

Decision No. 23493

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.

KERN ISLAND CANAL COMPANY, a corporation,

Defendant.

ORIGINAL

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 COM-
PANY, 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
PLUNKETT CANAL COMPANY, STINE CANAL INC.,
KERN COUNTY CANAL AND WATER COMPANY, KERN
COUNTY LAND COMPANY.

Case No. 2755

Athearn, Chandler & Farmer and Frank R. Devlin,
by Milton T. Farmer, for S.M. Jasper.
Houghton & Houghton, by Edward T. Houghton, for
Tehachapi Cattle Company and the Estate
of R.E. Houghton, deceased.

McCutchen, Olney, Mannon & Greene, by John T. Pigott,
for Kern Island Canal Company, Buena Vista
Canal, Inc., Central Canal Company, Farmers
Canal Company, Kern River Canal and Irrigation
Company, Pioneer Canal, Inc., and Stine Canal,
Inc.

Thomas W. McManus, in propria persona.

Harris, Willey, Griffith & Harris by M.B. Harris,
and F.A. Chamberlain, for the Farmers Pro-
tective Association, and for water users
under the Buena Vista Canal, Inc., Farmers
Canal Company, Kern Island Canal Company,
Kern River Canal and Irrigation Company,
Stine Canal and Castro Canal.

Alfred Siemon, for the East Side Water Users
Association.

Charles N. Sears, for consumers on the Arroyo Ditch.
C.S. Harkins, for the Castro interests.

George B. Preston, for the South Fork water users.

Mrs. Bertha M. Rankin, for East Side Water Users
Association.

J.E. Roberts, for the Beardsley Canal.

CARR, COMMISSIONER:

FIFTH ORDER PENDING FINAL DECISION

Hearings having been had on certain suggested changes
in the rules and regulations and the parties having reached a
substantial agreement therein, and good cause appearing,

IT IS HEREBY ORDERED that the rules and regulations
now governing the distribution and use of water as established
by this Commission in its Decision No. 21973, dated December 31,
1929, on the irrigation systems of the canal companies listed
below be and they are hereby modified and amended as follows,
effective as of the date of this Order.

1. The rules and regulations of the Kern
Island Canal Company are modified and
amended to read as set forth and con-
tained in Exhibit "A" hereof.
2. The rules and regulations of the Buena
Vista Canal, Inc., Central Canal Com-
pany, Farmers Canal Company, Kern River
Canal and Irrigation Company, Pioneer
Canal, Inc., and Stine Canal, Inc., are
modified and amended to read as set
forth and contained in Exhibit "B" here-
of.

IT IS HEREBY FURTHER ORDERED that the Commission retain full jurisdiction in these above entitled cases to make such further orders and determinations upon stipulation or further hearings as may be appropriate and proper.

For all other purposes, the effective date of this Order shall be twenty (20) days from the date hereof.

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

Dated at San Francisco, California, this 9th day of March, 1931.

Albany
Leon C. White
M. J. C.
H. H.
Francis G. Stewart
 Commissioners.

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

EXHIBIT "A"

RULES AND
REGULATIONS

Governing the Distribution and Use of Water
Under the System Operated
by the

KERN ISLAND CANAL
COMPANY

RULE 1OPERATIONS AND CONTROL OF CANAL COMPANY WORKS

All diversion works, canal, ditches, head gates and other structures belonging to the Canal Company will be operated and maintained by the Company, and the control and operation of such will be under the exclusive control of the Chief Engineer of the Company or his authorized agents, and no other person shall have a right to change or interfere with any of said works in any manner. The location and number of gates for the distribution of water from the Company's canal and the manner of delivery therefrom, so as to secure safe and efficient operation thereof, shall be determined by the Chief Engineer of the Company, subject, if questioned by the consumers, to the approval of the Railroad Commission. It shall be the duty of the Company to so operate the canal as to prevent undue or excessive losses of water.

RULE 2OPERATION AND MAINTENANCE OF PRIVATE LATERALS

The operation and maintenance of private ditches not the property of the Canal Company shall be taken care of by the individuals or groups of individuals who use them, excepting that, by arrangement with the consumers and with the consent of the Railroad Commission, the operation and maintenance of any such private ditches may be taken over by the Company.

RULE 3OBSTRUCTIONS OF CANALS OR RIGHT OF WAY

No fences shall be built or trees planted or other obstructions or structures placed on any right of way or other property

of the Company without the written permission of the Chief Engineer of the Company, nor shall any fences or other structures be placed in or across any of the canals of the Company in such manner as to catch debris or obstruct the flow of the water in any manner, and the Company shall not be responsible for any damage that may result from the removal of such obstructions.

Any owner, through whose lands the canal passes, shall be liable for any damage to the canal or its structures by stock or the crossing of the canal by any person with machinery, wagons or other vehicles, or otherwise, if such act be authorized by him. The Company may make any repairs necessitated thereby and the owner must pay the cost occasioned thereby.

No one shall be permitted without authorization from the Chief Engineer to use the ditches of the Company to carry any water other than that furnished by the Canal Company. Such permission will, however, be granted (a) to a consumer who desires merely to augment the head by pump water, and (b) to a consumer who agrees in writing to either restore the Company's ditch to the same condition as it would be in without such use or that the Company may do so and add the cost thereof to his water bill.

RULE 4

CONDITION OF PRIVATE DITCHES AND LATERALS

Laterals or private ditches owned by the consumer must be kept in reasonable repair and reasonably free from weeds and other obstructions and be of sufficient capacity to carry an adequate quantity of water to economically irrigate the areas under them. Service may be refused ditches found not to be in accordance with this rule at the time of delivery and the consumer will thereby lose his right to receive water during the current irrigation.

Notification of intent to refuse service must be given the consumer at least five (5) days in advance of the schedule date of delivery.

RULE 5

APPLICATIONS FOR WATER

Not later than February 1st of each year consumers shall make application, in writing, for water for the ensuing season, from March 1st to March 1st, on the forms approved by the Railroad Commission and to be furnished by the Company. These applications shall be filed in the office of the Company in Bakersfield and shall state:

- (a) Name and address of landowner and tenant, if any.
- (b) Description of land to be irrigated.
- (c) Number of net acres of each crop to be irrigated.
- (d) The number of irrigations desired for each such crop, the acre feet for each such irrigation, the approximate dates of each such irrigation, and the "head" desired for each irrigation.
- (e) The application may be amended once during the year by giving written notice to the Company at least thirty (30) days before the commencement of the rotation on which the modification is to go into effect.

Separate applications will be required for the lands in each section, and water delivered under any application shall be used only in the section specified in that application.

RULE 6

BASIS OF ALLOCATION, ETC.

As a basis for the above application and the allocation of the supply thereunder, each applicant shall be entitled during any one month to not exceed two acre feet (one second foot for 24 hours) for each three acres of net acreage to be irrigated during such

month, except that the above amount may be increased to two acre feet (one second foot for 24 hours) for each two acres to be irrigated, for such acreage as is limited to two irrigations for the year, or is receiving its first water after being dry for the previous irrigation season.

Above limitation in the use of water will, at the consumer's request, be increased for seepage loss in accordance with the following seepage table in cases when deliveries are made to laterals at points distant from lands irrigated, provided that payment for water shall be based upon the amounts delivered at the Company's point of measurement.

Allowable increases for seepage losses above maximum entitlements (rule 6) based on lengths of unlined ditches from Company's point of measurement to edge of tract to be irrigated when such length equals or exceeds $\frac{1}{2}$ mile.

Head Applied For *	Length of Ditch #	Allowance for each additional $\frac{1}{2}$ mile		
		$\frac{1}{2}$ mile	1 mile	$\frac{1}{2}$ mile
Less than 5 cu.ft. sec.		0.25 c.f.s.	0.50 c.f.s.	0.25 c.f.s.
5.0 cu.ft.sec.(and under 10)		0.40 c.f.s.	0.80 c.f.s.	0.40 c.f.s.
10.0 cu.ft.sec.(and under 20)		0.50 c.f.s.	1.00 c.f.s.	0.50 c.f.s.
20.0 cu.ft.sec.(and under 30)		0.55 c.f.s.	1.10 c.f.s.	0.55 c.f.s.
30.0 cu.ft.sec.(and under 40)		0.60 c.f.s.	1.20 c.f.s.	0.60 c.f.s.
Additional for each 10 cu. ft. sec. in excess of 40 cu. ft. sec.		0.05 c.f.s.	0.10 c.f.s.	0.05 c.f.s.

No allowance will be made for ditches less than $\frac{1}{2}$ mile in length and in case of greater lengths the nearest $\frac{1}{2}$ mile will be used in calculating allowances. Lengths will be ascertained by the Company based upon the ditch course from point of measurement to the point of entry into tract described in application.

* In cases where deliveries are made at rates less than the head applied for, seepage allowance may, at applicant's option, be based on the rate applied for unless the lesser rate of delivery is due to lack of capacity in applicant's ditch or other causes not within the control of the Company.

RULE 7LATERAL AREAS

The engineer of the Company may divide all of the lands legally entitled to service into lateral areas so that deliveries may be made within the period hereinafter provided. If such lateral areas be established, a map clearly showing the boundaries of each lateral area shall be filed with the Railroad Commission and a copy thereof kept posted at the points in each lateral area provided for in Rule 11. Any change in lateral areas shall at once be reported to the Railroad Commission with the reasons therefor.

RULE 8METHOD OF DELIVERY

Water will be delivered by rotation, beginning at the head. Deliveries under new rotation schedules will begin on March 1st of each year and the number and times of each rotation and the delivery to each user thereunder shall be tentatively determined by the Chief Engineer of the Company from applications filed and the water supply considered by him to be probably available, and a schedule thereof shall be prepared and made available for inspection at the office of the Company. Schedules will be so arranged that rotation periods shall be thirty (30) days as nearly as may be. Any consumer not able to take water in his regular turn on any run may receive water upon the completion of such rotation provided no undue loss of water is involved and there is no interference with deliveries to other irrigators.

The minimum "irrigation head" applicable to service of each applicant will be five (5) cubic feet per second for 24 hours.

Heads applied for may be altered by the Company when necessary to the extent necessary so that the irrigation of tracts may be accomplished without delivery for fractional days. Where delivery is made covering a tract or tracts less than fifteen (15) acres in extent, heads of less than five (5) cubic feet per second (but not less than one (1) cubic foot per second) may be used by previous arrangement with the Company, subject to above provision against delivery by fractional days.

RULE 9

EXCHANGE OF WATER

Exchange of water between irrigators in the same area and during the same rotation period will be permitted with the approval of the Company upon reasonable notice, provided that such exchange will not unreasonably interfere with other deliveries or cause any undue loss of water.

RULE 10

SHORTAGE OF WATER

When a shortage of water threatens to prevent the supplying of the estimated requirements of consumers during any run of water or during the remainder of the irrigating season, the Company will so prorate the supply, serving to each consumer in the established sequence, but by so reducing the length of time of runs or the amount of water during the full length of run as will provide total deliveries of water to each consumer in the proportion of each consumer's demand to the aggregate of all consumers' demands. Due notice will be given each consumer when such deviation is necessary.

Any landowner whose supply has been diminished by prorating may, on secondary application at a later date when the water avail-

able is in excess of the demand, receive any water of which he was deprived during the period of shortage, and such application shall be superior to secondary applications under Rule 12. Delivery under proration shall not be less than two (2) second feet for 24 hours (four (4) acre feet) for any one irrigation unless the original demand was for less than that amount.

RULE 11

NOTICE OF DELIVERY

Irrigators will be notified by notices posted at a convenient point or points of the times during which water will be delivered to each irrigator and the amount thereof for each rotation, at least five (5) days when possible before the time of delivery and will be further directly notified by the Company if any change is thereafter necessary in time of delivery. Each irrigator shall, at least twenty-four hours before the time designated for delivery of water to him, notify the Company of his readiness to receive the same and shall accept delivery of the water at his head gate at the time specified for delivery to him. The irrigator who, after notification of service so given by the Company, fails to use his allotment of water during any irrigation will not be entitled to any more water at any further irrigation than if he had used his full share. Consumers not residing in the ditch tender's division shall have the responsibility of ascertaining when irrigation water will be available to them.

RULE 12

SECONDARY APPLICATIONS

Secondary applications may also be made at any time for water which may be available in excess of the requirements or demands

under primary applications filed as provided in Rule 5. Service under such applications is not to be required less than five (5) days after the date of application. Such secondary applications shall be made in the form provided for in Rule 5 and be subject to the same limitation as to amounts as provided for in Rule 6. Water will be delivered thereunder in such manner as will not interfere with regularly scheduled deliveries under primary applications or result in undue loss of water.

In case the total demand under secondary applications exceeds in amount the water available therefor, the supply shall be prorated so far as is reasonably possible.

It is the intent of this Rule that all the water to which the Canal Company shall be entitled will be made available to consumers thereunder when there is a reasonable demand therefor.

RULE 13

POINT OF DELIVERY

All deliveries shall be measured at the head of the consumer's laterals and through a measuring device or devices to be approved by the Railroad Commission. The time of delivery will start when the headgates to such laterals are opened and expire when said headgates are closed. Water must be used continuously day and night and no allowance will be made for failure to do so during any regular run.

RULE 14

USE OF WATER OUT OF TURN

Any person using water out of his turn without permission of the ditch tender forfeits his right to water at the next regular irrigation.

RULE 15WASTE OF WATER

Consumers wasting water either wilfully, carelessly or on account of defective or inadequate ditches and structures, or on account of inadequate preparation of the land for irrigation, may be refused further service until such conditions are remedied.

RULE 16BREAKS IN CONSUMERS' LATERALS

In the event of breaks in consumers' laterals the water may be turned onto the nearest land entitled to service that can take the water without damage to the land or to the crops thereon, until the water can be otherwise taken care of. Receiving water in such cases shall not affect the right of any irrigator to receive water in his regular turn, but if the irrigator desires to complete the irrigation of his land under such circumstances he shall be allowed to do so, and then he shall not claim another irrigation during that run. If such break makes it necessary to shut off water at the head of the ditch, the ditch tender or the office of the Company must be notified immediately so that the water can be taken care of. If such notification is not given the irrigator using the water at the time of the break shall not be entitled to the return of the water when the break is repaired. Otherwise, as soon as practicable after the repair of a break, the water shall be returned to the rotation interrupted by the break and the run completed as usual, provided that the person to whom the water is given while the break is being repaired will be allowed to finish his irrigation before the water is taken from him.

Irrigators shall be responsible for loss or damage caused by

their turning a head of water back into the Company's canal without notification of the ditch tender or the office of the Company.

RULE 17

ACCESS TO LANDS

The authorized agents or employees of the Company shall have free access at all times to all lands irrigated from the canal system, for the purpose of examining the ditches and the flow of water therein and for the purpose of ascertaining the acreage of crops on lands irrigated or to be irrigated.

RULE 18

LIABILITY FOR DAMAGE

The Company will not be liable for any damage caused by the negligence or carelessness of any consumer in the use of water or for failure on his part to maintain any ditch for which he is wholly or in part responsible. The consumer will not be liable for any loss or damage caused by the negligence or carelessness of the Company or its failure to properly operate and maintain its canals and structures.

RULE 19

PAYMENTS

Water bills are payable at the office of the Company at 19th and H Streets, Bakersfield, California, on or before the 15th day of the month succeeding the month during which water was used, and, unless paid by that date, they shall become delinquent and no further water will be delivered to the lands of persons from whom payments are delinquent unless there be a dispute. Delinquent payments shall bear interest at eight per cent (8%) until paid. All

water charges on rented lands must be paid for in advance of delivery, unless written undertaking of the owner of the land guaranteeing payment is filed at the office of the Company. All delinquent payments or advance payments on account of same and advance payments for water on rented lands must be made at least forty-eight hours before the time set for scheduled delivery. In case advance payments are in excess of the amount of the bill for water used, the said excess upon demand shall be returned to the consumer by the Company.

RULE 20

COMPLAINTS OF CONSUMERS

Complaints of any kind against the Company should be made in writing to the Chief Engineer of the Company promptly after the acts complained of have occurred. Consumers have the right to refer any complaints to the Railroad Commission.

RULE 21

CLAIMS FOR ERRORS

All claims for errors in the measurement of water must be made in writing to the Chief Engineer of the Company within five (5) days after the mailing of the bill covering the irrigation during which said error occurs. If no claim is made in that time, the measurement as reported by the ditch tender shall be the basis for the water charge and any further complaint thereon can be made to the Railroad Commission.

RULE 22

Private ditches not now of capacity to receive minimum heads must be enlarged on or before January 1, 1931.

RULE 23

These rules are not intended to limit any legal right of either landowner, consumer or canal company which may be legally theirs.

See following pages for general information in regard to measurement of water, etc.

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SECTION 592, PENAL CODE OF THE STATE OF CALIFORNIA:
WATER DITCHES, ETC., PENALTY FOR TRESPASS
OR INTERFERENCE WITH.

"Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating or generation of power, or domestic use, or who shall, without like authority, raise, lower or otherwise disturb any gate or other apparatus thereof, used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, flume or reservoir, any rubbish, filth, or obstruction to the free flow of the water, is guilty of a misdemeanor."

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1 acre foot of water is 43560 cubic feet of water.

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A flow of one (1) cubic foot per second for 24 hours delivers 86400 cubic feet, which is 1.983 acre feet or approximately two (2) acre feet. In other words one (1) cubic foot per second flowing for 24 hours would cover an acre of land approximately two (2) feet deep if no water were lost either by seepage or otherwise.

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EXHIBIT "B"

RULES AND
REGULATIONS

Governing the Distribution and Use of Water Under
the Systems Operated by the Following
Canal Companies:

BUENA VISTA CANAL, INC.
CENTRAL CANAL COMPANY
FARMERS CANAL COMPANY
KERN RIVER CANAL & IRRIGATION
COMPANY
PIONEER CANAL, INC.
STINE CANAL, INC.

RULE 1OPERATIONS AND CONTROL OF CANAL COMPANY WORKS

All diversion works, canal, ditches, head gates and other structures belonging to the Canal Company will be operated and maintained by the Company, and the control and operation of such will be under the exclusive control of the Chief Engineer of the Company or his authorized agents, and no other person shall have a right to change or interfere with any of said works in any manner. The location and number of gates for the distribution of water from the Company's canal and the manner of delivery therefrom, so as to secure safe and efficient operation thereof, shall be determined by the Chief Engineer of the Company, subject, if questioned by the Consumers, to the approval of the Railroad Commission. It shall be the duty of the Company to so operate the canal as to prevent undue or excessive losses of water.

RULE 2OPERATION AND MAINTENANCE OF PRIVATE LATERALS

The operation and maintenance of private ditches not the property of the Canal Company shall be taken care of by the individuals or groups of individuals who use them, excepting that, by arrangement with the consumers and with the consent of the Railroad Commission, the operation and maintenance of any such private ditches may be taken over by the Company.

RULE 3OBSTRUCTIONS OF CANALS OR RIGHT OF WAY

No fences shall be built or trees planted or other obstructions or structures placed on any right of way or other property of the Company without the written permission of the Chief Engineer

of the Company, nor shall any fences or other structures be placed in or across any of the canals of the Company in such manner as to catch debris or obstruct the flow of the water in any manner, and the Company shall not be responsible for any damage that may result from the removal of such obstructions.

Any owner, through whose lands the canal passes, shall be liable for any damage to the canal or its structures by stock or the crossing of the canal by any person with machinery, wagons or other vehicles, or otherwise, if such act be authorized by him. The Company may make any repairs necessitated thereby and the owner must pay the cost occasioned thereby.

No one shall be permitted without authorization from the Chief Engineer to use the ditches of the Company to carry any water other than that furnished by the Canal Company. Such permission will, however, be granted (a) to a consumer who desires merely to augment the head by pump water, and (b) to a consumer who agrees in writing to either restore the Company's ditch to the same condition as it would be in without such use or that the Company may do so and add the cost thereof to his water bill.

RULE 4

CONDITION OF PRIVATE DITCHES AND LATERALS

Laterals or private ditches owned by the consumer must be kept in reasonable repair and reasonably free from weeds and other obstructions and be of sufficient capacity to carry an adequate quantity of water to economically irrigate the areas under them. Service may be refused ditches found not to be in accordance with this rule at the time of delivery and the consumer will thereby lose his right to receive water during the current irrigation. Notification of intent to refuse service must be given the consumer at least five (5) days in advance of the schedule date of delivery.

RULE 5APPLICATIONS FOR WATER

Not later than February 1st of each year consumers shall make application, in writing, for water for the ensuing season, from March 1st to March 1st, on the forms approved by the Railroad Commission and to be furnished by the Company. These applications shall be filed in the office of the Company in Bakersfield and shall state:

- (a) Name and address of landowner and tenant, if any.
- (b) Description of land to be irrigated.
- (c) Number of net acres of each crop to be irrigated.
- (d) The number of irrigations desired for each such crop, the acre feet for each such irrigation, the approximate dates of each such irrigation, and the "head" desired for each irrigation.
- (e) The application may be amended once during the year by giving written notice to the Company at least thirty (30) days before the commencement of the rotation on which the modification is to go into effect.

Separate applications will be required for the lands in each section and water delivered under any application shall be used only in the section specified in that application.

RULE 6BASIS OF ALLOCATION, ETC.

As a basis for the above application and the allocation of the supply thereunder, each applicant shall be entitled during any one month to not exceed two acre feet (one second foot for 24 hours) for each three acres of net acreage to be irrigated during such month, except that the above amount may be increased to two acre feet (one second foot for 24 hours) for each two acres to be ir-

rigated, for such acreage as is limited to two irrigations for the year, or is receiving its first water after being dry for the previous irrigation season.

Above limitation in the use of water will, at the consumer's request, be increased for seepage loss in accordance with the following seepage table in cases when deliveries are made to laterals at points distant from lands irrigated, provided that payment for water shall be based upon the amounts delivered at the Company's point of measurement.

Allowable increases for seepage losses above maximum entitlements (rule 6) based on lengths of unlined ditches from Company's point of measurement to edge of tract to be irrigated when such length equals or exceeds $\frac{1}{2}$ mile.

Head Applied For *	Length of Ditch #	Allowance for each additional $\frac{1}{2}$ mile		
		$\frac{1}{2}$ Mile	1 Mile	$\frac{1}{2}$ mile
Less than 5 cu.ft.sec.		0.25 c.f.s.	0.50 c.f.s.	0.25 c.f.s.
5.0 cu.ft.sec. (and under 10)		0.40 c.f.s.	0.80 c.f.s.	0.40 c.f.s.
10.0 cu.ft.sec. (and under 20)		0.50 c.f.s.	1.00 c.f.s.	0.50 c.f.s.
20.0 cu.ft.sec. (and under 30)		0.55 c.f.s.	1.10 c.f.s.	0.55 c.f.s.
30.0 cu.ft.sec. (and under 40)		0.60 c.f.s.	1.20 c.f.s.	0.60 c.f.s.
Additional for each 10 cu. ft. sec. in excess of 40 cu. ft. sec.		0.05 c.f.s.	0.10 c.f.s.	0.05 c.f.s.

No allowance will be made for ditches less than $\frac{1}{2}$ mile in length and in case of greater lengths the nearest $\frac{1}{2}$ mile will be used in calculating allowances. Lengths will be ascertained by the Company based upon the ditch course from point of measurement to the point of entry into tract described in application.

* In cases where deliveries are made at rates less than the head applied for, seepage allowance may, at applicant's option, be based on the rate applied for unless the lesser rate of delivery is due to lack of capacity in applicant's ditch or other causes not within the control of the Company.

RULE 7LATERAL AREAS

The engineer of the Company may divide all of the lands legally entitled to service into lateral areas so that deliveries may be made within the period hereinafter provided. If such lateral areas be established a map clearly showing the boundaries of each lateral area shall be filed with the Railroad Commission and a copy thereof kept posted at the points in each lateral area provided for in Rule 11. Any change in lateral areas shall at once be reported to the Railroad Commission with the reasons therefor.

RULE 8METHOD OF DELIVERY

Water will be delivered by rotation within the area served by the Company, or if so determined by the Chief Engineer of the Company, within smaller Lateral Areas. Rotation shall begin at the head of the area (or of the several areas if there be more than one), on the date of the first diversion of water in 1930; and thereafter continuously rotated so long as water is available and demanded under applications made as provided in Rule 5. When at the end of any season, March 1st to March 1st, or at the end of any period of diversion within any season, the last rotation shall not have been completed, delivery of the next available water shall begin at the point where the previous rotation ended. The balance of any unfinished rotation, or any rotation during which no water is available, shall be considered cancelled at the beginning of the succeeding rotation period.

On or before March 1st of each year the Chief Engineer of the Company shall prepare a tabulation of the applications for water

for the ensuing season showing the times and amounts of water applied for and the same shall be available for inspection at the office of Company, and a copy thereof furnished each ditch tender. As soon as practicable after water becomes available for delivery by the Canal Company each season, the Chief Engineer shall also prepare and make available for inspection at the office of the Company a table showing his estimate of the approximate times and amounts of each rotation and the approximate delivery to each user thereunder, based upon rotations within periods of thirty (30) days as nearly as practicable, upon the applications received. Such schedule shall be subject to changes made necessary during the season by variations in available water supply, exchanges of water shortages, etc., as hereinafter provided.

Any consumer not able to use water in his regular turn, or any run, may receive water on the completion of the rotation in his area provided no undue loss of water is involved and there is no interference with deliveries to other irrigators.

In case Lateral Areas are established within the area served by the Company, a map showing the boundaries of the same shall be posted for inspection at the office of the Company and at one or more convenient points within the area, and its ratable portion of the canal diversions will be rotated within each Lateral Area as above provided.

The minimum "irrigation head" applicable to service of each applicant will be five (5) cubic feet per second for 24 hours. Heads applied for may be altered by the Company to the extent necessary so that the irrigation of tracts may be accomplished without delivery for fractional days.

Where delivery is made covering a tract or tracts less than

fifteen (15) acres in extent, heads of less than five (5) cubic feet per second (but not less than one (1) cubic foot per second) may be used by previous arrangement with the Company, subject to the above provisions against delivery by fractional days.

RULE 9

EXCHANGE OF WATER

Exchange of water between irrigators in the same area and during the same rotation period will be permitted with the approval of the Company upon reasonable notice, provided that such exchange will not unreasonably interfere with other deliveries or cause any undue loss of water.

RULE 10

SHORTAGE OF WATER

When a shortage of water threatens to prevent the supplying of the estimated requirements of consumers during any rotation of water, the Company will so prorate the supply, serving to each consumer in the established sequence,--but by so reducing the length of time of runs, or the amount of water during the full length of run,--as will provide total deliveries of water to each consumer in the proportion of each consumer's demand to the aggregate of all consumers' demands; however, the supply shall not be prorated under sixty per cent (60%) (Beardsley Canal thirty-five per cent (35%)) except that if, in the judgment of the Chief Engineer, the shortage will involve only the last run or rotation probable during the season or principal portion thereof, or other conditions of uncertainty as to flow render it in his judgment desirable, he may complete such portion of the rotation as is possible without proration. Due notice will be given each consumer when

deviation is necessary.

Any landowner whose supply has been diminished by prorating may, on secondary application at a later date when the water available is in excess of the demand, receive any water of which he was deprived during the period of shortage, and such application shall be superior to secondary applications under Rule 12.

Delivery under proration shall not be less than two (2) second feet for twenty four (24) hours (four (4) acre feet) for any one irrigation, unless the original demand was for less than that amount.

RULE 11

NOTICE OF DELIVERY

Irrigators will be notified by notices posted at a convenient point or points of the times during which water will be delivered to each irrigator and the amount thereof for each rotation, at least five (5) days, when possible, before the time of delivery and will be further directly notified by the Company if any change is thereafter necessary in time of delivery. Each irrigator shall, at least twenty-four hours before the time designated for delivery of water to him, notify the Company of his readiness to receive the same, and shall accept delivery of the water at his head gate at the time specified for delivery to him. The irrigator who, after notification of service so given by the Company, fails to use his allotment of water during any irrigation will not be entitled to any more water at any further irrigation than if he had used his full share. Consumers not residing in the ditch tender's division shall have the responsibility of ascertaining when irrigation water will be available to them.

RULE 12SECONDARY APPLICATIONS

Secondary applications may also be made at any time for water which may be available in excess of the requirements or demands under primary applications filed as provided in Rule 5. Service under such applications is not to be required less than five (5) days after the date of application. Such secondary applications shall be made in the form provided for in Rule 5 and be subject to the same limitation as to amounts as provided for in Rule 6. Water will be delivered thereunder in such manner as will not interfere with regularly scheduled deliveries under primary applications or result in undue loss of water.

In case the total demand under secondary applications exceeds in amount the water available therefor, the supply shall be prorated so far as is reasonably possible.

It is the intent of this Rule that all the water to which the Canal Company shall be entitled will be made available to consumers thereunder when there is a reasonable demand therefor.

RULE 13POINT OF DELIVERY

All deliveries shall be measured at the head of the consumer's laterals and through a measuring device or devices to be approved by the Railroad Commission. The time of delivery will start when the headgates to such laterals are opened and expire when said headgates are closed. Water must be used continuously day and night and no allowance will be made for failure to do so during any regular run.

RULE 14USE OF WATER OUT OF TURN

Any person using water out of his turn without permission of

the ditch tender forfeits his right to water at the next regular irrigation.

RULE 15

WASTE OF WATER

Consumers wasting water either wilfully, carelessly or on account of defective or inadequate ditches and structures, or on account of inadequate preparation of the land for irrigation, may be refused further service until such conditions are remedied.

RULE 16

BREAKS IN CONSUMERS' LATERALS

In the event of breaks in consumers' laterals the water may be turned onto the nearest land entitled to service that can take the water without damage to the land or to the crops thereon, until the water can be otherwise taken care of. Receiving water in such cases shall not affect the right of any irrigator to receive water in his regular turn, but if the irrigator desires to complete the irrigation of his land under such circumstances he shall be allowed to do so, and then he shall not claim another irrigation during that run. If such break makes it necessary to shut off the water at the head of the ditch, the ditch tender or the office of the Company must be notified immediately so that the water can be taken care of. If such notification is not given, the irrigator using the water at the time of the break shall not be entitled to the return of the water when the break is repaired. Otherwise, as soon as practicable after the repair of a break the water shall be returned to the rotation interrupted by the break and the run completed as usual, provided that the person to whom the water is given while the break is being repaired will be allowed to finish his irrigation before the water is taken from him.

Irrigators shall be responsible for loss or damage caused by their turning a head of water back into the Company's canal without notification of the ditch tender or the office of the Company.

RULE 17

ACCESS TO LANDS

The authorized agents or employees of the Company shall have free access at all times to all lands irrigated from the canal system, for the purpose of examining the ditches and the flow of water therein and for the purpose of ascertaining the acreage of crops on lands irrigated or to be irrigated.

RULE 18

LIABILITY FOR DAMAGE

The Company will not be liable for any damage caused by the negligence or carelessness of any consumer in the use of water or for failure on his part to maintain any ditch for which he is wholly or in part responsible. The consumer will not be liable for any loss or damage caused by the negligence or carelessness of the company or its failure to properly operate and maintain its canals or structures.

RULE 19

PAYMENTS

Water bills are payable at the office of the Company at 19th and H Streets, Bakersfield, California, on or before the 15th day of the month succeeding the month during which water was used, and, unless paid by that date, they shall become delinquent and no further water will be delivered to the lands of persons from whom payments are delinquent unless there be a dispute. Delinquent payments shall

bear interest at eight per cent (8%) until paid. All water charges on rented lands must be paid for in advance of delivery, unless written undertaking of the owner of the land guaranteeing payment is filed at the office of the Company. All delinquent payments or advance payments on account of same, and advance payments for water on rented lands, must be made at least forty-eight (48) hours before the time for the scheduled delivery. In case advance payments are in excess of the amount of the bill for water used, the said excess upon demand shall be returned to the consumer by the Company.

RULE 20

COMPLAINTS OF CONSUMERS

Complaints of any kind against the Company should be made in writing to the Chief Engineer of the Company promptly after the acts complained of have occurred. Consumers have the right to refer any complaints to the Railroad Commission.

RULE 21

CLAIMS FOR ERRORS

All claims for errors in the measurement of water must be made in writing to the Chief Engineer of the Company within five (5) days after the mailing of the bill covering the irrigation during which said error occurs. If no claim is made in that time, the measurement as reported by the ditch tender shall be the basis for the water charge and any further complaint thereon can be made to the Railroad Commission.

RULE 22

Private ditches not now of capacity to receive minimum heads

must be enlarged on or before January 1, 1931.

RULE 23

These rules are not intended to limit any legal right of either landowner, consumer or canal company which may be legally theirs.

See following pages for general information in regard to measurement of water, etc.

SECTION 592, PENAL CODE OF THE STATE OF CALIFORNIA:
WATER DITCHES, ETC., PENALTY FOR TRESPASS
OR INTERFERENCE WITH.

"Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating or generation of power, or domestic use, or who shall without like authority raise, lower or otherwise disturb any gate or other apparatus thereof, used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, flume or reservoir, any rubbish, filth, or obstruction to the free flow of the water, is guilty of a misdemeanor."

1 acre foot of water is 43560 cubic feet of water.

A flow of one (1) cubic foot per second for 24 hours delivers 86400 cubic feet, which is 1.983 acre feet or approximately two (2) acre feet. In other words one (1) cubic foot per second flowing for 24 hours would cover an acre of land approximately two (2) feet deep if no water were lost either by seepage or otherwise.