

Decision No. 4235

ORIGINAL

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Decision No. _____

BEFORE THE RAILROAD COMMISSION
OF THE
STATE OF CALIFORNIA

In the Matter of the Appli-)
cation of FRESNO CANAL AND)
LAND COMPANY for authority)
to sell and of Fresno Canal)
and Land Corporation for)
authority to purchase certain)
properties; and the application)
of FRESNO CANAL AND LAND CORPORA-)
TION to issue its capital stock)
of the par value of \$1,000,000.00)
and its bonds of the face value)
of \$600,000.00)

Application
No. 2727

REEDER, Commissioner.

SECOND SUPPLEMENTAL OPINION

In Decision Number 4086, dated February 7,
1917, this Commission authorized Fresno Canal and Land
Corporation to acquire certain properties in Fresno and
Kern Counties from Fresno Canal and Land Company and to

issue \$1,000,000.00 par value of stock and \$600,000.00 face value of bonds. Among other things the Commission's order provided that the authority given to Fresno Canal and Land Company to convey its property to Fresno Canal and Land Corporation should not become effective until Fresno Canal and Land Corporation should have filed with the Railroad Commission a stipulation, duly authorized by its Board of Directors agreeing that Fresno Canal and Land Corporation, its successors and assigns, would assume all liabilities and obligations of Fresno Canal and Land Company, and should have secured from the Railroad Commission a supplemental order reciting that such stipulation in form satisfactory to the Commission had been filed.

On March 22, 1917, Fresno Canal and Land Corporation filed with this Commission a stipulation, duly authorized by its Board of Directors, agreeing for itself and its successors and assigns to assume all of the liabilities and obligations of Fresno Canal and Land Company, both as to any indebtedness of said Fresno Canal and Land Company which may be outstanding at the time of the execution and delivery of the mortgage or deed of trust authorized by the Commission and as to the duties of Fresno Canal and Land Company to the public under the laws of the State of California as a public utility.

The Commission's Decision No. 4086, also provided that the authority given to Fresno Canal and Land Corporation to issue bonds should not become effective until Fresno Canal and Land Corporation should have secured from the Railroad Commission a supplemental order reciting that a proposed deed of trust or mortgage in

form satisfactory to the Commission had been filed. On March 22, 1917, Fresno Canal and Land Corporation filed with this Commission a proposed mortgage or deed of trust which has been marked "Exhibit 6, Amended." This deed of trust is substantially in the form of petitioner's Exhibit No. 6, which is described in Decision Number 4086. It differs principally in the sinking fund provision which now provides for the payment to the trustee:-

"...annually, on the first day of February in each year until and including the year 1922 (commencing for the first of said payments on the first day of February, 1918) a sum of money equal to two per centum (2%) of the amount of bonds face value outstanding at the time of such payments, not less however for any one year than the sum of Twelve Thousand Dollars (\$12,000) nor more than the sum of Fifty Thousand Dollars (\$50,000); provided, however, that during said period of five (5) years the Corporation, if funds therefor shall be available over and above said minimum payment of Twelve Thousand Dollars (\$12,000), may pay a dividend not exceeding one per centum (1%) of the amount of its capital stock then issued and outstanding; it being understood that commencing with the first day of February, 1918, the Corporation will pay annually to the Trustee for such sinking fund all of its net revenue for the twelve (12) months next preceding over and above the amount of the dividend so declared and over and above the amount necessary to pay interest on the bonds outstanding up to the full amount of Fifty Thousand Dollars (\$50,000) not less, however, as above provided for any one of such payments than the sum of Twelve Thousand Dollars (\$12,000). Thereafter commencing with the first day of February, 1923, the Corporation will pay annually to the Trustee for such sinking fund all of its net revenue for the twelve (12) months next preceding over and above the amount necessary to pay interest on the bonds outstanding up to Fifty Thousand Dollars (\$50,000), not less, however for any one of such payments than the sum of Twenty Thousand Dollars (\$20,000) nor less than three and one-third per centum (3-1/3%) of the amount of bonds face value outstanding at the time of such payments."

A further modification in this trust indenture has been made by the addition of a clause giving the holders of more than fifty per cent in amount of the outstanding bonds the right to direct and control the action to be taken by the trustee in case of default.

I am of the opinion that the stipulation and mortgage or deed of trust above referred to are in proper form and should be approved and I accordingly submit the following form of Order:-

SECOND SUPPLEMENTAL ORDER.

FRESNO CANAL AND LAND CORPORATION having filed with this Commission for its approval in accordance with the terms of Decision No. 4086, dated February 7, 1917 a stipulation agreeing to assume all of the liabilities and obligations of Fresno Canal and Land Company and a mortgage or deed of trust proposed to be executed as security for \$1,000,000.00 face value 6% Gold Bonds, and it appearing to this Commission that said stipulation and mortgage or deed of trust are in proper form and should be approved;

THE COMMISSION HEREBY FINDS AS A FACT that the stipulation filed in this proceeding on March 22, 1917 by Fresno Canal and Land Corporation agreeing to assume for itself and its successors and assigns, the liabilities and obligations of Fresno Canal and Land Company, is in form satisfactory to this Commission and that it complies with paragraph "b" of Section 3,

of this Commission's order in Decision Number 4086,
dated February 7, 1917,

THE RAILROAD COMMISSION HEREBY FINDS AS A
FACT that Fresno Canal and Land Corporation has filed
a copy of its proposed mortgage or deed of trust in form
satisfactory to this Commission in compliance with
paragraph "c" of Section 3, of this Commission's order
in Decision Number 4086, dated February 7, 1917.

The foregoing Second Supplemental Opinion
and Second Supplemental Order are hereby approved and
ordered filed as the Second Supplemental Opinion and
Second Supplemental Order of the Railroad Commission
of the State of California.

Dated at San Francisco, California this 7th
day of April, 1917.

Max Theles
F. J. Shovaland
Edwin O. Edgerton
Frank R. Wilson
Commissioners.