

Decision No. 32000

ORIGINAL

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-  
TRICT, and of the latter to buy,  
certain property of Sutter Butte  
Canal Co.

}  
} Application No. 22652  
}

Chas. W. White, for Sutter Butte Canal Co.

BY THE COMMISSION:

O P I N I O N

In this proceeding, Sutter Butte Canal Co. asks permission to sell to the Richvale Irrigation District, for the sum of \$136,000, the following described properties:-

WATER RIGHT:

"An undivided 5.92% 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.

DIVERSION WORKS AND MAIN CANAL:

"An undivided 5.92% 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 5.92% 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 11.83% 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 5,748.9 acres now to be included within said District.

WATT LATERAL:

"Also all that certain flowage right reserved by the Company for itself and its successors and assigns in that certain deed dated 2nd day of August, 1937, by and between Sutter Butte Canal Co., a corporation, and Richvale Irrigation District for use of said Watt Lateral from a point near the Northwest corner of the Northeast quarter of Section 30, Township 19 North, Range 2 East, M.D.B. & M., to a point at or near the Southeast corner of Section 26, Township 19 North, Range 1 East, M.D.B. & M., together with the right of ingress and egress to and from said Watt Lateral, likewise reserved in said deed.

MARCH LATERAL:

"All of the March Lateral from a point where said March Lateral leaves the end of the High Gravity Extension Lateral at or near the Northwest corner of Section 18, Township 19 North, Range 2 East, M.D.B. & M.; thence Westerly to a point at or near the Northeast corner of the Northwest quarter of Section 14, Township 19 North, Range 1 East, M.D.B. & M.

STINE LATERAL:

"All of the Stine Lateral from a point on the South line of the Northeast quarter of Section 35, Township 19 North, Range 2 East, M.D.B. & M., near the Southwest corner thereof to a point at or near the point where the West right of way line of the Southern Pacific Railroad intersects the South line of the Southwest quarter of Section 2, Township 18 North, Range 2 East, M.D.B. & M."

Sutter Butte Canal Co., under the authority granted by Decision No. 23136, dated December 2, 1930, as amended, in Application No. 16998, and by Decision No. 29621, dated March 29, 1937, in Application No. 21075, sold to the Richvale Irrigation District an undivided 20.73% 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 March 4, 1920, by the Division of Water Rights of the State of California; it also sold an undivided 20.73% interest in and to its dam, diversion works, intake, head gate and other facilities whereby water is diverted, from the Feather River at the head of the company's main canal in Butte County; it also sold an undivided 41.54% interest in and to the Biggs Extension Canal for a distance of three fourths of a mile from where it branches from the company's main canal to the head of the lateral known as Belding Lateral. Under the authority granted by said decisions the company also sold to the District certain canals and other properties.

Upon the acquisition of the properties referred to above, the Richvale Irrigation District will own an undivided 26.65% interest in the company's water rights, dam, diversion works and main canal and an undivided 53.26% interest in and to the Biggs Extension Canal, for the distance mentioned.

It is of record that the Richvale Irrigation District proposes to annex to its area 5,749.9 acres of land which is now served by the Sutter Butte Canal Co. The location of this acreage is shown on the map filed in this proceeding as Exhibit 1. To be in a position to serve the lands, the District finds it necessary to increase its water supply and facilities, to the extent indicated.

Applicant reports that, in 1936, it received from the sale of water to consumers residing in the area now to be annexed to the Richvale Irrigation District, the sum of \$15,369.83; in 1937, \$15,452.77; and in 1938, \$15,086.92.

The company and the District on February 24, 1931, entered into an agreement covering the control, replacement, maintenance and operation of property owned and used jointly by them. This agreement

was modified on August 2, 1937 because of the sale of additional properties by the company to the District, and will be further modified if the District acquires the properties mentioned herein. The order herein will provide that the Sutter Butte Canal Co. file with the Commission a copy of the agreement, as modified, because of the sale of the properties herein authorized and the annexation of a portion of the service area of Sutter Butte Canal Co. to the Richvale Irrigation District.

#### ORDER

A public hearing having been held in the above entitled matter before Examiner Fankhauser, the Commission having considered the request of Sutter Butte Canal Co. and it being of the opinion that such request should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED that Sutter Butte Canal Co. may, on or before October 1, 1939, sell to the 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 the agreement and option filed as Exhibit A in this proceeding and subject to further conditions as follows:-

1. Within sixty(60) days after the execution of the deed transferring the aforesaid properties to the Richvale Irrigation District, Sutter Butte Canal Co. shall file with the Commission a certified copy of such deed.

2. Sutter Butte Canal Co. shall within sixty(60) days after the sale of said properties, file with the Railroad Commission a statement showing the date when it ceased to deliver water to the area now being annexed to the Richvale Irrigation District.

3. The consideration paid for said properties by Richvale Irrigation District shall not be urged before this Commission or any other public body as a finding of the value of such properties for any purpose other than the transfer herein authorized.

4. Sutter Butte Canal Co. shall file with the Commission within sixty(60) days after the date of the sale of said properties, a copy of each and every book entry recording the sale of said properties.

5. Within sixty(60) days after the transfer of said properties, Sutter Butte Canal Co. shall file with the Railroad Commission a copy of the amendment to the agreement between said Sutter Butte Canal Co. and Richvale Irrigation District, providing for the control, replacement, maintenance and operation of the properties owned and used jointly by said Sutter Butte Canal Co. and said Richvale Irrigation District.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 16<sup>th</sup> day of May, 1939.

Lawrence J. ...  
Frank ...  
Ray ...  
...  
Justice J. ...  
COMMISSIONERS.