

Decision No. 27427

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MERRILL H. BERRY)
for order authorizing the issuance)
of a promissory note for indebted-) Application No. 19628
ness and to execute a deed of trust)
as security therefor.)

BY THE COMMISSION:

OPINION AND ORDER

In this application Merrill H. Berry has applied to the Railroad Commission for an order authorizing him to execute a deed of trust to secure the payment of a promissory note in the principal amount of \$3,750.00 bearing interest at the rate of seven percent per annum, payable quarterly, and maturing as follows:-

- On or before September 22, 1936, \$1,000.00
- On or before September 22, 1937, 1,000.00
- On or before September 22, 1938, 1,000.00
- On or before September 22, 1939, 750.00

It appears that Merrill H. Berry, operating under the firm name and style of Cazadero Water Works, is the owner and operator of a public utility water system supplying consumers in and about the Town of Cazadero, Sonoma County, and in addition is the owner of certain ranch and other non-utility property. Applicant reports that he has made arrangements to borrow from Bank of Guerneville, the sum of \$3,750.00 to be used by him in connection with the operation and development of his non-utility property but that the bank has requested that the loan be secured by a deed of trust covering all his property in Cazadero, including not only such non-utility holdings but also the water system.

Applicant therefore has filed this application for the necessary permission to encumber the water system in order to complete the transaction. Applicant states that no special authority is requested to issue the note for the reason that all proceeds will be used for non-utility purposes. The fact is, the note is incorporated in the deed of trust and if not paid the holder of the note can take possession of the property described in the deed of trust and perform other acts mentioned in such instrument. Under the circumstances, we believe that the issue of the note, as well as the execution of the deed of trust, should be authorized by the Commission.

The Commission has considered applicant's request and is of the opinion that a public hearing is not necessary in this matter, that the deed of trust is in satisfactory form and that applicant's request should be granted, and the issue of said note authorized as herein provided, therefore,

IT IS HEREBY ORDERED that Merrill H. Berry be, and he hereby is, authorized to execute a deed of trust substantially in the same form as that filed with the application herein on September 26, 1934, and issue the note for \$5,750.00 referred to in said deed of trust and use the proceeds to repair and develop non-utility property, provided that the authority herein granted to execute a deed of trust is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which it may be subject.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective when Merrill H. Berry has paid the minimum fee prescribed by Section 57 of the Public Utilities Act,

which minimum fee is Twenty-five (\$25.00) Dollars.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the issue of the above note, Merrill H. Berry shall file with the Commission a copy of said note and a statement showing the purposes for which the \$3,750.00 was or will be expended.

DATED at San Francisco, California, this 8th day of October, 1934.

Leon Whitney
W. H. Lee
M. B. Lewis
W. H. Lee

Commissioners.

Fee \$25⁰⁰/₁₀₀
RAILROAD COMMISSION
RECEIVED
OCT 11 1934
W. H. Lee
Fee # 31089