

Decision No.           

ORIGINAL

Decision No. 1019

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

W. H. ROGERS and CENTRAL PACIFIC  
LAND AND LUMBER COMPANY,

Complainants,

vs.

Case No. 597.

SACRAMENTO VALLEY WEST SIDE CANAL  
COMPANY and WILLIAM F. FOWLER,  
RECEIVER OF THE PROPERTY OF SACRA-  
MENTO VALLEY WEST SIDE CANAL COMPANY,

Defendants.

SACRAMENTO VALLEY REALTY COMPANY,  
et al.,

Complainants,

vs.

Case No. 673.

SACRAMENTO VALLEY WEST SIDE CANAL  
COMPANY and WILLIAM F. FOWLER,  
RECEIVER OF THE PROPERTY OF SACRA-  
MENTO VALLEY WEST SIDE CANAL COMPANY,

Defendants.

C. L. Donohoe, for complainants.  
Devlin and Devlin, for W. F. Fowler,  
Receiver.  
S. C. Davis, for Sacramento Valley Land  
Owners Association.

THELLEN, Commissioner:

SECOND SUPPLEMENTAL OPINION.

This is a petition by complainants in Cases Nos. 597 and 673, that the Railroad Commission make its order extending to and including October 31, 1917, the supplemental order of February 7, 1916 herein, prescribing the terms and conditions for the supply

by W. F. Fowler, as receiver of the property of Sacramento Valley West Side Canal Company, of water to complainants and other land owners in Glenn and Colusa counties.

A public hearing was held in San Francisco, on January 13, 1917, at which time evidence was taken and the cause submitted.

W. F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, testified that in 1916 he supplied water for the irrigation of 9,678 acres of general crops and 9,137 acres of rice. He also testified that he had supplied all the water which the main canal of this water system, in its present condition, could carry. He further testified that by the expenditure of approximately \$10,000 in enlarging the main canal, he expected to be able to sell water during 1917 for at least 5,000 additional acres of land in the central irrigation district.

The following requests of the receiver for modifications in the Supplemental Order of February 7, 1916, were assented to by counsel for the complainants and will be embodied in the second supplemental order herein:

1. That applications to the receiver for water for 1917 shall be in the hands of the receiver by February 15, 1917;

2. That when the flat rate is not in excess of \$2 per acre, the receiver may instead of insisting on the payment of the rental a month in advance, in his discretion, take security satisfactory to him for payment of the rates;

3. That if any consumer of water during the irrigation season of 1916 failed to pay in full for his water he should be required to pay the entire season's rates in cash in advance at the time of filing his application for water in 1917;

4. That the receiver may make rules and regulations by which the service of water to rice growers may be discontinued if a proper levee has not been constructed around the rice field so as to prevent the wastage of water, and that the receiver may make rules and regulations to prevent the users of water for rice growing purposes from premitting water to escape from the bottom of the checks after the flood stage has been reached.

The request of the receiver for a modification of the order of February 7, 1916, with reference to the payment of the cost of operating and maintaining laterals, should be denied for the reason that the receiver has not shown satisfactory reasons for this requested modification.

The request of the receiver that the consumers of water for the year 1916 shall have the first preference during 1917 over persons who were not supplied with water during the year 1916, should be denied for the reason that this request presents legal questions on which it is not now necessary to rule and which questions will become entirely academic in case the receiver has sufficient water to meet all demands.

I submit the following form of second supplemental order:

SECOND SUPPLEMENTAL ORDER.

Good cause appearing,

IT IS HEREBY ORDERED as follows:

1. Sacramento Valley West Side Canal Company and William F. Fowler, receiver of the property of said company, are hereby authorized to charge for water furnished at the bank of the main and river branch canals during the irrigation season of 1917 the following rates:

Flat Rates.

For rice ..... \$7.00 per acre per annum.  
For all other crops ... 2.00 per acre per annum; or

Measured Rates.

Where water is measured, the rate shall be \$2.00 per acre per annum for the use of one and one-half ( $1\frac{1}{2}$ ) feet per acre during the irrigating season, with an additional charge of \$1.50 per acre-foot per annum for each acre-foot used in excess of one and one-half ( $1\frac{1}{2}$ ) acre-feet.

The amount of water for which rates shall be charged shall be the amount of water finally delivered at the private laterals of the landowners, the company bearing the loss due to evaporation and seepage between the main and river branch canals and the land where the water is used.

2. Such additional laterals as may be necessary to serve the landowners under the system of Sacramento Valley West Side Canal Company shall be constructed at the expense of the landowners and according to standard specifications of Sacramento Valley West Side Canal Company.

3. The cost of operating and maintaining the laterals during the irrigation season of 1917 shall be borne by the landowners and not by the receiver.

4. Where it is necessary to construct gates in the bank of the main and river branch canals, through which water is to be

delivered, said gates shall be constructed and maintained by and under the supervision of the Sacramento Valley West Side Canal Company and the receiver thereof; provided, that the landowner shall advance the cost of the same.

5. Landowners desiring water for the irrigation of lands during the season of 1917 shall make application to the utility in writing, describing the land desired to be irrigated and the kind of crops to be raised thereon, this application to be made on or before February 15, 1917, on the condition that a payment of 10 per cent of the cost of the water applied for shall accompany the application, the balance to be paid in five equal monthly installments. Where the flat rate is in excess of two dollars per acre, such payments may be evidenced by promissory notes dated the first day of each month beginning May 1, 1917, all payable November 1, 1917, such notes to be secured by a crop mortgage, which shall be a first lien on the crop, or, in case such crop mortgage can not be given, then other security shall be given to the satisfaction of the utility, such notes to bear interest at the rate of 7 per cent per annum, and on the further condition that the water to be furnished to landowners for the season of 1917 shall be furnished in the order of furnishing provided in this Commission's order heretofore made on June 14, 1915. Where the flat rate is not in excess of two dollars per acre, cash shall be paid to the said receiver in monthly payments in advance for the water to be furnished during the season of 1917, but said receiver is authorized, in his discretion, in such cases to take security satisfactory to him for the payment of such water rates.

6. If any landowner or consumer of water during the irrigation season of 1916 has not paid in full for water the rates authorized by this Commission to be charged for water, he shall be required to pay the entire season's rates in cash in advance at the

time of filing his application.

7. The receiver is authorized to make rules and regulations by which the service of water to those growing rice may be discontinued in any case where the owner or person growing rice has not provided for a proper levee surrounding the field growing rice so as to prevent the wastage of water, and is also authorized to provide rules and regulations which will prevent the users of water for rice growing purposes permitting water to escape from the bottom of the checks after the flood stage has been reached.

8. This order shall remain in effect to and including October 31, 1917.

It is to be understood that this order is made solely for the irrigation season of 1917, and that the order heretofore made on June 14, 1915, shall remain in effect except as modified by this order and shall again be in full force and effect upon the expiration of this order.

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 10th day of January, 1917.

Max Thelen

H. J. Howard

W. G. ...

Edwin C. Edgerston

Commissioners.

