

Decision No. 00000

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of DEL ESTE WATER COMPANY, a corporation, for an order authorizing the issuance of additional shares of its capital stock, and for a certificate of public convenience and necessity to extend its operations by the establishment and operation as a public utility, of an additional water system and plant to supply water for domestic, industrial, commercial, and other uses, in the vicinity of Empire, Stanislaus County, California.

ORIGINAL

Application No. 23738

Francis O. Hoover, for Applicant

BY THE COMMISSION:

O P I N I O N

Del Este Water Company asks the Commission to enter its order granting it a certificate of public convenience and necessity to operate a public utility water system in the southeast quarter of Section 30; the southwest quarter of Section 29; the northeast quarter of Section 31; and the northwest quarter of Section 32; all in Township 3 South, Range 10 East, Mount Diablo Base and Meridian. Generally speaking, the area comprises the town of Empire and vicinity in Stanislaus County. The company further asks the Commission to authorize it to issue \$15,000 par value of its common capital stock for the purposes hereinafter stated, and to approve the agreement filed in this proceeding as Exhibit "A" to which reference will be made hereafter.

The Railroad Commission by Decision No. 31528, dated December 19, 1938, in Application No. 22301, granted Del Este Water Company a certificate of public convenience and necessity to acquire, construct, maintain and operate public utility water systems in the area shown on the map filed in that proceeding as Exhibit "D." Under the authority granted in that decision, applicant is now engaged in operating three water systems, to-wit: The Del Este system; the Paradise system; and the Waterford system, all in Stanislaus County.

It is of record that at the urgent request of many residents of the town of Empire and vicinity, applicant has constructed in part of the area heretofore mentioned a public utility water system comprised of a well, pump, pipe lines, services and incidental facilities. It is further of record that residents of Empire have contributed in cash or in labor the sum of \$3,938.02 toward the construction of said water system. The total cost of the Empire system is reported at \$12,001.56.

The agreement filed in this proceeding as Exhibit "A" defines the terms and conditions under which the consumers advanced the \$3,938.02. Among other things, it provides that the advances shall be repaid to them by the delivery of water at the regularly established rates of applicant.

The agreement further provides that after applicant has installed a water system in the area described in said agreement, it will make extensions and supply service to persons residing outside of, but within reasonable proximity to, said area, insofar as applicant shall deem the making of such extensions practical. In that event the extensions of such water mains shall be made free of charge up to 200 feet for each new consumer using such extension, but beyond that the consumers shall be required to advance money

for the installation of such extensions. We have no objection to the agreement insofar as it relates to the construction of a water system in the area described therein. We feel however, that the 200 foot rule discriminates in favor of consumers in the Empire system. On its other water systems, applicant under its rules on file with the Commission, needs to install only 150 feet of pipe. Its extension rules and regulations now on file with the Commission should apply to Empire system consumers added subsequent to the date of this decision.

Applicant has procured certain rights of way and permits for the installation of its pipe lines and facilities at Empire. They are filed as Exhibit C, Exhibit C-1, Exhibit C-2, Exhibit C-3, Exhibit C-4, Exhibit C-5, Exhibit C-6, Exhibit C-7, and Exhibit C-8. All of said exhibits, except Exhibit C, are right of way grants. Exhibit C is an encroachment permit granted by the Department of Public Works, Division of Highways.

By said Decision No. 31588, the Commission authorized applicant to issue \$60,000 of its common capital stock in payment for water properties acquired from the Beard Land and Investment Company. The testimony shows that additional expenditures of \$30,990.96 have been made for water properties now owned by applicant. This sum includes the \$3,938.02 advanced by consumers on the Empire system. Applicant has found it necessary to borrow from Beard Land and Investment Company \$10,000. It asks permission to issue \$10,000 of its common stock for the purpose of paying this indebtedness and to issue \$5,000 of additional common stock to pay for the cost of additions and betterments to its water system during the remainder of this year and during the year 1941. The additions and betterments will consist of the installation of new services, the extension of water mains, and the installation of additional wells

and pumps. The order herein will authorize applicant to issue \$5,000 of stock for that purpose.

The testimony shows that applicant will charge its consumers on the Empire system the same rates it now charges on its other water systems.

### O R D E R

The Commission having been asked to enter its order as indicated in the foregoing paragraph, a public hearing having been held on this application before Examiner Frankhauser, the Commission having considered the testimony submitted at such hearing, and it being of the opinion that this application should be granted as provided in this order, therefore,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require and will require Del Este Water Company to acquire, construct, maintain and operate a public utility water system to serve water for domestic and other purposes in the southeast quarter of Section 30; the southwest quarter of Section 29; the northeast quarter of Section 31; and the northwest quarter of Section 32; all in Township 3 South, Range 10 East, Mount Diablo Base and Meridian, and to exercise the rights and privileges granted in the Encroachment Permit filed in this proceeding as Exhibit C, therefore,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it is hereby, granted to Del Este Water Company for said purposes.

IT IS HEREBY FURTHER ORDERED that the agreement filed in this proceeding as Exhibit "A," is hereby approved except as to those provisions of said agreement which conflict with the extension rules and regulations of Del Este Water Company now on file

with the Railroad Commission governing the construction of extensions subsequent to the date of this order.

IT IS HEREBY FURTHER ORDERED that Del Este Water Company be, and it is hereby, authorized to issue at not less than par, on or before December 1, 1941, \$10,000 of its common capital stock for the purpose of paying indebtedness due Beard Land and Investment Company and \$5,000 of its common capital stock for the purpose of paying the cost of additions and betterments to its water properties, the cost of which is properly chargeable to fixed capital accounts, the issue of which stock the Commission hereby finds to be reasonably necessary for the purposes indicated, and that the expenditures for such purposes are not in whole, or in part, reasonably chargeable to operating expenses or to income.

IT IS HEREBY FURTHER ORDERED that Del Este Water Company shall file with the Railroad Commission such reports as are required by the Railroad Commission's General Order No. 24-A, which order insofar as applicable is made a part of this order.

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

Dated at San Francisco, California, this 19<sup>th</sup> day of November, 1940.

Ray L. Riley  
Frank W. Miller  
W. H. W. W. W.  
M. B. W. W.  
Justus J. Coe  
Commissioners.