

Decision No. 4345

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JOSEPHINE SWANSON and FRANK
AUSTIN and NORA AUSTIN, his wife,
for Order Authorizing Sale and Encum-
brance of Public Utility Property.

Application No. 24018

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Josephine Swanson is the owner of a public utility water system in the Town of Del Rey and vicinity, in Fresno County, California. For 1940 she reports operating revenues at \$3,177.31.

In this application, Josephine Swanson asks permission to sell to Frank Austin and Nora Austin, his wife, said public utility water system consisting of the following:

That part of Lots 6 and 7 in Block 6 of TOWNSITE OF DEL REY, according to the map thereof recorded December 6, 1909, in Book 1 of Miscellaneous Maps, at Page 38, in the office of the County Recorder of Fresno County, California, described as follows:

Beginning at the most Westerly corner of said Lot 6 and running thence Northeasterly along the Northwesterly line of said Lot 6 a distance of 87 feet; thence Southeasterly, parallel to the Southwesterly line of said Lot 6, a distance of 50 feet to the Southeasterly line of said Lot 6; thence Southwesterly along the Southeasterly line of said Lot 6 a distance of 8 feet; thence Southeasterly, parallel to the Southwesterly line of said Lot 7 a distance of 32 feet; thence Southwesterly, parallel to the Southeasterly line of said Lot 6, a distance of 49 feet; thence Northwesterly, parallel to the Southwesterly line of said Lot 7 a distance of 14 feet; thence Southwesterly, parallel to the

Southeasterly line of said Lot 6, a distance of 30 feet to the Southwesterly line of said Lot 7; thence Northwesterly along the Southwesterly line of said Lots 6 and 7 a distance of 68 feet to point of beginning;

TOGETHER with all improvements situate thereon, and together with all right, title, and interest of Josephine Swanson in or to that certain franchise (and the rights thereunder) granted to Ben Swanson by the County of Fresno on the 10th day of September, 1918, for the purpose of constructing and maintaining a water system in the Town of Del Rey and in additions thereto, in the County of Fresno, State of California, and along and over certain highways in the County of Fresno, State of California, for the purpose of supplying the residents of said county, town, and additions to said town with water.

TOGETHER with all right, title, and interest of Josephine Swanson in or to rights of way and easements in the streets, highways, avenues, and alleys in the Town of Del Rey, California, and additions thereto, for the purpose of constructing and maintaining a water system for the purpose of supplying the residents of said town and additions to said town with water.

ALSO, all personal property of, or a part of, or used in connection with, the water system supplying the residents of the Town of Del Rey and additions thereto, in the County of Fresno, State of California, with water, including all such property that lies in, along, and/or under the streets, highways, avenues, and alleys of said Town of Del Rey and additions thereto, and including all such property as is situated in or upon the real property hereinabove described, said personal property consisting of pipes, pipelines, water mains, hydrants, casings, valves, fittings, meters, meter boxes, cocks, saddles, water tank and tower, turbine pump and motor, centrifugal pump and motor, electrical equipment, and all other personal property a part of said water system.

The purchasers of said properties have agreed to pay for the same, \$10,000.00. They will pay \$1,000 in cash; deliver to Josephine Swanson their note for \$7,000, secured by a deed of trust and a chattel mortgage on the properties they are acquiring, and transfer to Arthur Swanson and Lelah Swanson, the son and daughter-in-law of Josephine Swanson, their equity valued at \$1,800, in approximately 1,000 acres of land at Auberry, California. The \$7,000 note will carry interest at the rate of 6% per annum

from January 1, 1941. The principal and interest are payable in monthly installments of \$50.00 or more, on the 15th day of each month beginning on the 15th day of March, 1941, and continuing until said principal and interest have been paid. Each payment shall be credited first on interest then due, and the remainder on principal. As stated, the payment of the note will be secured by a deed of trust which will be a lien on the real property, and by a chattel mortgage which will be a lien on the personal property which Frank Austin and Nora Austin, his wife, are acquiring from Josephine Swanson. A copy of the proposed deed of trust and a copy of the proposed chattel mortgage are filed in this proceeding as Exhibits D and E respectively. We have reviewed such instruments and find the same to be in satisfactory form.

The record shows that Josephine Swanson desires to sell said property because she is no longer a resident of the Town of Del Rey, and for the further reason that she may find it difficult to finance repairs and replacements or extensions to the water system.

Frank Austin has had experience in operating public utility properties. He owns some property near the Town of Del Rey and expects to make his home there. It is of record that he can finance the maintenance and extension of the water system and that he will retain Julian James, the present superintendent, in that capacity.

Any meter deposits or contributions in aid of construction held by Josephine Swanson should, by her, be transferred to Frank Austin and, by him, returned when due to the consumers of contributors.

Q R D E R

The Commission having considered applicant's requests and it being of the opinion that this is not a matter on which a hearing is necessary and that this application should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED as follows:

1. Josephine Swanson may, after the effective date hereof and prior to May 1, 1941, sell to Frank Austin and Nora Austin, his wife, for a consideration of \$10,000, the properties described in the foregoing opinion, and more particularly described in Exhibit A and Exhibit B on file in this proceeding, provided said Frank Austin and Nora Austin, his wife, assume the liability of returning any and all meter deposits or contributions in aid of construction held by Josephine Swanson.

2. Frank Austin and Nora Austin, his wife, may, after the effective date hereof and prior to May 1, 1941, issue to Josephine Swanson their note for the sum of \$7,000 and execute a deed of trust and a chattel mortgage to secure the payment of said note; said note, said deed of trust, and said chattel mortgage to be in substantially the same form as the note, deed of trust and chattel mortgage filed in this proceeding as Exhibits C, D, and E respectively, provided that the authority herein granted to execute said deed of trust and said chattel mortgage is for the purpose of this proceeding only, and is granted insofar as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust and said chattel mortgage as to such other legal requirements to which said deed of trust and said chattel mort-

gage may be subject.

3. The consideration being paid by Frank Austin and Nora Austin, his wife, for the aforesaid properties shall not be urged before this Commission or any other public body as fixing the value of said property for any purpose other than the transfer herein authorized.

4. The authority herein granted will become effective when Frank Austin and Nora Austin, his wife, have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which minimum fee is Twenty five (\$25.00) Dollars.

5. Within thirty (30) days after the transfer of the properties herein authorized to be transferred, Frank Austin shall file with the Railroad Commission a true and correct copy of the deed and a true and correct copy of the bill of sale under which Frank Austin and Nora Austin, his wife, hold title to said properties, and shall also file a true and correct copy of the deed of trust, a true and correct copy of the chattel mortgage, and a true and correct copy of the note executed under the authority herein granted.

Dated at San Francisco, California, this 17th day of March, 1941.

[Signature]
Ray L. Rice

Justin S. Green
Frank R. Havenner
Commissioners

