

Decision No. \_\_\_\_\_

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Decision No. 5281

In the Matter of the Application )  
of EAST BAY WATER COMPANY, a )  
corporation, for an order authoriz- ) Application Number 3506.  
ing the issue of bonds or of notes. )

W. E. Creed and A. G. Tasheira for applicant.

EDGERTON, Commissioner.

O P I N I O N

EAST BAY WATER COMPANY asks authority to issue \$900,000. of its first mortgage 5-1/2 per cent bonds payable January 1, 1946, or as an alternative, issue \$900,000. of 1-year 5-1/2 per cent notes, the payment of which is to be secured by the pledging of bonds at such ratio as will make the notes legal investments for savings banks in the State of California.

In a schedule attached to the petition herein, East Bay Water Company reports its estimated construction expenditures upon its San Pablo project from and after January 1, 1918 as follows:

Rock and earth fill in dam, 1,260,000 yds. ....	\$ 529,000.
Driving outlet tunnel, 9,484 lin. ft. ....	189,680.
Concrete lining of outlet tunnel, 10,125 lin. ft. ....	101,250.
Concrete outlet tower with controlling gates and valves. ....	30,000.
Clearing reservoir site of trees, brush, houses, fences, etc, ....	37,000.
Eight miles of road around reservoir .....	60,000.
Miscellaneous expenditures covering-Flood control; construction of temporary roads, maintaining roads; construction of temporary wasteways; refilling with earth and rock excavations for temporary wasteways; installing piling and booms for flood protection; construction and maintenance of camp buildings; ex- cavation and concreting tunnel portals; installation of test pits and tunnels .....	94,690.
Engineering and incidentals .....	130,200.
Total Cost .....	\$1,171,820.

At the hearing on this application, Mr. C.H. Wilhelm, chief engineer and general manager of East Bay Water Company, testified that all of the foregoing estimated construction expenditures, with the exception of those for road, miscellaneous and engineering purposes, were based upon actual contract prices. For the purpose of paying in whole or in part the expenditures upon its San Pablo project incurred from and after January 1, 1918, applicant desires to issue \$900,000.00 of bonds. G. H. Wilhelm is of the opinion that the issue of \$900,000.00 of bonds will enable applicant to complete its San Pablo project with the exception of the construction of a filtration plant. He estimates the cost of the filtration plant at approximately \$400,000.00.

Reference is here made to Decision Number 5072 dated January 28, 1918, wherein the Commission authorized East Bay Water Company to issue \$462,000.00 of its 5-1/2 per cent bonds, and to Decision referring to Application Number 3505 authorizing East Bay Water Company to issue \$218,084.71 of its first mortgage bonds. The latter decision contains a statement showing applicant's assets and liabilities as of December 31, 1917, also a statement showing applicant's revenues and expenses for the year 1917.

In the event that applicant is unable to sell upon favorable terms the \$900,000.00 of bonds which it now desires to issue, it proposes to issue in lieu thereof \$900,000.00 of 5-1/2 per cent 1-year notes. The payment of these notes it intends to secure by the pledging of bonds at such ratio as will render the notes legal investment for savings banks. Applicant reports that it has made arrangements with bankers to obtain a loan of \$750,000.00 to be represented by notes issued for a term of one year. Under the agreement with the bankers, applicant may at its option pay the notes either in cash or in bonds at 93-1/2 and accrued interest if the bonds are legal investment for savings banks at the

time the option is exercised, or at 92-1/2 and accrued interest if the bonds are not legal investment for savings banks at the time the option is exercised. In view of this arrangement with the banks, I am of the opinion that applicant should be permitted at this time to issue \$900,000.00 of its first mortgage 5-1/2 per cent bonds, to sell the same for cash at not less than 94 per cent and accrued interest or to deliver the same in payment of notes at not less than 92-1/2 per cent and accrued interest. I am further of the opinion that in view of applicant's agreement with various bankers, it may be permitted to pledge the bonds herein authorized in such ratio as will render the notes issued pursuant to the order herein legal investments for savings banks. I believe, however, that the collateral trust agreement under which the notes will be issued or the notes themselves should contain a proviso permitting the company to pay the notes at its option in lieu of cash in bonds at not less than 92-1/2 per cent and accrued interest.

While applicant under the provisions of the Public Utilities Act may issue notes for a term of one year without an order from the Railroad Commission, it asks that the Commission authorize the issue of the notes. It intends to issue the notes only in the event that it is unable to sell its bonds. The proceeds from the issue of the notes will be used for the same purpose for which it contemplates to use the proceeds from the sale of the \$900,000.00 of bonds.

I herewith submit the following form of Order.

O R D E R.

EAST BAY WATER COMPANY having applied to the Railroad Commission for authority to issue \$900,000.00 face value of its first mortgage 5-1/2 per cent bonds payable January 1, 1914, or as an alternative, \$900,000.00 face value of 5-1/2 per cent 1-year notes, a public hearing having been held and the Railroad Commission being of the opinion that the moneys, property or labor to be procured or paid for by the issue of the bonds or notes is reasonably required for the purpose or purposes specified in the order herein, and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

IT IS HEREBY ORDERED that EAST BAY WATER COMPANY be, and it is hereby, granted authority to issue \$900,000.00 of its first mortgage 5-1/2 per cent bonds payable January 1, 1914, or as an alternative, \$900,000.00 of 5-1/2 per cent 1-year notes, upon the following conditions:

(1).-- The bonds herein authorized to be issued shall be sold by applicant for cash at not less than 94 per cent of their face value plus accrued interest or shall be delivered by applicant at not less than 92-1/2 per cent of their face value plus accrued interest in payment for notes issued under the provisions of this order. In lieu of selling said bonds, applicant may pledge the same to secure the payment of the one-year notes herein authorized to be issued at such ratio as will render said notes legal investments for savings banks.

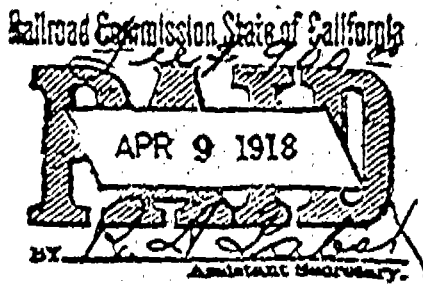
(2).-- The notes herein authorized to be issued shall be sold by applicant for cash at par.

- (3).-- The collateral trust agreement under which applicant will issue the notes herein authorized or the notes issued pursuant to the authority herein granted, shall contain a provision authorizing East Bay Water Company to pay said notes at its option in lieu of cash in first mortgage bonds at not less than 92-1/2 per cent of their face value plus accrued interest.
- (4).-- The proceed obtained from the sale of the bonds or notes herein authorized to be issued shall be deposited by applicant in a special fund and used to finance in whole or in part its expenditures upon its San Pablo project from and after January 1, 1918. No part of said proceeds shall be expended until applicant has filed with the Railroad Commission a statement showing its expenditures on said project since January 1, 1918, and has obtained from the Railroad Commission a supplemental order authorizing the use of the proceeds from the sale of the bonds or notes herein authorized to be issued.
- (5).-- East Bay Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds or notes herein authorized to be issued and on or before the twenty-fifth day of each month shall make verified reports to the Railroad Commission in accordance with the Commission's General Order Number 24, which order, in so far as applicable, is made a part of this order.
- (6).-- The authority herein granted shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

(7).-- The authority herein granted shall apply only to such bonds and notes as shall be issued on or before December 31, 1918.

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 5th day of April, 1918.



Max J. Thelen  
H. H. Loveland  
Alex. Ford  
Edwin O. Edgerton  
Frank R. Hobbs

Commissioners.