

ORIGINAL

Decision No. 29987

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 District  
and of the latter to buy certain  
property of Sutter Butte Canal Co.

Application No. 21075

Charles W. White, for applicant.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

The Commission is asked to enter its order authorizing and approving an agreement between Sutter Butte Canal Co., Richvale Irrigation District and Reconstruction Finance Corporation, a copy of which is attached as Exhibit A to the Supplemental Petition filed in the above entitled matter on July 7, 1937. The Commission is further asked to enter its order prohibiting Sutter Butte Canal Co. during the term of said agreement to mortgage or otherwise encumber its properties, or issue any additional bonds, notes or debentures secured by any of the properties of the Sutter Butte Canal Co. without the written consent of the Reconstruction Finance Corporation first had and obtained.

The Commission by Decision No. 29621 dated March 29, 1937, in the above numbered application, authorized Sutter Butte Canal Co. to sell to Richvale Irrigation District, on or before September 1, 1937, an interest in water rights, canals and laterals for the sum of \$90,000. It appears the district has need of such water rights, canals and laterals in order that it may furnish water to about 3141.95 acres of land known as the Maxwell Lands

which are to be included in the district. The order in said decision provides that the sale shall be made in accordance with the terms of that certain option dated July 13, 1936, and the conditions of said order. The agreement now before us modifies in some respects the option of July 13, 1936.

It is of record that the Reconstruction Finance Corporation has agreed to loan the Richvale Irrigation District \$90,000 through the purchase from the district of \$90,000 of its 4% bonds. The District agrees that the Reconstruction Finance Corporation may retain the \$90,000 subject to the terms of the agreement, and, if possible, invest the same in the purchase of \$90,000 of Sutter Butte Canal Co. bonds. These bonds or the cash will be held by the Reconstruction Finance Corporation under an escrow agreement until such time as the Sutter Butte Canal Co. can give the District a clear title to the aforementioned properties. As soon as it is in a position to do so, the Reconstruction Finance Corporation will deliver the bonds to the trustee for cancellation.

Paragraph 13 of the agreement reads as follows:

"The Canal Company (Sutter Butte Canal Company) agrees that it will forthwith submit this agreement to the Railroad Commission of the State of California and hereby consents to the entry of any order by the Railroad Commission of the State of California prohibiting, during the term of this agreement, any mortgage or encumbrance upon the properties of the Canal Company, or the issuance of any additional bonds, notes or debentures secured by any of the properties of the Canal Company without the written consent of the Corporation first had and obtained. This agreement shall be without force or effect unless approved by the Railroad Commission of the State of California."

E. A. Julian, managing director of Sutter Butte Canal Co., testified that, in his opinion, the company is in a position to meet any demand for service without the issue of any additional bonds,

notes or debentures secured by its utility properties.

Though the Public Utilities Act provides that any bonds issued by applicant without permission from the Commission are void, the Act does not authorize the Commission to enter an order prohibiting applicant to encumber its properties or issue bonds, notes or debentures secured by its properties. The Commission will authorize the execution of the agreement now before us to the extent it has jurisdiction over the terms of said agreement.

FIRST SUPPLEMENTAL ORDER

A public hearing having been held before Examiner Fankhauser on the first supplemental application filed on the above entitled matter on July 7, 1937, the Commission having considered applicant's request and being of the opinion that it should authorize applicant, to the extent that it has authority to do so, to execute an agreement similar in form to the agreement attached as Exhibit A to the First Supplemental Petition filed in the above entitled matter on July 7, 1937, therefore,

IT IS HEREBY ORDERED that Sutter Butte Canal Co. be and it is hereby authorized to execute, on or before September 1, 1937, an agreement similar in terms to the agreement attached as Exhibit A to the First Supplemental Petition filed in the above entitled matter on July 7, 1937, provided that the authority herein granted to execute said agreement is granted in so far as this Commission has jurisdiction over said agreement under the terms of the Public Utilities Act.

Dated at San Francisco, California, this 27<sup>th</sup> day of July, 1937.

Walter W. Ware  
Frank R. Stearns  
Raymond W. ...  
Commissioners.