

ORIGINAL

Decision No. 22246

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

TEHACHEAPI CATTLE COMPANY, a corporation,
 MEDA E. HOUGHTON, as Administratrix of the Estate of R.E. Houghton,
 deceased, and S.M. JASPER,

Complainants,

vs.

KERN ISLAND CANAL COMPANY, a corporation,

Defendant.

Case No. 2711

In the Matter of the Investigation upon
 the Commission's own motion into the operations,
 service, practices, contracts, rules, and regulations of
 ANDERSON CANAL, INC., BUENA VISTA CANAL, INC., CENTRAL CANAL
 COMPANY, EAST SIDE CANAL COMPANY, FARMERS CANAL COMPANY,
 GOOSE LAKE CANAL COMPANY, JAMES CANAL, INC., JAMES and
 DIXON CANAL, INC., JOYCE CANAL, INC., KERN ISLAND
 CANAL COMPANY, KERN RIVER CANAL & IRRIGATION COMPANY,
 THE LERDO CANAL COMPANY, PIONEER CANAL, INC., THE PLUNKET
 CANAL COMPANY, STINE CANAL, INC., KERN COUNTY CANAL AND
 WATER COMPANY, KERN COUNTY LAND COMPANY.

Case No. 2755

CARR, COMMISSIONER:

SECOND ORDER PENDING FINAL DECISION

WHEREAS, there has been filed with this Commission,
 pending the final hearing and submission of the above entitled
 proceedings, a written agreement or stipulation signed by each
 of the utility companies named therein, by all persons appearing
 in the consolidated proceedings and by more than 400 consumers
 of the said utility companies, said agreement being as follows:

"STIPULATION PROVIDING FOR THE APPOINTMENT,
DUTIES AND COMPENSATION OF A WATER ENGINEER

"IT IS HEREBY STIPULATED by and between KERN ISLAND CANAL COMPANY, EAST SIDE CANAL COMPANY, FARMERS CANAL COMPANY, STINE CANAL, INC., BUENA VISTA CANAL, INC., KERN RIVER CANAL AND IRRIGATION COMPANY, CENTRAL CANAL COMPANY and PIONEER CANAL, INC., hereinafter called the Utilities, the parties of the first part, and TEHACHEAPI CATTLE COMPANY, a corporation, MEDA E. HOUGHTON, as Administratrix of the Estate of R.E. Houghton, deceased, S.M. JASPER, THOMAS W. McMANUS, F. A. CHAMBERLAIN, FARMERS PROTECTIVE ASSOCIATION, BERTHA M. RANKIN, EAST SIDE WATER USERS ASSOCIATION, J.E. ROBERTS and the other persons and corporations signatories hereto, on their own behalf, hereinafter called the Consumers, the parties of the second part, as follows:

"1. Appointment of Water Engineer:

The California Railroad Commission is authorized to appoint, for each year during the term of this stipulation, a civil engineer competent by training and experience in the measurement and distribution of water to act as a Water Engineer, with the duties and powers hereinafter provided. Any such appointee may be removed at any time by the Commission. During the principal irrigation season (March 1st to September 1st) the Engineer shall devote his entire time to the performance of his duties hereunder and shall maintain an office in Bakersfield, California, but not in the same building in which the offices of the Utilities may be.

"2. Duties of Water Engineer:

The Water Engineer shall represent the consumers under said Utilities, and

(a) he shall familiarize himself with the methods and manner of operation of the said Utilities and during the principal irrigation season (March 1st to September 1st) shall keep a close watch on the flow of the river and the amounts of water diverted into the canals of the Utilities and into any lateral area served by said canal. He shall have access to the records of all measurements made by the Utilities during the term hereof and may himself make such measurements of water and keep such records as he may think advisable in order to be able to inform the consumers from time to time of the flows in the river and in any canal and of whether, in his opinion, any of the said Utilities is not receiving water in the amounts and for the periods to which it may be entitled.

(b) During the irrigation season he shall observe the operations of the Utilities and shall promptly call the attention of the Utility to any substantial breach of the Utility's rules and regulations as established by the Commission or any unlawful discrimination in service, and may report the same to the Consumers and or to the Commission.

(c) He shall promptly investigate all complaints by consumers and shall attempt to compose the same or to have the causes thereof removed and may call them to the attention of the Commission.

"3. Cooperation of Utilities:

The Utilities shall furnish the Engineer with a written statement of all priorities and entitlements to water between First and Second Points on the Kern River and shall permit the Engineer to have access, at their office, to all records of flow in the river or in any canal made during the term hereof, and shall cooperate in the checking of the accuracy of measurements and of measuring devices and shall permit the Engineer to take measurements at any place on the river or on any canal or headgate.

"4. No interference with management or operation:

The Engineer shall have no control, direction or supervision of the properties, operation or management of the Utilities, and shall not give any orders to employees of the Utilities nor interfere with the Utilities' operations. He shall keep the Chief Engineer of the Utilities advised of his measurements, opinions, findings and conclusions but the same shall not be binding on the Utilities nor shall the Utilities be obligated to follow any suggestion or recommendation which he may make.

"5. Compensation and Expenses of Engineer:

The compensation of the Engineer shall be fixed by the Railroad Commission. His compensation and expenses shall be paid by the Railroad Commission out of a special fund to be created as hereinafter provided. The Utilities shall not be obligated to bear any part of his compensation or expenses.

"6. Special Fund:

The Railroad Commission may make an order in the above proceeding authorizing each Utility, during the term of this stipulation, to make a charge per each irrigation delivery of from one cent to three cents (as the Commission may direct) for each acre of each tract as stated on the application under which the delivery is made. Said charge is to be added to the bill for each delivery. The Utilities shall not be deemed to guarantee the collection of said charges, or any of them. All moneys so collected by the Utilities during any calendar month shall be remitted to the Railroad Commission before the 15th day of the succeeding month and shall be held by the said Railroad Commission in a special or trust fund and shall be expended only in paying the compensation and expenses of the said Engineer. The said Engineer shall look solely to said fund for his compensation and expenses. The Utility may refuse to make any subsequent water delivery to any consumer while in default in making payment of the above charge.

"7. Term of this Stipulation:

The term of this Stipulation shall commence with the date hereof and shall run through the calendar year 1930 and thereafter from year to year until terminated. The said term may be terminated at the end of any calendar year by written notice filed with the Railroad Commission by a majority of the Utilities or by not less than two hundred (200) consumers prior to thirty (30) days before the end of said year.

"8. Effective date

This Stipulation shall become effective upon signature of all the Utilities and of the above named parties, consumers, and of at least two hundred (200) other consumers. This Stipulation may be signed in as many separate counterparts as may be convenient, and this Stipulation and said counterparts shall be deemed one instrument.

DATED: March 1st, 1930.

(Signatures) and

It appearing to this Commission that the approval and carrying out of said agreement will work to the advantage both of the consumers and the utilities and that the same should be approved,

IT IS HEREBY ORDERED that the said utility companies named in said stipulation and parties thereto be and each is hereby authorized to file with the Commission and establish a rule and regulation providing for the assessment and collection of the maximum charge provided for in the stipulation, the amounts collected by said charge to be used only for the purpose and in the manner set forth in said agreement, said rules and regulations herein authorized to continue only until the termination of said stipulation.

Jurisdiction is specifically reserved to direct that said charge be lowered if the fund created thereby becomes larger than necessary to pay the reasonable cost and expense of the special service contemplated by the stipulation.

