

Decision No. 31121

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA LANDS, INC., a corporation, for a determination of the status of said corporation with respect to whether or not it is a public utility with respect to the delivery and sale of water; and, if it be determined it is such public utility, then for permission to cease and abandon such sale and delivery.

Application No. 21036

In the Matter of the Investigation upon the Commission's own motion into the rates, rules, regulations, charges, classifications, practices, contracts, operations, public utility status, and service, or any of them, of CALIFORNIA LANDS, INC., a corporation, rendering domestic and irrigation service in the vicinity of Roseville, Placer County, California.

Case No. 4214

Butler, Van Dyke and Harris) Attorneys for California
by B. F. Van Dyke) Lands, Inc., a corporation

Harvey A. Shiffer, Attorney for J. H. Greenfield and
Antonio Pugliese, consumers

C. F. Mettier, Attorney for North Fork Ditch Company,
an interested party.

BY THE COMMISSION:

O P I N I O N

In this application, California Lands, Inc., a corporation, a subsidiary of Bank of America, National Trust and Savings Association, states that it acquired on or about September 5, 1929 certain

real properties situate approximately 4 miles easterly of the town of Roseville in Placer County. At the same time it also became the owner of a certain pipe line system distributing water on and to the above lands, together with certain other adjoining properties. Service has been supplied by applicant through the irrigation system to its own lands, as well as to the lands of other parties, until, at the present time the pipes have become so depreciated as to be no longer capable of providing proper water service.

Request is made that the Commission determine the obligations and liabilities of the California Lands, Inc. to supply water to this system, and in the event the service is declared to be public utility in character, that permission thereupon be granted by the Commission to cease and abandon further sale of water by and through this system.

In order to more fully and completely cover the various issues presented in this application and for the purpose of establishing jurisdiction to permit a thorough and complete investigation into the various phases of the operation of the pipe line involved herein and the water service rendered through said system, the Commission instituted an investigation upon its own motion into the entire operations of the California Lands, Inc. in so far as the rendering of domestic and irrigation water service is concerned through the system owned by it in the vicinity of Roseville in Placer County.

A public hearing in these proceedings was held before Examiner Claude C. Brown at Roseville, in which, by stipulation by and between all interested parties, it was agreed that the two proceedings be combined for hearing and decision.

According to the evidence there is involved herein the irrigation water service to a tract of land comprising approximately 559 acres, generally referred to now as the Forzano Ranch and sometimes also referred to as "Rosedale Colony Subdivision No. 2," together with an adjoining tract of 80 acres, more or less, not heretofore served with water but now demanding and requesting the extension of public utility water service by and through means of the pipe line now owned and controlled by applicant.

As far as the record shows, as early as the year 1914 some contracts were entered into by E. L. Hawk with certain land owners in the above area providing for the sale and distribution of water for agricultural purposes. The evidence does not indicate how soon thereafter water service was actually rendered, however, as nearly as can be determined from the facts presented, water was delivered to consumers for compensation at some time during the year 1914. Thereafter the tract of land "Rosedale Colony, Subdivision No. 2," including the pipe line and laterals therefrom were sold by E. L. Hawk and Barbara S. Hawk, his wife, to Francesco Forzano, recorded under date of January 16, 1918 and became a part of the lands generally referred to as the Forzano Ranch. Water service was rendered by Forzano to a considerable number of persons living on or having acquired portions of "Rosedale Colony, Subdivision No. 2," which had been subdivided by E. L. Hawk into small tracts for sale to the general public. Compensation was received for waters delivered.

In 1921 Forzano executed a deed of trust covering his entire landholdings in this area to certain parties acting as trustees for the Bank of Italy. Said deed covered his entire properties in this area including the pipe line irrigation system. Through foreclosure

proceedings originated by the Bank of Italy, applicant, California Lands, Inc., a corporation, became owner of these properties on or about the 5th day of September, 1929. California Lands, Inc. has operated and maintained the pipe line at its own cost and expense, supplying water to its properties, and also supplying water for compensation to certain of the adjoining land owners. Water is obtained from North Fork Ditch Company, a corporation, a public utility, serving water for agricultural irrigation purposes in adjacent territory.

On October 6, 1937 a "Petition for Joinder of Party" was filed by Fred Banducci and Minnie Banducci, his wife, asking among other things that the North Fork Ditch Company, a corporation, be made a party to these proceedings upon the grounds that it has been furnishing as wholesaler the supply of water used by California Lands, Inc. for distribution to its consumers and that it is a public utility operating in adjacent territory. It is further alleged that petitioners are the owners of approximately 164 acres of land, heretofore receiving water for irrigation service through the system owned by California Lands, Inc. Request is made that California Lands, Inc. be permitted to discontinue service and that North Fork Ditch Company be directed, as a public utility, to take over obligation to serve the petitioners' lands with irrigation water, as well as other lands supplied through the irrigation system. In this connection it is sufficient to state that of its own volition North Fork Ditch Company has made formal appearance in these two proceedings.

During the hearing the evidence indicated that applicant's water system is very badly depreciated and will require some twelve to thirteen thousand dollars (\$12,000 to \$13,000) for rehabilitation. The revenues, even with the system in proper operating conditions,

would not be sufficient to pay out of pocket operating expenses to the present owner under any rate the consumer could afford to pay. This is because the applicant has no private source of water supply but must obtain all water by purchase from outside sources. California Lands, Inc. is not in the general business of supplying water for irrigation purposes as a public utility or otherwise.

Since the filing of the application in this case efforts on the part of the Commission's staff have been directed to the end that service in this area and adjoining territory be taken over by the North Fork Ditch Company providing California Lands, Inc. would advance a reasonable sum of money for the purpose of replacement of the worn out pipe lines.

After submission of this case, informal negotiations were continued by representatives of the Railroad Commission with California Lands, Inc. and North Fork Ditch Company resulting in California Lands, Inc. entering into a contract with the North Fork Ditch Company wherein it has agreed to put up a sum of fifty-seven hundred and fifty dollars (\$5750) to the account of the utility for purpose of replacement in properties necessary for proper service. In return, the North Fork Ditch Company will provide whatever additional funds may be required, will take over the obligation of installing necessary improvements and the duty of serving all consumers in the general service area and contiguous territory. Under such circumstances, it will be unnecessary to pass upon the various issues arising in these two consolidated proceedings.

Reference is made to Application No. 22062 filed on the 29th day of June, 1938 being entitled in part "IN THE MATTER OF THE APPLICATION OF CALIFORNIA LANDS, INC., AND NORTH FORK DITCH COMPANY FOR AN ORDER AUTHORIZING THE FORMER TO SELL, AND THE LATTER TO BUY,

A CERTAIN PIPE LINE WITH ALL OF ITS APPURTENANT WORKS LOCATED IN THE COUNTY OF PLACER, STATE OF CALIFORNIA, etc." This application provides for the sale of all water facilities now owned by California Lands, Inc. to North Fork Ditch Company. Authority to sell these properties will be granted as of this date by formal decision of this Commission in the latter, or transfer application.

The present two proceedings, therefore, shall be disposed of by denying without prejudice Application No. 21036 by the dismissal of Case No. 4214, being an investigation instituted by the Commission on its own Order.

ORDER

Application having been filed with this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

Good cause appearing, now, therefore,

IT IS HEREBY ORDERED that above entitled Application No. 21036 be, and the same is, hereby denied without prejudice.

IT IS HEREBY FURTHER ORDERED that above entitled Case No. 4214 be, and the same is, hereby dismissed.

Dated at San Francisco, California, this 25th day of

July, 1938.

Walter Moore

Raymond W. ...

Ray & Alley
Commissioners