

Decision No. 23621

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SUTTER BUTTE CANAL CO.)
to sell to RICHVALE IRRIGATION DIS-) Application No. 21075
TRICT, and of latter to buy certain)
property of SUTTER BUTTE CANAL CO.)

Thos. R. White and Chas. W. White for Sutter-
Butte Canal Company.
George F. Jones for Richvale Irrigation District.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

The Sutter Butte Canal Company asks permission to sell for \$90,000. to the Richvale Irrigation District the following described properties:-

An undivided Two and Ninety-two Hundredths Per Cent, (2.92%), interest in and to the water to which Sutter Butte Canal Co. is entitled under its water rights and appropriations in and to the waters of Feather River, in the State of California; excepting, however, the Sunset 500-second feet, Pumping Permit No. 688, granted Sutter Butte Canal Co. on the 4th day of March, 1920, by the Division of Water Rights of the State of California;

Also,

DIVERSION WORKS AND MAIN CANAL

An undivided Two and Ninety-two Hundredths Per Cent, (2.92%), interest in and to the Company's Dam, diversion works, intake, head gate, and other facilities whereby water is diverted from said Feather River at the head of the Company's main canal, Butte County, California, together with an undivided Two and Ninety-two Hundredths Per Cent, (2.92%), interest in said Main Canal for a distance of three miles, more or less, from said intake to the head of the lateral known as the Biggs Extension Canal.

BIGGS EXTENSION CANAL

Also an undivided Five and Eighty-four Hundredths Per Cent, (5.84%), interest in and to said Biggs Extension Canal for a distance of three-fourths of a mile, more or less, from where it branches from the Company's Main Canal to the head of the lateral known as Belding Lateral.

Also such pro rata part of the flowage right reserved by the Company for itself and its successors and assigns in that certain deed dated 21st day of February, 1931, by and between Sutter Butte Canal Co., a corporation, and Richvale Irrigation District, as may be necessary for the service of the so-called Maxwell lands.

WATT LATERAL

Also, subject to the reservation hereinafter stated, all of the Watt Lateral from a point at or near the Northwest Corner of the Northeast Quarter of Section 30, Township 19 North, Range 2 East, M.D.B. and M., to a point at or near the Southeast Corner of Section 26, Township 19 North, Range 1 East.

The Company reserves the right for itself and its successors or assigns to use a portion of the Watt Lateral herein optioned in common with the District to conduct water to lands lying outside the boundaries of the District, as the same may be extended by the inclusion of the so-called Maxwell lands, in such quantity as may be necessary for the irrigation thereof, and if the Company, its successors, or assigns shall hereafter undertake to serve water to lands lying outside the boundaries of the District not heretofore served by the Company and in consequence thereof it becomes necessary to enlarge any of said canal, the Company, its successors or assigns shall have the right to make such enlargement at its or their cost.

The Company also reserves the right for itself and its successors and assigns of ingress and egress to and from said Watt Lateral."

Also, The interest in or to a part of said irrigation system of this Company upon which this option is granted is described as follows:-

An undivided One and Fourteen Hundredths Per Cent, (1.14%), interest in and to the water to which Sutter Butte Canal Co. is entitled under its water rights and appropriations in and to the waters of Feather River, in the State of California; excepting, however, the Sunset 500-second feet, Pumping Permit No. 688, granted Sutter Butte Canal Co. on the 4th day of March, 1920, by the Division of Water Rights of the State of California.

Also,

DIVERSION WORKS AND MAIN CANAL

An undivided One and Fourteen Hundredths Per Cent, (1.14%), interest in and to the Company's dam, diversion works, intake, head gate, and other facilities whereby water is diverted from said Feather River at the head of the Company's main canal, Butte County, California, together with an undivided One and Fourteen Hundredths Per Cent, (1.14%), interest in said Main Canal for a distance of three miles, more or less, from said intake to the head of the lateral known as the Biggs Extension Canal.

BIGGS EXTENSION CANAL

Also an undivided Two and Twenty-eight Hundredths Per Cent, (2.28%) interest in and to said Biggs Extension Canal for a distance of three-fourths of a mile, more or less, from where it branches from the Company's Main Canal to the Head of the lateral known as Belding Lateral.

Also such prorata part of the flowage right reserved by the Company for itself and its successors and assigns in that certain deed dated 21st day of February, 1931, by and between Sutter Butte Canal Co., a corporation, and Richvale Irrigation District, as may be necessary for conveyance of the water herein optioned.

The water, the right to the use of which is hereby optioned to you, is to be used within the boundaries of the Richvale Irrigation District as enlarged to include the area known as the Maxwell lands."

In the event the district acquires the aforesaid properties, the company agrees to remove from such properties on or before March 1, 1943 the lien of its trust indenture securing the payment of its bonds. As security for the agreement to remove the lien, the company will deposit with a trustee, to be agreed upon, either cash in the sum of \$90,000. or in lieu of cash, collateral security satisfactory to the district, provided however that first mortgage bonds of the company in the principal sum of \$90,000. shall be conclusively deemed to be acceptable security for such agreement by the company to remove the lien.

The company and the district entered into an agreement dated February 24, 1931 covering the control, maintenance and operation of certain diversion works, canals, laterals and ditches theretofore conveyed by the company to the district. The company and the district agree that said agreement of February 24, 1931 will be modified to include the maintenance and operation of the physical property and water rights now being transferred to the district.

The Commission by Decision No. 23136 dated December 2, 1930, as amended, in Application No. 16998 authorized Sutter-Butte Canal Company to transfer certain properties to the Richvale Irrigation District. In compliance with the Commission's Decision No. 23136 the Richvale Irrigation District filed a stipulation in which it agreed that the Railroad Commission may have access to so much of the district's records, books and accounts as may reasonably be considered to affect or reflect the cost, operation, maintenance and depreciation, reconstruction or replacement, of any or all of the facilities used jointly by the district and the Sutter-Butte Canal Company. Inasmuch as the company and the district will modify said agreement of February 24, 1931, as stated above, we think the district should file a new or amended stipulation giving the Railroad Commission access to such of its records, books and accounts as may reasonably

be considered to show the cost, operation, maintenance and depreciation, reconstruction or replacement of any or all of the facilities which the company now proposes to transfer to the district and which thereafter will be jointly operated by the company and district.

The district proposes to enlarge the area within its boundaries by adding thereto about 3,141.95 acres of land, known as the Maxwell lands. In order to be in a position to supply water to such lands, the district desires to acquire from the company the properties, including water, ^{and} water rights, heretofore mentioned. The company reports that in 1935 it realized an operating revenue of \$13,316.86 and in 1936 an operating revenue of \$8,666.74 from the sale of water for the purpose of irrigating a portion of said Maxwell lands.

ORDER

The Commission has considered applicant's request and is of the opinion that this is not a matter in which a hearing is necessary and that this application should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED that Sutter-Butte Canal Co. may, on or before September 1, 1937, sell to Richvale Irrigation District, its right, title and interest in the properties described in the foregoing opinion, such sale to be made in accordance with the terms and conditions of Exhibit A, as amended, filed in this proceeding and subject to further conditions as follows:

1. Within thirty(30) days after the deed transferring the aforesaid properties to Richvale Irrigation District, is executed or deposited in escrow unexecuted, Sutter-Butte Canal Company shall file with the Railroad Commission a certified copy of said deed.

2. Within thirty(30) days after Sutter-Butte Canal Company ceases to operate the properties herein authorized to be transferred, said Sutter-Butte Canal Company shall file a statement showing the

date on which it ceased to operate said properties.

3. The consideration involved in this transfer shall not be urged before this Commission or any other public body as a finding of the value of said properties for any purpose other than the transfer herein authorized.

4. Sutter-Butte Canal Company shall file with this Commission, within thirty(30) days from the date of relinquishment of control and possession of the properties herein authorized to be transferred, a statement of each and every book entry whereby the transfer of said properties is recorded.

5. Within thirty(30) days after the effective date of this order, Sutter-Butte Canal Company shall file with this Commission a map setting forth by appropriate designation thereon all lands which at any time in the past have received irrigation service from those portions of its canal system which are being transferred in whole or in part to the Richvale Irrigation District by authority of this order.

6. Within thirty(30) days after the effective date of this order Richvale Irrigation District shall file with this Commission a stipulation duly executed by its board of directors agreeing that the Railroad Commission may have access to so much of the district's records, books and accounts as may reasonably be considered to affect or reflect the cost, operation, maintenance and depreciation, reconstruction or replacement, of any or all of the facilities used jointly by the district and the Sutter-Butte Canal Company after the transfer of the properties herein authorized.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective twenty(20) days after the date hereof.

DATED at San Francisco, California, this 29th day of March, 1937.

[Handwritten signatures]

Commissioners.