes in the aggregate principal amount of \$224,995.00, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that these applications should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the notes is reasonably required by applicant for the purposes specified herein and that

the expenditure of \$211,000.00 is not in whole or in part reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that North Fork Ditch Company be, and it hereby is, authorized to execute a mortgage substantially in the same form as that filed with Application No. 15090, and to issue its promissory note, secured thereby, in the principal amount of \$211,000.00, payable on or before three years after date of issue, with interest at not exceeding six percent per annum, for the purpose of paying the \$150,000.00 note now outstanding, and of financing the cost of acquiring the lands and of constructing the additions and betterments referred to in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that North Fork Ditch Company be, and it hereby is, authorized to execute a mortgage substantially in the same form as that filed with Application No. 15091, and to issue its promissory notes, secured thereby, in the aggregate principal amount of \$13,995.00, payable on or before five years after date of issue, with interest at not exceeding six percent per annum, for the purpose of paying the \$13,995.00, of short term unsecured notes now outstanding.

The authority herein granted is subject to the following conditions:-

1. The authority herein granted to execute mortgages is for the purpose of these proceedings only and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgages as to such other legal requirement to which they might be subject.

2. Applicant shall keep such record of the issue of the notes herein authorized as will enable it to file, within thirty days thereafter, a verified report, as required by the Railroad Commis-

sion's General Order No. 24, which order insofar as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is \$75.00.

DATED at San Francisco, California, this 18<sup>th</sup> day of October, 1928.

C. L. Seaver  
Thomas D. Roatta  
W. A. Carr  
Commissioners.

