

Decision No. 32000

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.

ORIGINAL

Application No. 22652

BY THE COMMISSION:

FIRST SUPPLEMENTAL ORDER

The Commission by Decision No. 32000, dated May 16, 1939, authorized Sutter Butte Canal Co. to sell to the Richvale Irrigation District its right, title and interest in the properties described in said decision, 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 the conditions set forth in said decision.

On May 18, 1939, Sutter Butte Canal Co. and Richvale Irrigation District filed their supplemental application in which they ask the Commission to enter its order authorizing and approving that certain agreement between Sutter Butte Canal Co., Richvale Irrigation District and Reconstruction Finance Corporation, filed in this proceeding as Exhibit A; and further ask that the Commission make its order insofar as it may be concerned, prohibiting during the term of said agreement any mortgage or encumbrance upon the properties of Sutter Butte Canal Co., or the issuance of 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.

It appears that the Reconstruction Finance Corporation is making available to the Richvale Irrigation District \$160,000

through the purchase from the District of \$160,000 of its 4% bonds. The District will use \$24,000 to improve its properties and apply \$136,000 to the purchase of the Sutter Butte Canal Co. properties, referred to in said Decision No. 32000, dated May 16, 1939. Subject to the terms of the agreement, the Reconstruction Finance Corporation may retain the \$136,000 or invest said sum in whole or in part in Sutter Butte Canal Co. bonds, and hold said cash or bonds until such time as Sutter Butte Canal Co. can transfer said properties to the District free of all liens and encumbrances. As soon as the company is in a position to do so, the Reconstruction Finance Corporation will surrender the bonds for cancellation and deliver to the District such portion of the \$136,000 which was not invested in Sutter Butte Canal Co. bonds.

Paragraph 13 of the agreement reads as follows:-

" The Canal Company agrees that it will forthwith submit this agreement to the Railroad Commission of the State of California, and hereby consents to any order by the Railroad Commission of the State of California, prohibiting during the term of this agreement any mortgage on the property of the Canal Company, or the issuance of any 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."

The Public Utilities Act does not authorize the Commission to enter an order prohibiting applicant to encumber its properties or to issue bonds or other evidence of indebtedness. The Commission will authorize the execution of the agreement to the extent of its authority over such agreement, therefore,

IT IS HEREBY ORDERED that Sutter Butte Canal Co. be, and it is hereby, authorized to execute on or before September 1, 1939, an agreement similar in terms to the agreement attached as Exhibit A to

the first supplemental petition filed in the above entitled matter on May 18, 1939, provided that the authority herein granted to execute said agreement is granted insofar as this Commission has jurisdiction over said agreement under the terms of the Public Utilities Act.

DATED at San Francisco, California, this 31<sup>st</sup> day of May, 1939.

Raymond J. Casey  
Frank J. Casey  
Ray J. Casey  
H. H. H. H.  
Justus J. Casey  
Commissioners.