

Decision No. ✓

ORIGINAL

Decision No. 1513

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
Modoc County Irrigation Company for
authority to issue bonds, notes or
other evidences of indebtedness etc.
payable at periods of more than 12
months, and for a certificate of
public convenience and necessity, etc.) Application No. 1089

Alfred Grundy for applicant.

H. G. Redwine for Surprise Valley
Irrigation Company.

F. G. Tyrrell for certain creditors
of applicant.

EDGERTON, Commissioner.

O P I N I O N

Authorization is asked for the issuance of \$750,000 face value of bonds to bear interest at not to exceed 7 per cent per annum and to encumber the property of applicant for the purpose of securing the payment of said bonds, and for a certificate that public convenience and necessity require the construction and operation of applicant's plant.

As stated in the application, the proceeds from the sale of said bonds are to be used "to construct the proper and necessary dams for impounding water accumulating in 'Cowhead' Lake in the northeastern part of Modoc County, California, to construct the necessary and proper tunnel for an outlet for the impounded water, and a main canal with proper laterals for a distribution of the same water in an irrigating system to approximately 50,000 acres of arable land located in the vicinity of the said lake in the State of California, which said land is

now arid and unreclaimed."

Applicant has outstanding obligations of about \$85,000 which it is proposed to pay off with a part of the proceeds from the sale of these bonds, and with the balance of such proceeds to construct its system as above set out.

It was explained at the hearing that the bonds are to be sold at the best obtainable price, which might be as low as 80 per cent of face value, and that the entire plant of applicant was to be built from this bond money.

It is plain, therefore, that instead of a margin in the value of property over the face of outstanding obligations, applicant would start off with less property than face of bonds outstanding, equal to the amount that these bonds were discounted. It is true that at the hearing we were urged to consider that after the construction of applicant's plant contracts would be made with persons taking up government land which could be irrigated from this system, and that these contracts would be put under the lien of these bonds and would form a substantial part of the security therefor.

I do not believe that such contracts which are mere agreements to take and pay for water are proper security for the issuance of bonds.

At the hearing it was stated that an action had been commenced in the Superior Court of Modoc County against applicant, in which action the right of applicant to take water from Cowhead Lake or Pelican Lake was attacked, and the representatives of applicant admitted that if this attack was successful it would be deprived of practically all of its available water.

I think this application should be dismissed without prejudice. The project itself, from the evidence, seems meritorious. Apparently there is a large amount of water in reasonable proximity to government land and if the water and

land are brought together by a project such as applicant proposes, much good would result, but much harm will result if this project be launched upon financial basis which will result in bankruptcy.

Furthermore, the controversy which has arisen as to applicant's right to take water from Cowhead and Pelican Lakes would probably render it impossible to sell the bonds, even if authorized by the Commission.

I recommend that this application be dismissed with leave to applicant to renew the same later upon a basis of capitalization which will insure a reasonable margin of tangible property over face of outstanding obligations, and that applicant thereupon be required to show a reasonably secure right to take water from Cowhead or Pelican Lakes.

I submit herewith the following form of order:

O R D E R

Application having been made by Modoc County Irrigation Company for a certificate of public convenience and necessity and for an order authorizing the issue of bonds, and for an order authorizing the encumbering of its property as security for the payment of such bonds, and a public hearing having been had and it appearing to the Commission that this application should be dismissed for the reasons set out in the foregoing opinion,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that this application be and the same is hereby dismissed without prejudice to the filing of another application as suggested in the foregoing opinion.

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 16th day
of May, 1914.

John M. Erickson

Max Thelen

Edwin O. Eckert

Commissioners.