

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	}	Application No. 21289
GARDINER IMPROVEMENT CO.,		
a corporation, for order, authorization		
and permission to execute a deed of		
trust and a chattel mortgage.	}	

C. D. Schilling and I. A. Cereghino,
for applicant.

BY THE COMMISSION:

O P I N I O N

Gardiner Improvement Co., which operates a public utility water system serving the community of Isleton, asks permission to execute a deed of trust and a chattel mortgage similar in form to the deed of trust and chattel mortgage filed in this proceeding. The company further asks that it be permitted to make, execute and deliver to the Bank of America an acknowledgment that it is indebted to said bank in the sum of \$200,000., together with interest thereon at the rate of 6% per annum from February 10, 1933, on a promissory note dated July 23, 1932 and further authorizing applicant to execute and deliver to said Bank of America a waiver whereby said applicant waives the statute of limitations and any defense arising thereunder on the indebtedness due to said bank evidenced by said promissory note.

The Gardiner Improvement Co., in addition to operating a public utility water business, is engaged in the business of merchandising and farming. The investment in its public utility water system represents approximately 5% of its aggregate assets. Its 1936 annual report shows operating revenues of \$7,157.00 from the water business. At the end of 1936 it reports 185 active service connections.

The Gardiner Improvement Co. on July 23, 1932 borrowed from the Bank of America \$254,459.01, as evidenced by a one year promissory note of applicant. The payment of the indebtedness is secured by a

deed of trust and a chattel and crop mortgage. Each of said instruments of security included in addition to the nonoperating property of applicant, both the real and personal property used by applicant in the operation of its public utility water system. It is of record that through unintentional inadvertence applicant failed to obtain permission from the Commission to mortgage the public utility water system. It is now proposed to eliminate the public utility water properties from the deed of trust and of the chattel and crop mortgage executed in 1932 and to execute a new deed of trust and a new chattel mortgage on the public utility water properties for the purpose of further securing the payment of the balance due on the note issued on July 23, 1932. The balance due on said note is reported at \$200,000., together with interest at the rate of 6% from February 10, 1933. The note outlaws on July 23, 1937. Applicant intends to execute a waiver of the statute of limitations and an acknowledgment that it now owes the Bank of America the sum of \$200,000., together with interest thereon at the rate of 6% on February 10, 1933.

O R D E R

The Commission having considered the requests of Gardiner Improvement Co. and it being 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 as follows:-

1. Gardiner Improvement Co. may on or before October 1, 1937, execute a deed of trust and a chattel mortgage in favor of the Bank of America similar in form to the deed of trust and the chattel mortgage filed in this proceeding.

2. Gardiner Improvement Co. may on or before October 1, 1937, execute and deliver to the Bank of America an acknowledgment that it is indebted to said Bank of America in the sum of \$200,000., together with interest at the rate of 6% per annum from February 10, 1933, on that

promissory note dated July 23, 1932, referred to in this application, and may execute and deliver to the Bank of America a waiver whereby said Gardiner Improvement Co. waives the statute of limitations and any defense arising thereunder on the indebtedness due to said Bank evidenced by said promissory note.

3. The authority herein granted 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 the said several instruments as to such other legal requirements to which said instruments may be subject.

4. The authority herein granted will become effective when Gardiner Improvement Co. has paid the fee prescribed by Section 57 of the Public Utilities Act.

5. Within thirty(30) days after the execution of the deed of trust and of the chattel mortgage herein authorized to be executed, Gardiner Improvement Co. shall file with the Railroad Commission a true and correct copy of each of said instruments.

DATED at San Francisco, California, this 28th day of June, 1937.

William H. ...
Leon ...
George ...
Robert ...
Ray & Alley
Commissioners.

Fee \$200 ⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
JUN 30 1937
R. D. ...
Fee # 33457