

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

ORIGINAL

Decision No. 2319

In the Matter of the Application
of NORTH FORK DITCH COMPANY, a
corporation, for order authoriz-
ing it to mortgage property and
to execute mortgage and mortgage
note.

Application No. 1586.

Theodore J. Savage, for applicant.

DEVLIN, Commissioner.

O P I N I O N

This is an application of North Fork Ditch Com-
pany for authority to execute and deliver to C. W. Clarke
Co. a promissory note in the sum of \$158,000, and to se-
cure the same by a mortgage of its property.

North Fork Ditch Company was incorporated in
1899. Its plant consists of a diversion dam on the North
Fork of the American River, about two and one-half miles
southeast of Auburn, Placer County; twenty-five miles of
main canal and eleven miles of branch canal; three reser-
voirs and main pipe lines supplying water to the colonies
in and around Orangevale and Fair Oaks.

At the present time applicant has no bonded in-
debtedness. Its indebtedness, other than current bills,
consists of two promissory notes, in favor of C. W. Clarke
Co. as follows:

<u>Dated</u>	<u>Due</u>	<u>Interest Rate</u>	<u>Amount</u>
July 1, 1909,	July 1, 1912,	6%	\$131,000.
Oct. 3, 1913,	Oct. 4, 1913.	6%	<u>10,450.</u>
			\$141,450.

C. W. Clarke Co. is the controlling interest in North Fork Ditch Co., owning 1497 out of 2000 shares of the Company's stock, and these notes represent advances by C. W. Clarke and C. W. Clarke Co. to North Fork Ditch Co. Applicant testified that the note dated July 1, 1909, represents almost entirely moneys spent in the construction of the masonry diversion dam below Auburn, and other work that has been done on the Company's plant. The note dated Oct. 3, 1913, amounting to \$10,450, represents an advance made by C. W. Clarke Co. to enable North Fork Ditch Company to pay off a promissory note of \$10,000 held by the California National Bank at Sacramento. Witness for the applicant testified that the additional sum of \$450, on the new note represented accrued interest charges.

In addition to the principal sums owing on these notes, considerable interest has accrued, amounting in all to about \$18,627. As the notes are unsecured and are now past due, C. W. Clarke Co. desires that they be secured by a mortgage on the property. The Ditch Company, not being in a position to pay off the notes at the present time, has accordingly applied for authority to execute a new note to C. W. Clarke Co. in the sum of \$158,000, payable on or before June 15, 1916, and bearing interest at six per cent. per annum, and to secure the same by a mortgage of its property. The difference between the principal sum of the old notes and the new note, amounting to \$16,550, is intended to cover a portion of the accrued interest.

After a consideration of the evidence submitted, I am of the opinion that North Fork Ditch Company should be

permitted to issue a new promissory note, or notes, in an amount equal to the principal of the notes now outstanding, less the sum of \$450, which applicant testified represented accrued interest charges on the note formerly held by California National Bank at Sacramento. As regards the inclusion of accrued interest charges in the principal sum of the new note, I am of the opinion that the evidence now before the Commission is not sufficient to warrant a finding at this time.

I recommend the following form of order.

O R D E R

North Fork Ditch Company having applied to this Commission for authority to issue a promissory note to C. W. Clarke Co. in the sum of \$158,000 and to secure the same by a mortgage of its properties, and it appearing to the Commission that applicant's request should be granted to the extent hereinbefore set forth:

IT IS HEREBY ORDERED that North Fork Ditch Company be, and it is hereby, authorized to issue a promissory note to C. W. Clarke Co. in the sum of \$141,000, said note to bear interest at a rate of not more than six per cent. per annum, and to be payable on or before June 15, 1916;

IT IS FURTHER ORDERED that North Fork Ditch Company be, and it is hereby authorized to execute a mortgage of its properties to C. W. Clarke Co. as security for said note, said mortgage to be substantially of the form submitted by North Fork Ditch Company in connection with its application herein, and marked Exhibit "C".

Within thirty (30) days after the issue of the promissory note herein authorized to be issued, applicant shall make report of such issue to this Commission.

The authority herein granted to issue such promissory note shall only apply to notes issued by said Company on or before the eleventh day of October, 1915.

The authority herein granted is conditioned upon the payment by the applicant of the fees prescribed under the Public Utilities Act.

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 21st day of April, 1915.

Railroad Commission State of California

Fee \$144.00
AUG 7 1915
BY W. A. Henderson
Assistant Secretary

H. H. Shorland
Deputy

Frank A. Deady