

Decision No. 6229

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of LUISA V. EMPARAN and MARIA V.) Application No. 4402.
CUTTER for permission to remort-)
gage the SONOMA CITY WATER WORKS.)

R. R. Empanan for Luisa V. Empanan.
Mrs. M. V. Cutter in propria persona.

BY THE COMMISSION.

O P I N I O N.

This is an application by Luisa V. Empanan and Maria V. Cutter, co-partners engaged, under the name of "Sonoma City Water Works", in supplying water in the City of Sonoma, for authority to execute a mortgage on their property and to issue a ten-year note for \$16,000 secured thereby, to Henry Cailleaud.

A public hearing in the above entitled proceeding was held in San Francisco on March 24, 1919, before Examiner Bancroft.

Applicants desire to issue this note as a renewal of two 8 per cent notes, to Henry Cailleaud, one dated May 20, 1910, for \$12,000, and one dated April 28, 1913, for \$4,000. Neither the issue of the last mentioned note nor the execution of the mortgage securing the same was authorized by the Railroad Commission, the applicants herein having been ignorant of the fact that it was necessary for them to secure such authority. There is no question, however, but that the mortgagors proceeded in good faith in this matter and would have applied to this Commission for the necessary authority if they had understood the law.

The note contains the following clause:

"We further agree to reduce the principal of this note by payment of monthly installments in the sum of \$50.00 or not more than \$100.00", but contains no provision for the payment of the entire balance due on the note before its maturity. It appears from the evidence that certain negotiations have been entered into between the City of Sonoma and applicants for the purchase of this property by that city, and while the proposed purchase of the property was defeated at a popular election, applicants still hope that in the near future negotiations may be resumed and another election held to determine whether or not the City of Sonoma shall acquire this property. We do not consider that this public utility should be burdened with such a mortgage longer than is necessary and, accordingly, we are of the opinion that the note should contain a provision permitting the entire principal to be paid off at any time that the public utility portion of the property may be sold.

While the Commission would ordinarily be reluctant to authorize the issue of a note bearing as high an interest rate as 8%, the evidence in this proceeding shows that applicants have endeavored to obtain the lowest interest rate possible but that they have been unable to renew this mortgage or to obtain a new loan at less than 8%.

O R D E R.

LUISA V. EMPARAN and MARIA V. CUTTER, co-partners doing business under the name and style of SONOMA CITY WATER WORKS, having applied to the Railroad Commission for authority to execute a certain mortgage to HENRY CAILLEAUD, and to issue a ten-year, eight (8) per cent note to said Cailleaud, secured by said mortgage, and a public hearing having been held and the Commission finding that the purposes for which said note or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that for the reasons set forth in the foregoing opinion, the application should be granted, subject to the conditions and modifications hereinafter set forth.

IT IS HEREBY ORDERED that Luisa V. Emparan and Maria V. Cutter be and they are hereby authorized to execute a mortgage to Henry Cailleaud, substantially in the words and figures set forth in the proposed mortgage annexed to the application herein.

IT IS FURTHER ORDERED that Luisa V. Emparan and Maria V. Cutter be and they are hereby authorized to issue a ten-year note to Henry Cailleaud for sixteen thousand dollars (\$16,000), bearing interest at the rate of eight (8) per cent per annum.

The authority hereby granted to execute said mortgage and to issue said note is granted upon the following conditions, and not otherwise, to-wit:

1. Said note shall be issued so as to net said applicants not less than its face value.
2. Said mortgage shall not be executed and said note shall not be issued until the present mortgages from applicants to said Henry Cailleaud, dated May 20, 1910 and April 28, 1913, respectively, shall have been satisfied and the notes for \$12,000 and \$4,000, respectively, secured by said

mortgages, shall have been cancelled.

3. The said note herein authorized shall be substantially in the form and figures set forth in the copy of proposed mortgage annexed to the application herein, except that said note shall contain an added clause permitting the makers thereof to pay off the entire balance due upon said note at any time in the event of the sale of said applicants' property covered by said mortgage.

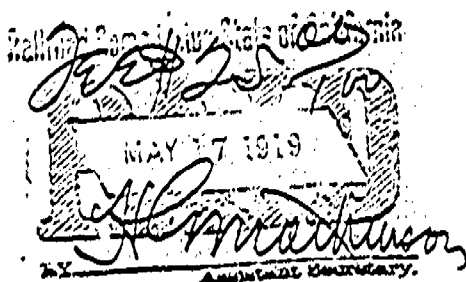
4. Applicants shall file with the Railroad Commission, within 30 days after the execution of the mortgage and the note herein authorized, a report showing that all the conditions above set forth have been complied with.

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

6. The authority hereby granted to execute said mortgage and to issue said note shall apply only to such mortgage as may be executed and such note as may be issued on or before September 30, 1919.

7. This order shall not become effective until applicants shall have paid the fee specified in Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 27th day of March, 1919.



Edwin C. Ely
Francis P. Stebbins
W. B. Bondage
Commissioners.