

MR

Decision No. 5986

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of THE CALIFORNIA COMPANY for an)
order approving and ratifying the) Application 4126.
execution and delivery of a pro-)
missory note and mortgage.)

LOWELLAND, Commissioner.

O P I N I O N

The California Company asks the Railroad Commission to ratify and approve the issue of a 2-year 6 per cent note for the principal sum of \$5,000.00 and the execution of a mortgage securing the payment of the note.

The California Company reports that it owns a water plant and system situate in Calaveras County, and known as the Salt Spring Valley Reservoir; that it was originally organized and conducted business as a private mining corporation, using the Salt Spring Valley Reservoir, with its ditch system, for the purpose of carrying on hydraulic mining near Jenny Lind, Calaveras County and that since the cessation of its mining operations more than fifteen years ago, it has held its property intact with the exception of permitting others to use some of the waters collected in its reservoir.

On May 15, 1917, without an order from the Railroad Commission, applicant issued to J. E. Southwick its two year 6 per cent note and executed a mortgage covering all of its properties, to secure the payment of the note. At the time the note was issued, and even now, applicant reports that it is doubtful whether it is a public utility. However, for the purpose of removing all doubt as to the validity of the note and mortgage, applicant has filed this application.

For the purpose of this proceeding, the Commission must obviously assume that applicant is a public utility. From this assumption it follows that both the note and mortgage are void. To represent the moneys loaned by J. E. Southwick to The California Company, I recommend that applicant be granted authority to issue its \$5,000.00 6. percent note payable on or before May 15, 1919 and to execute a mortgage to secure the payment of the note. The note issued and mortgage executed on May 15, 1917 should be cancelled.

I herewith submit the following form of Order:

O R D E R

THE CALIFORNIA COMPANY having filed with the Railroad Commission an application for authority to issue a \$5,000.00 note and execute a mortgage as set forth in the foregoing Opinion and a public hearing having been held;

IT IS HEREBY ORDERED, that The California Company be, and it is hereby, granted authority to issue to J. E. Southwick, its 6 per cent note in the principal sum of \$5,000.00 payable on or before May 15, 1919, to refund the indebtedness referred to in the petition herein and to execute a mortgage substantially in same form as the mortgage set forth in the petition herein, provided -

1.-The authority herein granted shall not become effective until the note issued and the mortgage executed to J. H. Southwick on May 15, 1917, has been cancelled.

2.-The approval herein given of the mortgage is for the purpose of this proceeding only and an approval only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which such mortgage may be subject.

3.-The authority herein granted to issue a note shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

Within ninety days after the date hereof The California Company shall submit to the Commission a report showing in what manner it has exercised the authority herein granted.

The authority herein granted shall apply only to such note as may be issued and to such mortgage as may be executed within ninety days after the date hereof.

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 16th day of December, 1918.

Fee 25.00
DEC 26 1918
B. P. Williams
Secretary

Edwin O. Edgerton
H. D. Loveland
W. L. Gordon
Fraun R. DeWolfe

Commissioners.