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Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

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In the Matter of the Application)
of BYRON-BETHANY IRRIGATION COM-)
PANY for an order directing the) Application No. 2886.
issuance to it of a certificate)
of public convenience and necessity.)

Cary Howard for applicant.

BY THE COMMISSION.

O P I N I O N .

BYRON-BETHANY IRRIGATION COMPANY applies for a certificate that public convenience and necessity require the operation by it, as a public utility, of certain works for the furnishing of water for irrigation to certain described lands lying in Contra Costa, Alameda and San Joaquin counties.

A public hearing in this matter was held by Examiner Westover at San Francisco on May 26, 1917.

Byron-Bethany Irrigation Company was organized about February 25, 1914, as a mutual water corporation for the purpose of furnishing water to its stockholders who are owners of lands near Byron, Bethany and Tracy, for the irrigation of their lands, most of which are farmed by them and which they wish to prepare for more intensive farming operations. Applicant plans to serve about 14,000 acres, and ultimately about 20,000 acres. The company immediately began the construction of its system and has heretofore excavated about 21 miles of canals and ditches, has purchased and installed machinery, pumps and appliances and

has constructed and is ready to operate its four pumping plants but has not yet delivered any water. Its general plan is to take water from Old River through Italian Slough and lift it about 45 feet into its main canals and thereafter by successive lifts into various portions of its system, the highest elevations being about 145 feet. It has not yet constructed its intake at Italian Slough and Old River but this can be done quickly and at small expense.

About February 16, 1917, it filed amended Articles of Incorporation authorizing it to sell and dispose of water generally. It now applies for authority as a public utility to furnish water to the public within the area shown on map attached to the application as an exhibit, except as to a portion thereof containing about 4000 acres in the vicinity of Tracy which it now anticipates will be supplied by Tracy Irrigation District now being formed. The territory applicant wishes to serve is not included in any other irrigation project.

Applicant has an authorized capital stock of \$100,000 divided into 10,000 shares of the par value of \$10 each. Prior to the amendment of its articles it issued 6588 shares of its capital stock practically all to farmers in its territory, payable in installments, and collected therefor \$54,510.30. Nearly all of this stock was sold at its par value of \$10 per share but some was sold at \$12.50 per share. The \$54,510.30 collected was used in the construction of its works and plants. It has borrowed the sum of \$32,200, and owes about \$2290.45 for current bills. It thinks it may become necessary to raise about \$20,000 additional for its purposes. Subsequent application will probably be made to the Commission concerning its further financing.

Applicant has procured necessary authority from the Board of Supervisors to cross public roads and highways in Contra

Costa County. It has applied for similar authority in Alameda County and has received assurance that it will be granted upon filing bond for \$500 which applicant will do. One of the ten necessary crossings in that County has been constructed. It has been assured by the authorities of San Joaquin County that authority for the four needed crossings in that County will be granted upon formal application which, however, has not been filed.

About half of the system so far completed lies in Contra Costa County and about half in Alameda County, though some of it lies in San Joaquin County.

Applicant will be ready to serve some 2000 acres without crossing roads where authority is lacking, as soon as it constructs its head gates and a short lateral.

It developed at the hearing that some owners of lands lying on both sides of Italian Slough are claiming exclusive rights to the water in the Slough and are demanding compensation for the right to take water therefrom, as well as for a right of way across a small part of their lands. Indeed this seems to have been the cause for amending applicant's articles of incorporation in the belief that it could then condemn the rights it desires in the land and water referred to. However, a serious effort is being made to so adjust the differences, for the current season, as to enable applicant to serve water through at least part of its system at once.

At the hearing applicant was given leave to amend its application to include request for preliminary certificate as to those portions of its system for which it has not yet procured needed franchises to cross public roads and property.

The Commission earnestly desires to enable applicant to assist in increasing the production of foods during this time of national emergency and will therefore go as far as it

properly may in granting the authority sought.

O R D E R .

BYRON-BETHANY IRRIGATION COMPANY having applied for a certificate of public convenience and necessity, a public hearing having been held and it appearing that applicant should be promptly enabled to assist in increasing the production of food during this period of national emergency,

THE RAILROAD COMMISSION OF CALIFORNIA does hereby certify that public convenience and necessity require that Byron-Bethany Irrigation Company, its successors and assigns, supply water for irrigation through that portion of its system in Contra Costa County and also in other portions of its system where it can serve without crossing public roads or property for which it has not yet received authority.

IT IS HEREBY ORDERED that the Railroad Commission of California will hereafter, upon application, after Byron-Bethany Irrigation Company has obtained proper authority to cross roads, highways and public property in Alameda and San Joaquin counties, where necessary for the purposes of its system issue certificate upon such terms and conditions as it may designate that public convenience and necessity require the service by said Byron-Bethany Irrigation Company of irrigation water through its canals and system located in said counties; provided said Byron-Bethany Irrigation Company shall first have filed with the Railroad Commission a stipulation duly authorized by its Board of Directors agreeing for itself, its successors and assigns that it or they will never claim before the Railroad Commission or any other public authority any value for said rights, privileges or authority to

cross said roads, highways or public property, in excess of the amount paid therefor at the time said authority was procured, which amount shall be specified in said stipulation , and provided said Byron-Bethany Irrigation Company shall have received from the Railroad Commission a supplemental order reciting that such stipulation in form satisfactory to the Railroad Commission has been filed herein.

Dated at San Francisco, California, this 1st day of May, 1917.

Max Thelen

H. H. Hornsby

Edwin C. Edgerton

Frazer P. DeWitt

Commissioners.