

ES

Decision No. 8163

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
SESPE LIGHT AND POWER COMPANY)	
to transfer property to SESPE POWER)	
CORPORATION, and SESPE POWER CORPO-)	Application No. 5390
RATION to issue stock and bonds and)	
to mortgage public utility properties.))	

Frank Buren, for applicant.

Roy V. Reppy, for Southern California Edison Company.

BRUNDIGE, Commissioner.

O P I N I O N.

In this proceeding, the Railroad Commission is asked to make an order authorizing the sale and transfer of properties to, and execution of a mortgage, the issue of bonds and stock by Sespe Power Corporation, and ^{approving} contracts for the sale of electrical energy and water. The immediate purpose sought by applicants in their amended petition is permission on behalf of Sespe Power Corporation to issue bonds and stock to enable it to construct hydroelectric generating plants.

Sespe Light and Power Company, prior to the effective date of the Public Utilities Act, March 23, 1912, issued according to the records herein, \$1,000,000. of common stock in exchange for 640 acres of oil and building stone land, water rights for both power and irrigation purposes covering all unappropriated flow, being substantially all the flow of the Sespe River, United

States Forest Service permit for power purposes, rights of way for roads and trails, surveys, maps and general engineering data on the project. The value of these properties, at the time the stock was issued was, and even now is, ~~largely~~ speculative and unknown. It is of record, however, that Sespe Light and Power Company up to June 30, 1920, expended for preliminary surveys, road and trail construction, obtaining power permits and the right to use water, for salaries of engineers and officers, the sum of \$182,820.58, of which about \$100,000. represents cash disbursements, and the remainder the delivery of stock in payment for services rendered. To enable the corporation to raise necessary funds, the principal stockholders agreed to and did turn some of their stock back to the corporation to be re-sold by the corporation and the proceeds used to carry forward the enterprise.

It appears that some of the properties of Sespe Light and Power Company are necessary for the establishment and maintenance of public utility electric and water plants, while other properties are of a non-public utility nature. Originally, it was the intention of the stockholders of Sespe Light and Power Company to have that corporation issue additional stock and issue bonds to construct hydroelectric plants, and thus ultimately engage in both public and nonpublic utility business. This idea has been abandoned, and it is now proposed to transfer to Sespe Power Corporation all properties necessary to install, operate and maintain hydroelectric generating plants and enable the corporation to sell water for irrigation and other purposes. The properties which Sespe Light and Power Company asks permission to transfer, are more particularly described in Exhibit "A" attached hereto. Sespe Power Corporation will be authorized to issue \$100,000. of stock in payment for these properties.

The elevation and size of reservoirs, the height of dams and the installed capacity of the proposed power plants, appear in

the following table;-

Reservoir	Elevation	Capacity Acre Feet	Height of Dam	Net Operating Head Aux Plants	Net Operating Head Main Pl	Inst. Cap. Aux Plants KW	Installed Cap. Main Plants KW
Buren	:2800 ft:	29,000	: 200 ft :	: 160 ft :	-	: 1500 :	-
Kellerman	:2600 ft:	20,000	: 160 ft :	: 140 ft :	-	: 1500 :	-
Bradfield	:2440 Ft:	17,012	: 172 ft :	: 100 ft :	507 ft:	1500	: 8,000
Brain	:1700 ft:	8,397	: 190 ft :	: 140 ft :	494 ft:	2000	: 9,000
Hammel	:1030 ft:	10,832	: 205 ft :	-	340 ft:	-	: 7,000
Total	:..... :	85,241	:	:	:	:	:

In Exhibit No. 15, prepared by John S. Eastwood, consulting engineer, applicants report the estimated cost of the first unit of development on the Sespe River, - that is, the construction of dams and installation of hydroelectric plants referred to in the preceding table in and along the Sespe River, at \$3,722,748.

The Engineering Department of the Commission is of the opinion, and such opinion is based upon the cost of constructing hydroelectric plants at the present time, that applicants estimated construction costs are too low. It reports the estimated cost at \$5,500,000 compared with \$3,722,748 reported by applicants. The difference between the two estimates amounts to \$1,777,252. The increase in the estimated cost reported by the Commission's engineers is caused by a revision of applicants estimated cost of conduit lines, pen-stocks, power house equipment, transmission lines and allowances for superintendence, engineering and contingencies. The Commission's engineers did not revise applicants estimated cost of dams. While it is not possible to determine the exact cost of the plants prior to their construction, nevertheless attention should be called to the difference of opinion among engineers as to the probable cost of the plants. The estimated cost of the plants, as reported by applicants and by the Commission's engineering department, is set forth in the following table;

	Applicants' Estimate	Commission's Engineering Dept. Estimate
Buren Plant - complete	\$ 550,000	\$ 594,500
Kellerman Plant -complete	365,000	409,500
Bradfield Auxiliary plant	43,000	90,000
Bradfield Main Plant	1,268,364	1,662,918
Brain Auxiliary Plant	44,000	100,000
Brain Main Plant	848,164	1,210,378
Hammel Main Plant	604,220	821,000
Engineering, Superintendence and incidentals,	--	611,704
Total,	\$3,722,748	\$5,500,000

John S. Eastwood included his allowances for engineering, superintendence and incidentals in the cost of each plant.

There is also a difference of opinion between the engineers of applicants and of the Commission as to the plant output. The records of water supply are very fragmentary and unsatisfactory in the opinion of the Commission's engineers. In his final report, John S. Eastwood estimated a plant output of 197,962,017.6 kilowatt hours, while the Commission's engineers consider that only an average annual output of 75,000,000 kilowatt hours can be depended upon. The stream flow records, as existing, show the run-off of the Sespe River to be flashy, -large percentages of the entire annual run-off occurring in one or two storms. While there may have been abnormal run-offs, such as indicated by applicants report, of several hundred thousand acre feet, they may have been caused by heavy rain falls so close together that it would have been impossible to

store the water, in reservoirs whose total capacity is 85,241 acre feet. Applicants engineers figure on filling the reservoirs about 2-1/4 times, while the Commission's engineers take the position that the reservoirs might be filled once each year, but also call attention that using John S. Eastwood's computed run-offs, there were five years out of the twenty, when the reservoirs would not have been filled, and that the average output for 20 years past, - had these plants been installed- would have been 75,000,000 kilowatt hours.

Sespe Light and Power Company has entered into a contract with the Southern California Edison Company, which, subject to certain conditions set forth in the contract, agrees to purchase at 1/2 cent per kilowatt hour not less than 60,000,000 kilowatt hours of electrical energy, provided the plants installed are sufficient to produce this amount, and that there is available water sufficient to yield 60,000,000 kilowatt hours of electrical energy per annum. The agreement, among other things, provides that the upper and intermediate plants of the first unit, and plants of all other units hereafter constructed, shall be operated and water let down for power purposes in accordance with the directions of the Edison Company. The lowest plant of the first unit may be operated so that the water used therein may be used primarily for irrigation purposes. The agreement further provides that at any time after 5 years of operation of all the plants

except the lowest, for power purposes primarily, the Sespe Company may change the plan of operation and operate all of its plants primarily for the purpose of furnishing stored water for irrigation. If this is done, the Edison Company is relieved from its obligation of taking a minimum of 60,000,000 kilowatt hours of electrical energy per annum. In general, it may be said that the agreement contemplates that the Edison Company will take all the electrical energy generated by Sespe Company less the amount used by the Sespe Company, so long as the purchase of such energy will not prevent the Edison Company from conserving and using to its greatest benefit all electrical energy generated in its present hydroelectric generating plant and those hereafter constructed. The Commission is asked to approve this contract, which is entered into by Sespe Light and Power Company and Southern California Edison Company, and approve the assignment of the contract by Sespe Light and Power Company to Sespe Power Corporation.

The Commission is also asked to approve an option contract to be given by Sespe Power Corporation to Sespe Development Company, covering the sale of water. It is of record that there is no market for this water at present, and the contract is so drawn that no liability attaches to the purchaser unless it finds a market for the water and is able to finance and construct the works necessary to deliver the water to the users. Such a contract can scarcely be considered of any value in a proceeding of this nature, and the Commission does not feel that it is necessary for it to approve the contract at this time. The sale of the water is a matter which can be taken up in a new proceeding, or by a supplemental petition in this proceeding.

There is on file in this proceeding a copy of the proposed mortgage or deed of trust, which has been marked Exhibit "C". The mortgage or deed of trust is intended to be a lien on all the property which Sespe Power Corporation may own at the time the mortgage is

executed, or which it may thereafter acquire, for the purpose of securing the payment of \$10,000,000.00 of 6 per cent 30-year bonds. It authorizes the trustee to certify forthwith \$3,000,000 of bonds, or such other amount as the Railroad Commission may authorize to be issued for the purpose of paying for the construction of applicant's "first unit" of electrical development. The remainder of the bonds may be certified by the trustee from time to time to pay for 75 per cent of the cost of additions and betterments, provided the net income for 12 months ended two months prior to the filing with the trustee of an application for the certification of bonds is at least equal to one and a half times the interest on all bonds issued, together with the interest on all bonds which the trustee is asked to certify. If an application for certification of bonds is filed with the trustee prior to April 30, 1923, the earnings of only six months need be taken into account. The proposed mortgage or deed of trust obligates the company to deposit with the trustee annually from 1924 to the maturity of the bonds cash equal in amount to one per cent of the face value of all bonds outstanding and not previously called for redemption. The money so deposited may be used either to redeem bonds or to pay for additions and betterments, against which no further bonds may be issued.

The Commission is asked to make an order authorizing applicant, Sespe Power Corporation, to issue stock and bonds at such prices and upon such terms and conditions and in such amounts as the Commission may deem proper. Until applicant has found a real market for its water, there appears to be considerable uncertainty about its net earnings. The interest on outstanding bonds should be less than the most conservative estimate of net earnings, and I am therefore, of the opinion that not more than \$2,000,000 of bonds should be issued. The remainder of the moneys necessary to build the hydroelectric plants, under the conditions disclosed by the record herein, should be obtained from the sale of stock. The authorized stock issue of the Sespe Power Corporation is limited to \$1,000,000. It will be necessary for

the company to amend its articles of incorporation so as to permit of a larger stock issue and in a formal proceeding ask permission to issue additional stock if it intends to proceed with the construction of the plants. Concurrently with or prior to the sale of every \$1,000.00 of bonds, the company must ^{sell} at least ~~and~~ \$1,000.00 of stock. All moneys obtained from the sale of bonds and stock should be deposited in a bank or banks and not expended except as authorized by the Commission. If for any reason, the company is unable to finance the project at this time, any moneys collected from purchasers of bonds and stock shall be returned to them less such an amount as the Commission may determine to be a proper allowance for the payment of commissions and expenses.

I herewith submit the following form of Order:

O R D E R.

SESPE LIGHT AND POWER COMPANY having applied to the Railroad Commission for permission to transfer certain properties to SESPE POWER CORPORATION and SESPE POWER CORPORATION having asked permission to purchase said properties, to execute a mortgage or deed of trust and issue bonds and stocks and to enter into contracts for the sale of electrical energy and water, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of stock and bonds herein authorized is reasonably required for the purpose or purposes specified in this order, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

IT IS HEREBY ORDERED, that SESPE LIGHT AND POWER COMPANY be, and it is hereby, authorized to sell and transfer to SESPE POWER CORPORATION in exchange for \$100,000.00 of stock of said SESPE POWER CORPORATION the properties described in Exhibit "A" attached hereto.

IT IS HEREBY FURTHER ORDERED, that SESPE POWER CORPORATION be, and it is hereby, authorized to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding and marked Exhibit "C", provided that the approval herein given of said mortgage or deed of trust 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 said mortgage or deed of trust as to such other legal requirements, to which said mortgage or deed of trust may be subject.

IT IS HEREBY FURTHER ORDERED, that SESPE LIGHT AND POWER COMPANY be, and it is hereby, authorized to enter into a power sale agreement with Southern California Edison Company substantially in the same form as the agreement filed with this Commission on May 11, 1920, and assign such agreement to the SESPE POWER CORPORATION.

IT IS HEREBY FURTHER ORDERED, that SESPE POWER CORPORATION be, and it is hereby, authorized to issue \$1,000,000.00 of its common stock and \$2,000,000.00 of 6 per cent 30-year bonds.

The authority herein granted is subject to further conditions as follows:

- 1.--Of the stock authorized to be issued, \$100,000 may be delivered to Sespe Light and Power Company at par in payment for the properties described in Exhibit "A" attached hereto, and the remainder of the stock sold for cash at not less than par. The bonds shall be sold for cash at not less than 80% of their face value plus accrued interest, provided that concurrently with or prior to the sale of every \$1,000.00 of bonds, the company must sell at least \$1,000.00 of stock at not less than par. For the reason set forth in the opinion, it will be necessary for Sespe Power Corporation to file an application for permission to issue additional stock if it intends to proceed with the construction of the hydro electric plants referred to in this application.

2.--All proceeds obtained from the sale of stock and bonds herein authorized shall be deposited with a bank or banks and expended only for such purposes as the Railroad Commission may hereafter authorize, -it being understood that none of the proceeds will be expended until applicant, Sespe Power Corporation, has sufficient funds on deposit to enable it to expeditiously construct its plants, and that if it is unable to finance the construction of its plants, all moneys collected will be returned to the purchasers of stock and bonds less such an amount as may be allowed by the Commission to cover stock and bond sale expenses.

3.--Sespe Power Corporation shall file with the Commission the name and postoffice address of each stock and bond subscriber, together with the amount of stock and bonds subscribed for and the payment made by each such subscriber.

4.--Applicant, Sespe Power Corporation, shall keep such record of the issue and sale of the stock and bonds herein authorized, and of the disposition of the proceeds, as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5.--The authority herein granted will not become effective until applicant, Sespe Power Corporation, has paid the fee prescribed in the Public Utilities Act.

6.--The authority herein granted will apply only to such stock and bonds as may be issued and sold on or before April 1, 1921.

7.--Sespe Power Corporation shall file with the Railroad Commission a verified copy of the deed under which it holds title to the property which it is herein authorized to acquire through the issue of \$100,000 of its common capital stock.

IT IS HEREBY FURTHER ORDERED, that this application, in so far as it relates to the sale of water, be dismissed without prejudice.

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 27th day of September, 1920.

Edwin O. Edgerton
H. J. Loveland
Frank R. Terrell
H. B. Bunnidge

Commissioners.

Sealed Commission, State of California
Fee \$150.00
JUL 24 1921
BY J. P. Matteson

EXHIBIT "A"

Applicants in Exhibit No. 20 describe the properties which SESPE LIGHT AND POWER COMPANY asks permission to transfer to SESPE POWER CORPORATION, as follows:

"1. Right of way for roads and trails, conduits, tunnels and pipe lines, right for reservoir sites, dam sites and power house sites, and such camp sites as may be necessary in connection with the construction, operation and maintenance of the Company's Hydroelectric and irrigation plants and systems, according to plans on file with the District Forester, United States Forest Service, San Francisco, Cal., the State Water Commission of the State of California, and the Railroad Commission of the State of California, and any modifications or amendments thereof, upon and across the following described lands:

Lots Six (6) and Seven (7), Section 2, Township Four (4) North, Range Twenty (20) West, San Bernardino Base and Meridian, Ventura County, California;

Those certain lots, pieces or parcels of land, situate, lying and being in the County of Ventura, State of California, and particularly described as follows, to-wit: "Red Rose," "Wild Rose," "Shamrock" and "Thistle" Placer Mining Claims, as recorded in Book 19, Pages 300, 301, 313 and 314, respectively, and the "Lake" Placer Mining Claim, as recorded in Book 21, Page 218, of Mining Claims, in the office of the County Recorder of said County, and being when official surveys are extended, the West one-half of the Southeast One-quarter ($W\frac{1}{2}SE\frac{1}{4}$), the Southwest One-quarter ($SW\frac{1}{4}$), the Northwest One-quarter ($NW\frac{1}{4}$), and the West One-half of the Northeast One-quarter ($W\frac{1}{2}NE\frac{1}{4}$), of Section Twenty-Two (22) and the Southeast one-quarter ($SE\frac{1}{4}$) of Section Fifteen (15), respectively, all in Township Five (5) North, Range Twenty (20) West, San Bernardino Meridian;

"2. That certain right of way and right to pass over, across and upon the private road and trail along the Sespe Creek, commencing at the termini of the Ventura County public road, at or near the center of Section One (1), Township Four (4) North, Range Twenty (20) West, S.B.M. and extending in a general northerly direction, following the course of said creek, to the Company's Camps, in the Township Five (5) North, Range Twenty (20) West, S.B.M., located at a point which would be approximately in the center of the North line of the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}SE\frac{1}{4}$) of Section Twenty-two (22), said township and range, if the section lines of said township were extended, and more particularly set forth in that certain stipulation made and entered into and filed with the County Clerk of Ventura County, California, in the case of the Sespe Light and Power Company vs. George J. Honley, et al., No. 5524, dated April 5, 1915.

"3. That certain Final Power Permit issued by the United States Department of Agriculture, Forest Service, to Sespe Light and Power Company, dated the 8th day of October, 1917, and all extensions and amendments thereof, authorizing the Company to occupy and use certain National Forest Lands for the construction, maintenance and operation of certain dams, conduit lines, power house, and transmission lines, on and along the Sespe River, in the Santa Barbara National Forest, Ventura County, California, to which said permit and the maps and field notes accompanying the application therefor, and the assignment thereof to Sespe Power Corporation, on file with the District Forester at San Francisco, California, reference is hereby

specifically made for a more particular description of rights and privileges acquired thereby.

"4.-- The right to appropriate for power purposes eighty-eight (88) cubic feet per second of the waters of the Sespe River, in Ventura County, California, granted to Sespe Light and Power Company by the State Water Commission of California by Permit No. 264, dated the 18th day of April, 1917, ~~from the property of the State Water Commission~~ to which permit reference is hereby specifically made for a more particular description of the rights and privileges thereby granted.

"5.-- The right to appropriate for power purposes Two Hundred and Fifty (250) cubic feet per second of the water of the Sespe River, in Ventura County, California, granted by the State Water Commission of California by Permit No. _____ (Application No. 1317), dated the _____ day of _____, 1920, to which application and permit reference is hereby specifically made for a more particular description of the rights and privileges thereby granted.

"6.-- Pending the application for a permit to appropriate for agricultural purposes two hundred and fifty (250) cubic feet per second of the waters of the Sespe River, in Ventura County, California, as per Application No. 1250, filed April 19, 1919, to which application reference is hereby specifically made for a more particular description of the rights and privileges thereby granted.

TOGETHER with all other properties owned by Sespe Light and Power Company necessary for the construction, operation and maintenance of public utility hydroelectric generating plants and water plants.