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In the Matter of the Application of Rosa S. Spaulding to sell and the Foothill Ditch Company, a corporation, to buy that certain ditch known as the Pogue, Wallace and Crocker Ditch.)

Application No. 1576.

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D. E. Perkins for Applicant.

GORDON, Commissioner.

O P I N I O N

This is an application of Rosa S. Spaulding to sell to R. C. Merryman as trustee and he in turn to sell to the Foothill Ditch Company that certain ditch system known as the Pogue, Wallace and Crocker Ditch and more definitely located as follows:

All that certain water ditch known as the Pogue, Wallace and Crocker Ditch, and sometimes known as Pogue's Lower Ditch, which said ditch commences in the Kaweah River on Section Twenty-six (26) in Township Seventeen (17) South, Range Twenty-seven (27) East of the Mount Diablo Base and Meridian and the termination thereof is on Section Twenty-nine (29) in Township Nineteen (19) South, Range Twenty-seven (27) east of said Base and Meridian in said County of Tulare, which said ditch is of a length of eighteen miles, more or less, together with all the right, title, interest and estates of said party of the first part in and to all rights of way, all viaducts, flumes, bridges and other appurtenances belonging to or connected with said ditch, which said ditch is the same ditch conveyed to J. W. C. Pogue by the Kaweah Power and Water Company, by deed made, executed, acknowledged and delivered on the 5th day of May, 1903, and recorded in Vol. 113 of Deeds, page 179, Tulare County records, and the right to divert from said river all the six cubic feet of water which said J. W. C. Pogue acquired from said Kaweah Power and Water Company by said deed.

Also all ditches and canals, rights of way, viaducts, embankments, buildings, office, engine houses, wood houses, oil tanks, machine shops and other shops, fences, telegraph lines, pipes, mains, conduit pumps, dynamos, motors, belting, engines, boilers, regulators, poles, trolleys, feeders, cables, wires, switchboards, stable and all things of whatever kind appurtenant thereto at the time of the execution and delivery of this Indenture.

The Foothill Ditch Company was incorporated under the laws of

this state on the 23rd day of April, 1914 for \$10,000 capital stock divided into 10,000 shares of a par value of \$1.00 each. The principal owner of this corporation is R. C. Merryman acting for the Merryman Fruit, Land & Lumber Company.

Prior to May, 1914 Rosa S. Spaulding, individually, owned and operated the aforementioned ditch system. Due to lack of capital, she was unable to make necessary additions and betterments to the system and for this reason disposed of the property.

A public hearing was held in this matter on March 9th, 1915. The consumers, some twenty in number present at the hearing, offered no objection to this transfer.

Although the purchase of the property was actually consummated in May, 1914, applicants failed to apply to this Commission for permission to make the transfer and now ask to have the transfer legally authorized.

Applicants have agreed that a fair price for the ditch system is \$15,000 in cash or notes. Said purchasers also to assume and satisfy all that certain lien in favor of certain users of water from said ditch and against said ditch amounting, at the date of transfer to \$12,665 which was created by a decree of the Superior Court of Tulare County, entered and dated September 11, 1911 in the action commenced by Mercantile Trust Company of San Francisco against the Central California Irrigation Co.

The engineers of the Commission have prepared a valuation of the property involved and have estimated the present value as \$27,950, which practically agrees with the purchase price of \$27,665.

Since May, 1914 many improvements have been made by the purchaser and I am of the opinion that public convenience will best be served by the transfer of this property.

I submit the following form of order:

O R D E R

Rosa S. Spaulding having made application to sell to R. C. Merryman, and he in turn to sell to the Foothill Ditch Company, and R. C. Merryman and the Foothill Ditch Company having made application to buy that certain ditch known as the Pogue, Wallace and Crocker Ditch, and a public hearing having been held, and the Commission being fully apprised in the premises,

IT IS HEREBY ORDERED BY THE Railroad Commission of the State of California that Rosa S. Spaulding be and hereby is authorized to sell to R. C. Merryman and he in turn to the Foothill Ditch Company that certain ditch known as Pogue, Wallace and Crocker Ditch, subject to the terms of that certain contract made on the 15th day of April, 1914, between Rosa S. Spaulding and R. C. Merryman.

The price to be paid is the sum of \$15,000 in cash or notes. Said purchasers also to assume and satisfy all that certain lien in favor of certain users of water from said ditch and against said ditch amounting, at the date of transfer to \$12,665 which was created by a decree of the Superior Court of Tulare County, entered and dated September 11, 1911, in the action commenced by Mercantile Trust Company of San Francisco against the Central California Irrigation Co.

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 ^{April} 20th day of ~~March~~, 1915.

Max Thelen
H. H. ...
...
Edwin S. Edgerton
Frank R. ...
Commissioners.