

ORIGINAL

Decision No. 23287

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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

Complainants,

vs.

Case No. 2711

KERN ISLAND CANAL COMPANY, a corporation,

Defendant.

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:

FOURTH ORDER PENDING FINAL DECISION

During the pendency of these proceedings a large num-  
ber of the consumers of the various utilities referred to in  
Case No. 2755, as well as the utilities themselves, filed with  
the Commission a stipulation to the effect that a water engineer

might be named who should keep track of the deliveries of water from the Kern River to the several utilities according to their respective entitlements, observe the operation of an entirely new set of rules and regulations for the delivery and service of water which had been established, and investigate complaints by consumers. The stipulation further provided that there should be a special fund created for the compensation of the engineer to be raised by a small addition to the annual bills of the consumers. By its terms the stipulation provided that it might be terminated at the end of any calendar year by written notice signed by not less than 200 consumers or by a majority of the utilities.

The Commission, recognizing the possible advantages of the plan contemplated by this stipulation, by supplemental order of date March 21, 1930, approved the stipulation and authorized the companies to establish a rule for the collection of the fund contemplated. An engineer was subsequently appointed and has been functioning.

Prior to the first of the year some 324 consumers filed with the Commission a petition asking for the termination of the arrangement. Thereafter, and before the end of the year, there was filed with the Commission another instrument signed by 165 of the consumers who had signed the first notice withdrawing their signatures. Thereafter, other papers were filed signed by approximately 15 consumers withdrawing their revocation. The utilities themselves assumed an entirely neutral attitude, saying that it was immaterial to them whether the arrangement was continued or discontinued.

Entirely regardless of technical considerations as to the effect of the notice of the withdrawal of signatures and the revocation of withdrawals, it is obvious that an arrangement such as provided for by the stipulation and order of the Commission would not produce satisfactory results if there exists a serious difference of opinion among the various consumers of the utilities as to its usefulness or advisability. Therefore, it seems to be the proper course to formally terminate the arrangement which has existed since the spring of 1930 and to direct the distribution of the moneys remaining in the special fund created by the stipulation. If the consumers find that they have made a mistake in requesting the discontinuance of the arrangement, it will be possible to re-establish it upon filing another representative stipulation. It may with propriety be pointed out that the Commission with its regular force will not be in a position to take over and carry on the work performed by such engineer.

Because of the various notices, counter-notices and the like, it did not seem advisable formally to bring this matter to an end on the first of the year. It should be terminated as of some definite date, such as the 31st of January of the current year, and any moneys left in the fund as of that date should be returned to the utilities and by them returned to the consumers who have made the payments.

O R D E R

Based upon the foregoing,

IT IS HEREBY ORDERED:

First: That the arrangement provided for in the order of March 21, 1930, be terminated as of January 31, 1931.

Second: That after the payment of all charges against the special fund created under said order has been made, the Secretary of the Commission is hereby instructed to return any balance in said fund to the several utilities paying the same in the ratio in which they made said payments to the Commission, with instructions to said utilities to refund such moneys to the several consumers entitled thereto in proportion to the amounts actually paid by said consumers.

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 15 day of January, 1931.

C. L. Harris

M. J. Lusk

Fred G. Stewart  
Commissioners.

Commissioner Harris, having represented one of the parties to this proceeding, prior to becoming a Railroad Commissioner, feels himself disqualified and therefore has not participated in this decision.