

Decision No. 26060

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SUTTER BUTTE CANAL CO.
for an order authorizing the amend-
ment or modification of the mortgage
or deed of trust filed with the
Railroad Commission on May 10, 1923.)

) Application No. 8893

BY THE COMMISSION:

ORIGINAL

SECOND SUPPLEMENTAL ORDER

The Railroad Commission by Decision No. 12068, dated May 12, 1923 (Vol. 23, Opinions and Orders of the Railroad Commission of California, page 437), authorized the Sutter Butte Canal Co. to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed with the Commission on May 10, 1923.

From time to time the company has issued under the mortgage or deed of trust \$945,000.00 of six and one-half per cent first mortgage bonds, all of which are now outstanding. The bonds mature on March 1, 1943.

Applicant reports that it has been unable to pay the interest due on said bonds March 1, 1933 and that it proposes to request the consent of the holders of said bonds to a waiver in part of the interest due, or to become due, on said bonds for the interest periods March 1, 1933 to and including September 1, 1935, - to the end that interest during the year 1933 shall be paid at the rate of three and one-quarter per cent per annum, during the year 1934 at the rate of four and one-quarter per cent per annum and during the year 1935 at the rate of five and one-quarter per cent

per annum. In consideration of such waiver on the part of the bond holders, applicant will agree:

(a) That if its earnings are insufficient to provide funds for the payment of such reduced interest, it will take steps to provide for assessments upon its stockholders to secure such funds;

(b) That any available net income received by the company from areas which in the past have not been served by the company will be applied pro rata to the payment of additional interest to the bond holders and to additional interest on bank indebtedness up to, but not exceeding, six and one-half per cent per annum;

(c) That no earnings during the three year period will be applied to the payment of existing junior unsecured indebtedness, and that the interest on such existing indebtedness shall not be in excess of the rate paid on said first mortgage bonds;

(d) That no dividends will be paid to stockholders during the three year period.

(e) That any earnings in excess of the amounts payable to the bond holders during the three year period will be applied solely for necessary maintenance, improvements and betterments and to build up the company's working capital;
and

(f) That the expenses of carrying out the agreement will be borne by the company.

The amendments to applicant's mortgage or deed of trust are set forth in more detail in the copy of the agreement of

modification" dated June 1, 1933 and attached as Exhibit "D" to the petition of the supplemental application filed on June 3, 1933. We have reviewed the "agreement of modification," which applicant asks permission to execute in order to carry out its adjustment of interest payments to which reference is made herein. We have no objection to the execution of such "agreement of modification." It is, of course, understood that our order in this matter is permissive and not compulsory.

IT IS HEREBY ORDERED, that Sutter Butte Canal Co. may amend its mortgage or deed of trust executed under the authority granted by Decision No. 12068, dated May 12, 1923, by executing an "agreement of modification" similar in form to the "agreement of modification" dated June 1, 1933 attached as Exhibit "D" to the petition of the supplemental application filed on June 3, 1933, provided that the authority herein granted to execute said "agreement of modification" is for the purpose of this proceeding only and is granted insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said "agreement of modification" as to such other legal requirements to which said "agreement of modification" may be subject.

IT IS HEREBY FURTHER ORDERED, that within thirty (30) days after the execution of said "agreement of modification," Sutter Butte Canal Co. shall file with the Railroad Commission a

true and correct copy of the "agreement of modification" executed under the authority herein granted.

DATED at San Francisco, California, this 12th day of June, 1933.

O. C. Kelley
Leon Whittell
W. J. Carr
W. B. Harris
W. H. Harrison

Commissioners.