

Decision No. 25148

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. Wayne Darling, John W. Janes,
Orla L. Siple, and Martin A. Emerick,
Complainants,

vs.

Case No. 3557.

Emeline A. Swift, Laura V. Swift,
C.C. Juster, May V. Juster, Frank
Laughlin, and Naoma Laughlin, conduct-
ing a public utility water business
under the name and style of MONTECITO
OIL PLACER MINE,

and

Emeline A. Swift, Laura V. Swift,
C.C. Juster, May V. Juster, Frank
Laughlin, and Naoma Laughlin,

Defendants.

ORIGINAL

In the Matter of the Investigation upon
the Commission's own motion into the
reasonableness of the rates, rules, regu-
lations, contracts, practices, operations,
service, or any of them, of EMELINE A.
SWIFT, LAURA V. SWIFT, C.C. JUSTER, MAY V.
JUSTER, FRANK LAUGELIN and NAOMA LAUGELIN,
operating a public utility water system
under the fictitious name and style of
Montecito Oil Placer Mine in and in the
vicinity of Summerland, Santa Barbara
County, California.

Case No. 3757.

In the Matter of the Application of TORO
CANYON COMPANY, INC., for leave to issue
and dispose of its securities in exchange
for the property and assets of Montecito
Oil Placer Mine.

Application No. 19793.

Haight, Trippet and Syvertson, by Raymond L. Haight,
for Emeline A. Swift and Montecito Oil Placer Mine
and for Toro Canyon Company, Inc.

X. Martin Smith, for Complainants.

BY THE COMMISSION:

O P I N I O N

Decision No. 26538 in the original case of J. Wayne Darling, et al. vs. Emeline A. Swift, et al. (Case No. 3557) was issued November 20, 1933, in which rates were established for the water system called Montecito Oil Placer Mine supplying the Town of Summerland in the County of Santa Barbara and certain improvements order installed. Petition for rehearing was granted, an investigation instituted by the Commission on its own motion (Case No. 3757), and thereafter an application was made for the transfer of this public utility water works to a corporation (Application No. 19793). The three proceedings were combined for hearing and decision, a public hearing having been held therein before Examiner Geary in Santa Barbara.

A complete history and description of this water system is given in the original decision, supra. It should again be stated, however, that the water supply available to the Town of Summerland is very meager and must be separated from a large content of crude oil before it can be used. In order to provide additional revenues to aid in the financing of the necessary improvements in service facilities, rates were increased conditional upon the service being made satisfactory. The utility was unable to raise the funds under the conditions existing and imposed and now returns with a proposal to reorganize the company and its

operating practices and build the works necessary to provide the class of water service demanded. The consumers are willing to pay a reasonable increase in rates if the deliveries of water can be made dependable. The increased charges fixed by the Commission in its Decision No. 26538, supra, were never placed in effect.

Testimony was presented by H.W. Marks, engineer for the utility, and R.E. Savage of the Railroad Commission concerning property valuation, operating expenses and costs of improvements to the plant, summarized as follows:

	<u>Savage</u>	<u>Marks</u>
Estimated Original Cost, February 1, 1935-----	\$24,351	\$ -
Original Cost Depreciated, February 1, 1935-----	11,598	-
Revenues - Annual, 1934-----	2,383	-
Maintenance and Operation Expenses, Estimated Proper-----	1,760	-
Depreciation Annuity, 5% Sinking Fund-----	177	-
Improvements-----		7,805

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The plant owners claim an investment of approximately forty thousand dollars (\$40,000) in operative property, including water rights. There is no doubt that the installation of adequate and necessary improvements will require the expenditure of close to eight thousand dollars (\$8,000) if the plan proposed by Mr. Marks is followed. While the owners of this water works are not asking at this time for a full net return upon their claimed valuation, including intangibles, yet they do ask for a rate which will enable them to pay reasonable operating expenses including depreciation and also yield a net return which will show sufficient profit to permit the borrowing of the money necessary

to pay for the improvements demanded by the water users.

Considerable criticism was directed against the method of bill collection which at present necessitates a great number of consumers making one or more long trips to the home of Miss Swift who does not reside in Summerland. This utility will be expected to make suitable arrangements at once whereby consumers may pay their water bills in the above community.

The rates established in the following Order will be fair to both the utility and the consumers and will be placed in effect as of the first day of September, 1935, subject to revocation, however, in the event the improvements directed to be made are not installed in proper working order by the utility within the time hereinafter provided. These rates, with efficient management and operation, should place this utility in the position of earning a fair net return which should enable its owners to raise ample funds for reconstruction purposes.

The water properties heretofore have been held in undivided interests by certain of the defendants named above. Clearly, it will simplify the future conduct of the affairs of the water works if it is placed under the ownership of the corporation and the request to transfer the plant to Toro Canyon Company, Inc., a corporation formed for this purpose, will be authorized. The Articles of Incorporation of Toro Canyon Company, Inc., show that it was organized during January, 1935, under the laws of the State of California with an authorized capital stock of 2,500 shares, all common, without nominal or par value. According to the present application, the company proposes to issue all of its authorized stock in exchange for

the water system, transfer to be made free and clear of all encumbrances, except current taxes, rights of way and consumers' deposits, which will be assumed by the corporation.

The proposed issue of stock would be equivalent to a price of \$4.64 a share based on Mr. Savage's estimate of historical cost depreciated; of \$9.74 a share based on his estimate of original cost; and of \$16.00 a share based on the company's claim of property value of \$40,000. In this connection, the record shows that applicants did not assign any definite value to each share of stock in arriving at the total number of shares proposed to be issued. It also appears that following the conclusion of the transaction all of the outstanding stock will be held by Emeline A. Swift.

Heretofore, in passing on applications for permission to issue shares of stock without par value, the Commission has taken into account the value of the consideration to be received by the issuing company, and it has not been its policy to authorize the issue of such shares at values or prices as indicated in the preceding paragraph, it not considering it desirable to permit the issue of a large number of shares against a relatively small property or at a relatively low price per share. In this proceeding, in our opinion neither the value of the property nor the earnings justify the issue of 2,500 shares and, accordingly, we will authorize the corporation to issue not exceeding 500 shares of stock in acquiring the properties comprising the Montecito Oil Placer Mine system.

O R D E R

A public hearing having been held in the above entitled

matters, said proceedings having been duly submitted and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income, and based upon the findings of fact set out in the above Opinion, now, therefore,

IT IS HEREBY ORDERED as follows:

1. That Emeline A. Swift, Laura V. Swift, C.C. Juster, May V. Juster, Frank Laughlin and Naoma Laughlin, and/or Emeline A. Swift be and they are hereby authorized to sell and transfer to Toro Canyon Company, Inc., a corporation, that certain water system more particularly described in the deed marked Exhibit No. 1, attached to Application No. 19793 herein and which is made a part of this Order by reference, subject to the following conditions:

- (a) The authority herein granted shall apply only to such transfer as may have been made on or before the thirty-first day of December, 1935, and a certified copy of the final instrument of conveyance shall be filed with the Commission by Emeline A. Swift within thirty (30) days from the date on which it is executed.
- (b) Within thirty (30) days from the date of this Order, Toro Canyon Company, Inc., shall file with the Railroad Commission a certified statement indicating the date upon which it assumed control and possession of the properties herein authorized to be transferred.
- (c) The consideration for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value for rate-fixing or any other purpose than the transfer herein authorized.

2. That Toro Canyon Company, Inc., be and it is hereby authorized and directed to file with the Railroad Commission, within thirty (30) days from the date of this Order, the following schedule of rates for water delivered to its consumers in Summerland and vicinity, said rates to be effective for all service rendered subsequent to the thirty-first day of August, 1935:

FLAT RATES

For each consumer, per month-----	\$2.25
Additional for lawn and garden irrigation during months so used, per month-----	.50

METER RATES

Monthly Minimum Charges:

For 5/8 x 3/4-inch meter-----	\$2.00
For 3/4-inch meter-----	3.00
For 1-inch meter-----	4.00
For 1 1/2-inch meter-----	6.00
For 2-inch meter-----	10.00

Each of the foregoing "Monthly Minimum Charges" will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the following "Monthly Quantity Rates."

Monthly Quantity Rates:

From 0 to 500 cubic feet, per 100 cubic feet-----	\$0.40
Next 500 cubic feet, per 100 cubic feet-----	0.30
Over 1,000 cubic feet, per 100 cubic feet-----	0.25

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3. That Toro Canyon Company, Inc., be and it is hereby directed to file with this Commission, within thirty (30) days from the date of this Order, rules and regulations governing relations with its consumers, said rules and regulations to become effective upon their ac-

ceptance for filing by this Commission.

4. That Toro Canyon Company, Inc., be and it is hereby authorized to issue not exceeding 500 shares of stock without nominal or par value for the purpose of acquiring the water system referred to herein, provided that, within thirty (30) days after the issue of such stock, the company file with the Commission a report thereof such as is required by the Commission's General Order No. 24, which Order, in so far as is applicable, is made a part of this Order.

5. That Application No. 19793, in so far as it involves the issue of the remaining 2,000 shares of stock be and it is hereby dismissed without prejudice.

6. That Toro Canyon Company, Inc., on or before the thirty-first day of December, 1935, install or cause to be installed on its Summerland water system the improvements substantially as set forth in the plans therefor proposed through its engineer, Harold W. Marks, in his report filed in these proceedings and marked Exhibit No. 3, which exhibit is hereby made a part of this Order by reference, said plans to be subject to such revision and modification by this Commission as may become necessary and reasonable and provided further that all of said improvements shall be installed in a manner satisfactory and subject to the approval of the Railroad Commission.

7. That, in the event Toro Canyon Company, Inc., does not properly comply with the provisions of Paragraph 6, supra, this Commission may, by Supplemental Order, cancel the schedule of rates herein established and again place in effect the rates now being charged by this utility, for which reason continuing jurisdiction to this extent is hereby reserved.

For all other purposes, the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 5th day of August, 1935.

Leon A. Wiley

M. A. Lee

M. B. Harris

Walter H. Moore

Frederic R. Wilson

Commissioners.