

Decision No. 5197

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of )  
WILLIAM F. FOWLER, Receiver of the )  
property of SACRAMENTO VALLEY WEST )  
SIDE CANAL COMPANY for an order )  
authorizing an increase in rates )  
for water for irrigation. )

Application No. 3369.

- Frank Freeman for William F. Fowler, Receiver; Superior California Farm Lands Company; Esperanza Land Company; James Mills Orchards Corporation.
- Frank Moody for Princeton-Codora-Glenn Irrigation District and Jacinto Irrigation District.
- C. L. Donohoe and Claude F. Purkitt for California Midland Realty Company, Spalding Company, George C. Ellis, Sacramento Valley Realty Company and other land owners.
- Thomas Rutledge for J. S. Gibson Company.
- Charles Elkus for P. B. Cross.
- George Freeman for Spoier and Scheeline.

HELEN, Commissioner.

OPINION ON SUPPLEMENTAL HEARING.

In Decision No. 5071, made and filed on January 25, 1918, in the above entitled proceeding, the Railroad Commission directed Petitioner to "make such improvements and incur such expenditures as may be necessary so that the irrigation system of Sacramento Valley West Side Canal Company will have developed during the irrigating season of 1918 sufficient water to irrigate at least 26,000 acres of rice land and 15,000 acres of land planted to general crops."

The work necessary to develop this amount of water is now being done. The result will be to enable this system to irrigate in 1918 substantially 10,000 acres of additional rice land, or the equivalent thereof in general crops.

The Railroad Commission also established rates, rules and regulations to be applicable under this system for the irrigat-

ing season of 1918. The rates, rules and regulations thus established are in most respects identical with those heretofore established for the irrigating season of 1916 and 1917, and agreed to by the Receiver and the consumers. (Decision No. 3080, made on February 7, 1916, Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 143, and Decision No. 4019, made on January 16, 1917, Vol. 12, Opinions and Orders of the Railroad Commission of California, 304, both decisions being rendered in Cases Numbers 597 and 673.)

Among the rules and regulations established in said Decision No. 5071 was Rule 5, reading in part as follows:

"Land owners desiring water for irrigation of lands during the season of 1918, apart from the special use before and after the maximum demand during the irrigating season hereinbefore referred to, 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, 1918, on the condition that a payment of 20 per cent of the cost of the water applied for shall accompany the application, the balance to be paid in five equal monthly installments."

Rule 6 provided in part that any applicant for water for 1918 might protest against any other applicant who, in the opinion of the protestant, was applying for more water than he in good faith intended to use in 1918, and that the Receiver should not make final assignment of the water for 1918 until authorized so to do by the Railroad Commission.

Shortly after February 15, 1918, the Receiver filed with the Railroad Commission a statement showing the amount of water for which application had been made under this system for 1918. This statement was filed as Exhibit No. 2 of the Receiver at the supplemental hearing hereinafter referred to. The statement, as amplified and corrected by the testimony herein, shows that application has been made for between 55,000 and 55,200 acres of rice land and approximately 15,400 acres of general crops. Of the rice

land for which application has been made, approximately 5,500 acres are located outside the boundaries of the old Central Irrigation District and the remaining lands, being 49,000 to 50,000 acres, are located within the boundaries of the District. The lands for which water has been requested for the irrigation of general crops are almost evenly divided in acreage as between those located within and those located outside of the Central Irrigation District.

The total acreage irrigated in 1917 was as follows:

General crops,	12,757 acres
Rice,	16,556 acres

Even though we bear in mind the fact that this system will make available enough additional water to irrigate 10,000 additional acres of rice land, or the equivalent thereof in general crops, in 1918, it is still apparent that the applications for water for 1918 call for an amount of water largely in excess of the ability of the utility to supply in 1918. It is accordingly necessary to establish the principles on which the assignment of water for 1918 will be made.

Protests having been filed by a number of land owners, a supplemental hearing was held in Willows on February 28 and March 1, 1918, at which hearing evidence was introduced in behalf of all interested parties and the entire situation thoroughly examined. Additional data called for at the hearing have now been filed and the question of the assignment of water for 1918 may now be answered.

The subject matter of this Opinion will now be considered under the following heads:

1. Lands which had water in 1917 for general crops.
2. Lands which had water in 1917 for rice.
3. Lands which did not have water in 1917.

4. Contracts between irrigation districts and Receiver.
5. Irrigation before and after maximum use of water for rice.
6. Acceptance of proration.

1. LANDS WHICH HAD WATER IN 1917 FOR GENERAL CROPS.

Lands which had water in 1917 for general crops, whether within or outside the boundaries of Central Irrigation District, should have water assigned to them for general crops in 1918, without diminution.

While quite a large acreage of general crops lies outside the boundaries of Central Irrigation District, including particularly the lands planted to general crops in the newly formed Princeton-Codora-Glenn Irrigation District and Jacinto Irrigation District along the River Branch Canal, the lands of James Mills Orchards Corporation at Maxwell and the Monroeville Orchard of Superior California Farm Lands Company, these lands have been developed at considerable expense and valuable improvements affixed thereto at a time when the land owners in the Central Irrigation District were calling for only a small portion of the water which can be delivered through this system. The interested parties agree with practical unanimity that it would be most unjust to take the water from these lands in order to give it to land owners in Central Irrigation District who for many years have failed and refused to take water from this system and have slept on their rights.

2. LANDS WHICH HAD WATER IN 1917 FOR RICE.

Everyone agrees that lands in the Central Irrigation District which had water <sup>for rice</sup> in 1917 may be assigned the water necessary to irrigate these lands for rice in 1918.

In a number of instances, a portion of a large tract of

land within the Central Irrigation District was heretofore planted to rice and it is now desired to apply the same quantity of water to another portion of the same tract, planting some other crop on the land planted to rice in 1917. The rotation of crops is clearly desirable and this disposition of the matter seems entirely proper, provided that if any such land heretofore planted to rice was sold subsequent to the irrigating season of 1917 and the new owner applies for water on the land which he bought and the former owner applies for water for rice on another portion of the same tract not heretofore planted to rice, the purchaser may receive water for rice without diminution, while the application for water by the former owner shall be considered to that extent as a new application subject to proration as hereinafter indicated.

In a number of instances, land within the Central Irrigation District was planted to general crops in 1917, but its owner now desires to plant it to rice, which crop requires approximately three times as much water as general crops. In such instances, the application, in so far as it covers water in excess of that necessary for general crops, must be regarded as a new application and take its pro rata.

In 1917, the following lands lying outside of Central Irrigation District received water for rice:

(1) J. E. Knight--East 1/2 of Section 57, Glenn Ranch Survey, 234 acres.

(2) California Midland Realty Company--South 1/2 of Section 15, Township 18 North, Range 2 West, and Lots 32 and 41 in the Boggs Tract, 375 acres.

(3) P. B. Cross, 1160 acres in the Packer Tract.

(4) Superior California Farm Lands Company--170 acres in the Boggs and Packer Tracts.

(5) A few small parcels in the Boggs Tract.

The lands of California Midland Realty Company were also planted to rice in 1916.

J. E. Knight, California Midland Realty Company, P. B. Cross and the owners of the small parcels in the Boggs Tract have applied for water for rice for the above described lands in 1918. Superior California Farm Lands Company has not made application for any lands to be planted to rice outside the boundaries of Central Irrigation District.

I have given careful consideration to the question as to the disposition which should be made of the lands outside of Central Irrigation District which were planted to rice in 1917 and for which application for water has been made for 1918, so that justice may be done both to the owners of these lands and to the owners of lands within Central Irrigation District.

On the one hand, these lands are outside the boundaries of Central Irrigation District. As said by the Supreme Court of this State in Byington v. Sacramento Valley West Side Canal Company, 170 Cal. 124, "The lands within the bounds of the original Central Irrigation District constitute the primary territory to which the original public use extends and continues." The Court further said that "When demanded, such lands (the lands within the District) must be served with water from the system, before it can lawfully be taken for use upon outside lands." Whether this language has the force of decision is a matter as to which well informed opinions differ.

The lands within the District are now for the first time making demand for water in excess of the ability of this system to supply in 1918, and it was urged by some of the parties hereto that the water should now be taken away from all lands outside the Central Irrigation District heretofore receiving water for rice. It is also urged that these lands received water for rice on the understanding that this water might and probably would later be used for the irrigation of lands within the original Central Irrigation District.

On the other hand, these lands were planted to rice while land owners in the Central Irrigation District were still refusing to take water from this system even though earnestly solicited so to do. Some of these lands, particularly those planted to rice during both of the last two irrigating seasons, have played a very considerable part in demonstrating to the people of Glenn and Colusa Counties the feasibility and profitability of the rice crop.

The lands of Knight and California Midland Realty Company and the small parcels in the Boggs Tract are within the newly created Princeton-Codora-Glenn Irrigation District and it is reasonable to assume that they will receive water from that district in 1919 and thereafter. The lands of Cross will presumably receive water in 1919 and thereafter, from an irrigating system which Cross is now constructing.

I conclude that it would be fair and just to all parties concerned to permit said lands of Knight, California Midland Realty Company and P. B. Cross and said small parcels in the Boggs Tract to receive water from this system, without deduction, in 1918, but that the owners thereof must look forward to receiving no further water for said lands from this system after the irrigating season of 1918.

While I shall recommend that water be delivered by the Receiver, during this season only, to said lands unless provision is made for irrigating them from other sources during this season, I desire to draw attention to the possibility of irrigating these and other rice lands outside of Central Irrigation District by other means, thus releasing for assignment to lands within Central Irrigation District the water which otherwise would be used on said lands.

The Commission is in receipt of a letter dated March 7, 1918, from Mr. C. L. Donohoe, in which letter Mr. Donohoe suggests that a 300 H.P. motor and the necessary transformers, capable

with a 36 inch pump of lifting the water from the Sacramento River at Sidd's Landing into the River Branch Canal, can be leased from Pacific Gas and Electric Company for a rental of \$300 per month, provided that the trustees of ~~the~~ Reclamation District No.730 are willing to release the apparatus. The agreement of the Pacific Gas and Electric Company in this behalf is contained in letter dated March 6, 1918, from Mr. J. W. Coons, Manager of the Company's Yolo District, to Mr. Charles St.Maurice, engineer of Princeton-Codora-Glenn Irrigation District. Mr. Donohoe further states that a 36 inch pump, located at the same site as said motor and transformers, can be rented for \$600.00 for the season and that the expense of conveying the apparatus to Sidd's Landing, building the proper foundations and installing the apparatus, will be not to exceed \$2500.00. Mr. Donohoe suggests that if this installation at Sidd's Landing is made, the requirements of the Princeton-Codora-Glenn Irrigation District can be met in this manner and the water which otherwise would be delivered by the Receiver to the District can be brought down either through the River Branch Canal or the Y laterals, thence into the main ditch of the Cross Project and thence to the 1160 acres of Cross, the 375 acres of California Midland Realty Company, the 250 acres of Knight and in addition thereto to 400 acres applied for by Harry Boyse and 1200 acres applied for by Cecil and Hatch. Unless some such arrangement is made, the last two parcels will receive no water. Mr. Donohoe further states that this plan may require a small lift from the River Branch Canal into the Cross Canal, but that he will undertake to find the necessary pump and equipment for that purpose.

The additional 90 second feet of water from Sidd's Landing, together with 15 second feet from the Shilooe Pump, so states Mr. Donohoe, will be sufficient even without the Hamilton



Sugar Beet Plant's pump to take care of the requirements of the Princeton-Codora-Glenn Irrigation District and of all the lands specifically hereinbefore described.

I have submitted this plan to Mr. R. W. Hawley, the Railroad Commission's Hydraulic Engineer, and he reports that it is entirely feasible from an engineering and economic point of view.

The Railroad Commission cannot make an order in this matter for the reason that it involves a public irrigation district and a number of private individuals over whom the Commission does not have jurisdiction. Nevertheless, I desire to draw attention to the fact that the consummation of this project will result in the irrigation of several thousand additional acres of rice land and the production of approximately 10,000,000 additional pounds of food stuffs in 1918 and to express the earnest hope that all the parties involved in the matter will immediately confer and pull together to attain this very desirable and patriotic end.

### 3. LANDS WHICH DID NOT HAVE WATER IN 1917.

No lands outside of Central Irrigation District which did not receive water from this system in 1917 should receive any water from the system in 1918 or thereafter as long as lands within the District demand the water.

This rule shall apply to all lands outside of the Central Irrigation District, including the 150 acres of the Monroeville orchard of the Superior California Farm Lands Company, which were not irrigated in 1917 but which are included in the applications for water for 1918. The testimony shows that the water level under these 150 acres is close to the surface of the ground and that other means for securing water for this land are available.

Referring now to the lands within the Central Irrigation District which were not irrigated in 1917, but as to which application is made for 1918, I shall address myself first to the applications for water for general crops. This system was originally planned and constructed for the irrigation of lands for general crops. While the present profitableness of the rice crop has resulted in a very much larger demand for rice than for general crops, it seems quite probable that after a number of years the mainstay of this system will again be general crops, and it seems a sound public policy to encourage the further development of general crops. The Receiver has suggested that applications for water for general crops be granted in full and I agree with him in his conclusion. The Receiver will accordingly assign in full the applications for water for lands for general crops within the Central Irrigation District before pro rating.

Lands within Central Irrigation District which received water for general crops in 1917 and which now have applied for water for rice for the same lands for 1918 will receive without diminution the amount of water which they received in 1917, but must pro rate as to the additional water desired for rice on the basis, where the water is not measured, of three acres of land irrigated to general crops with the same amount of water which will irrigate one acre of land planted to rice.

Lands within Central Irrigation District which did not receive water in 1917 but have applied for water for rice for 1918, will take their pro rata of the water remaining after assignments have been made to the lands which are entitled to water without diminution, as herein set forth.

In estimating the amount of new lands to be considered within the Central Irrigation District as the basis of the pro rating, the following lands should be excluded:

(1) 50 acres in the northeast 1/4 of Section 22, Township 15 North, Range 3 West, M. D. B. and M., by voluntary agreement of the applicant.

(2) 640 acres in Section 21, Township 19 North, Range 3 West, M. D. B. and M.

The testimony shows affirmatively that this land will be unable to secure a right of way for the necessary lateral. If the necessary right of way, nevertheless, be secured prior to the assignment of water by the Receiver, this land may be included.

4. CONTRACTS BETWEEN IRRIGATION DISTRICTS AND RECEIVER.

Princeton-Codora-Glenn Irrigation District and Jacinto Irrigation District, each a public irrigation district recently formed and embracing lands between the old Central Irrigation District and the Sacramento River, each presented a draft of proposed agreement with the Receiver of the property of Sacramento Valley West Side Canal Company, providing for the delivery by him to each district of a specified amount of water for the irrigation season of 1918.

The agreement with the Princeton-Codora-Glenn Irrigation District provides for the delivery of not to exceed 65 second feet of water. The agreement with the Jacinto Irrigation District provides for the delivery of not to exceed 35 second feet of water.

The district agrees, in each instance, to distribute the water on lands within its boundaries.

The agreements contain other provisions to which it is not necessary here to refer.

Each agreement provides that it is made subject to the approval of the Railroad Commission.

The testimony shows that the amounts of water specified

in these contracts are assumed to be approximately the amounts which were delivered by the Receiver to the lands within each of these districts, respectively, in 1917.

The testimony, however, developed the fact that these two irrigation districts may desire to apply some of this water to lands within their boundaries not irrigated in 1917. None of these lands are within the boundaries of the old Central Irrigation District. It is frankly conceded that under normal conditions, no new lands outside the Central Irrigation District would have a right to water as long as lands within the District are demanding the water. It is urged, however, that by reason of the existence of a limiting factor in the ability of the main canal of this system to deliver water, this limiting factor being referred to as the "Choke", the pumps of this system pumping water from the Sacramento River can pump 100 second feet of water more than can be forced this coming season through the "Choke" for use within the old Central Irrigation District. The "Choke" is caused by the failure to date to complete the main canal from its intersection with the west line of the Jacinto Grant southerly to the east line of Township 20 North, Range 3 West, M. D. B. and M., a distance of approximately four miles.

The argument is made that if these two irrigation districts confine to the lands within their boundaries irrigated in 1917 the waters which they are to receive from the Receiver in 1918, a portion of the water which the Receiver can pump and which, it is alleged, cannot be forced through the "Choke" in the main canal will not be applied to any beneficial use and will be entirely wasted.

Everyone, of course, desires, particularly at this time, to have the water in this system used most efficiently in the production of food stuffs. However, I have in mind the testimony showing that in 1917 the lands planted to general crops in these

two irrigation districts were neglected in favor of rice lands and did not secure sufficient water for the irrigation of their crops, and I am not at all satisfied that all the water to be secured by these two districts from the Receiver cannot be used advantageously on the lands which received water in 1917. Furthermore, Mr. R. W. Hawley, the Railroad Commission's Hydraulic Engineer, is by no means satisfied that more water than the amount estimated by the utility can not be transmitted through the "Choke".

While I shall recommend that these two agreements be approved, such approval will be subject to the proviso that unless hereafter authorized by the Railroad Commission, no water received by either of the two irrigation districts from the Receiver shall be used to irrigate any lands which were not irrigated in 1917 or to irrigate for rice any lands not so planted in 1917.

The Receiver will, of course, supply to these two districts only such water as is necessary for the irrigation of the lands in these two districts irrigated in 1917.

5. IRRIGATION BEFORE AND AFTER MAXIMUM USE  
OF WATER FOR RICE.

The Order in said Decision No. 5071, made on January 25, 1918, provides in part as follows:

"Sacramento Valley West Side Canal Company and William F. Fowler, Receiver of the property of said company, are also authorized to deliver water before and after the maximum demand therefor during the irrigating season, for the purpose of germinating water grass seed in the rice fields or for moistening the land for early fall plowing, or otherwise, at the rate of 75 cents per acre for four acre inches of water, or fraction thereof, to be served at one time, with a proportionate charge for any amount exceeding four acre inches, payment to be made after each run of such water."

Under this provision, large quantities of water can be used under this system before and after the maximum demand during the irrigating season, for the irrigation of corn and other crops.

At this time, when the maximum production of food stuffs

is : urgently desirable to serve the Nation's war needs, the attention of both the Receiver and the land owners under this system within the boundaries of the old Central Irrigation District is particularly directed to this situation and to the possibility of producing large additional crops of the character indicated by more complete and effective use of the water under this system.

6. ACCEPTANCE OF PRORATION.

Upon receipt of a copy of this Opinion and Order, the utility shall promptly proceed to assign its water in accordance with the principles herein set forth.

In any case in which an application is not granted in full, a percentage only of the acreage applied for being awarded, the utility may promptly send to the applicant a notice of the proration and direct that within ten days after the mailing of the notice the applicant notify the utility in writing whether he accepts the assignment and, if so, the particular land on which he intends to apply the water.

If any water thus assigned is not accepted, the utility shall notify the Railroad Commission, whereupon the utility will be promptly advised as to what disposition it shall make of such "returned water".

The foregoing solution of the vexing problems concerning the assignment of the limited amount of water available under this system for 1918 has been worked out in the hope that it will appeal to the interested parties as being, on the whole, a fair and just determination. It is much to be hoped that while the Nation is at war and needs every available pound of food stuffs, no obstruction will be placed in the way of the delivery by this system of the maximum amount of water under an orderly and certain procedure during the entire irrigating season.

I submit the following form of Order:

O R D E R.

A supplemental hearing having been held in the above entitled proceeding on the question of the assignment of Petitioner's available water for irrigation in 1918, and the matter having been submitted and being now ready for decision, SACRAMENTO VALLEY WEST SIDE CANAL COMPANY and WILLIAM F. FOWLER, Receiver of its property, are hereby ordered as follows:

1. Sacramento Valley West Side Canal Company and William F. Fowler, the Receiver of said property, are hereby directed to assign for the irrigating season of 1918 the water in their system available for irrigation, such assignment to be made in accordance with the principles set forth in the Opinion which precedes this Order.

2. The form of agreement between Princeton-Codora-Glenn Irrigation District and William F. Fowler, Receiver of the property of Sacramento Valley West Side Canal Company, filed herein as Exhibit No. 1 of Princeton-Codora-Glenn Irrigation District and the form of agreement between Jacinto Irrigation District and William F. Fowler, Receiver of the property of Sacramento Valley West Side Canal Company, filed herein as Exhibit No. 1 of Jacinto Irrigation District, are hereby approved on the condition that unless hereafter otherwise authorized by the Railroad Commission, no water received

by either of said irrigation districts from the Receiver shall be used to irrigate any lands which were not irrigated in 1917, or to irrigate for rice any lands which were not irrigated for rice in 1917.

3. The Railroad Commission reserves the right to make such further order or orders herein as may to it seem proper and desirable.

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 12th day of March, 1918.

Max Thelesse  
H. D. Howard

Edwin O. Edgerton  
Frank R. Devlin

Commissioners.