

Decision No. 26848.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
THE SAN JOSE WATER WORKS,
a corporation, for : (1) Order auth-
orizing sale of certain public util-
ity properties; and (2) Order auth-
orizing said corporation to discon-
tinue public utility operations; and
the application of SAN JOSE WATER
WORKS, a corporation, for; (1) Order
authorizing purchase of capital stock
of a public utility corporation; (2)
Order authorizing purchase of certain
public utility properties; (3) Order
authorizing mortgage of public utility
properties; (4) Order authorizing issue
and sale of bonds and stocks.

ORIGINAL

Application No. 17740

BY THE COMMISSION:

THIRD SUPPLEMENTAL ORDER

The Commission by Decision No. 24228 dated November 16, 1931, as amended, authorized San Jose Water Works, among other things, to issue and sell on or before January 1, 1934, \$3,000,000.00 of 5-1/2 percent first mortgage bonds. The Commission's order in said Decision No. 24228, however, provides that none of said bonds may be issued and sold until the Commission has authorized said company to execute a trust indenture or mortgage to secure the payment of said bonds, nor until said company has paid the fee prescribed by Section 57 of the Public Utilities Act. None of said \$3,000,000 of bonds have been issued.

In a supplemental application filed on November 21, the company asks the Commission to modify its order so as to permit it to issue \$2,000,000.00 of general and refunding bonds in part payment

for the properties of The San Jose Water Works. The properties of The San Jose Water Works have been transferred to the San Jose Water Works which has issued in payment therefor \$1,000,000.00 of common stock, \$1,000,000.00 of preferred stock, has assumed the payment of \$1,000,000.00 of outstanding first mortgage five percent bonds, and owes on the purchase price \$1,801,250.00. It was originally contemplated that the \$1,000,000.00 of outstanding bonds would be paid and refunded through the issue of the \$3,000,000.00 of bonds authorized by said Decision No. 24228. Because of the inability of the company to sell the \$3,000,000.00 of bonds, it is now proposed to allow the one million dollars of bonds to remain outstanding and to issue \$2,000,000.00 of general and refunding 5-1/2 percent bonds in payment for the balance due on the purchase price of The San Jose Water Works properties.

Applicant, San Jose Water Works, has not yet submitted a copy of its proposed mortgage or trust indenture.

The Commission has considered the request of applicants and is of the opinion that such request should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED, that the order in said Decision No. 24228 dated November 16, 1931, as amended, be, and the same is hereby further amended so as to authorize San Jose Water Works, in lieu of issuing and/or selling said \$3,000,000.00 face value of first mortgage 5-1/2 percent gold bonds, and in lieu of concurrently redeeming or causing to be redeemed, the \$1,000,000.00 in principal amount of outstanding bonds of The San Jose Water Works, to issue on or before July 1, 1934 to said The San Jose Water Works, \$2,000,000.00 in principal amount of general and refunding 5-1/2 percent bonds of said San Jose Water Works in further consideration for the transfer by said The San Jose Water Works to said San Jose Water Works of the business, properties, assets, rights and franchises of said The San Jose Water Works

heretofore transferred and in full performance of all remaining obligations of said San Jose Water Works under the reorganization plan and agreement of March 14, 1932 amended as indicated in the Fourth Supplemental Application filed in this proceeding.

IT IS HEREBY FURTHER ORDERED, that the authority herein granted is subject to the condition that none of said \$2,000,000.00 of general and refunding bonds may be issued until the Commission has authorized said San Jose Water Works to execute a mortgage or trust indenture to secure the payment of said bonds nor until said San Jose Water Works has paid the fee prescribed by the Public Utilities Act.

IT IS HEREBY FURTHER ORDERED, that the Third Supplemental Application filed in this proceeding on June 17, 1932, be, and the same is hereby, dismissed without prejudice.

IT IS HEREBY FURTHER ORDERED, that the order in said Decision No. 24228 dated November 16, 1931, as heretofore amended, shall remain in full force and effect, except as modified by this Third Supplemental Order.

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

C. C. Leary
Leon A. B. Leary
W. H. Leary
M. B. Leary
W. H. Leary
Commissioners.