

Decision No. 36083

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application

of

SUTTER-BUTTE CANAL CO.

to sell to BIGGS-WEST GRIDLEY
WATER DISTRICT, and of latter
to buy certain property of
SUTTER-BUTTE CANAL CO.

ORIGINAL

Application No. 25398

Brobeck, Phleger & Harrison, by
Theodore R. Meyer for
Sutter-Butte Canal Co.

J. J. Duval, for California Farm
Bureau Federation.

BY THE COMMISSION:

O P I N I O N

Sutter-Butte Canal Co., a corporation, engaged in the business of diverting, distributing and selling water for agricultural purposes in Butte and Sutter Counties, asks for authority to sell a portion of its water rights and distribution system to Biggs-West Gridley Water District, a public corporation, which joins in the request.

A public hearing in this proceeding was held at Gridley.

The evidence shows that the Biggs-West Gridley Water District is a public corporation organized and existing under and by virtue of the California Water District Act; that the lands within the District comprise an area of approximately 30,000 acres, and that during the five-year period last past 7,105 acres have been irrigated from the Company's facilities and

4,561 acres have paid a service charge only. Of the acreage irrigated by the Company, 3,889 acres were planted to rice, 2,402 to ladino clover and the balance to other crops. The average revenue derived from the service furnished in the area for the five-year period totals \$58,663. In addition to lands irrigated by the Company, there were 4,027 acres furnished water by landowners by pumping from wells, drains, sloughs, and other independent sources of supply. It is expected that these landowners will take water from the District and thereby increase its revenues from water sales. The acreage of lands that have been irrigated at one time or another within the District area total 21,000 acres.

Sutter-Butte Canal Co. and Biggs-West Gridley Water District have agreed to the authorization of bonds of the District following an election held on December 21, 1942, for the purchase of the properties owned by the Company and described in Exhibit "A" attached to the application for the sum of \$500,000. These properties include an undivided twenty-eight per cent (28%) in and to all of the Company's water rights on the Feather River, reserving and excluding, however, said Company's Sunset Pumping Plant rights that have been or may be acquired pursuant to Application No. 10529, filed August 22, 1942, Water Department of Public Works, Division of Water Resources of the State of California, for permission to divert 500 cubic feet per second of unappropriated waters of Feather River. Other property includes an undivided twenty-eight per cent (28%) interest in and to the Company's main dam and diversion works, and other diversion facilities at the Feather River, together with an undivided twenty-eight per cent (28%) of main canal from said diversion works to the head of an irrigation canal known as Biggs Extension Canal; also an undivided forty per cent (40%) interest in and to the Biggs Extension Canal from said main canal to the head of the Belding Lateral, together with other laterals,

structures, buildings, rights-of-way, etc., belonging to the Company and lying within the boundaries of the District and necessary to serve the lands of said District.

The consideration for the transfer of the properties is \$500,000, which is payable in bonds of the District. These will be revenue bonds and will bear an interest rate of 5%. Provision is made that payments of bonds and interest will be made from one-half of all revenues from sale and use of water for irrigation of lands within the District, and said payments shall constitute a first and direct charge and lien upon one-half of the revenues received from such sales of water. A service agreement will also be entered into by and between the Company and the District similar to the existing agreement between the Company and Richvale Irrigation District, providing for the joint operation of facilities, protection of water rights, etc., and for delivery of water by the Company through the District to lands outside the District boundaries. Under the terms of this agreement the District will pay the Company an annual service charge of \$10,000 for a period of twenty-five years.

The transfer of the portions of the Company's properties will require an adjustment of its books and accounts to reflect the withdrawal from capital. The following Order will provide for the filing of copies of each and every book entry recording the sale of said properties.

Protest of the transfer was made by Mr. Frank Bratton, one of the Company's irrigation consumers, on the grounds that the water and water rights retained by the Company were not sufficient to adequately supply the lands which the Company is obligated to serve. He stated that the Company had sold 26.65% of its water and water rights to Richvale Irrigation District, which has a gross area of 26,891 acres, and now proposes to sell 28% of water and water rights to the Biggs-West Gridley Water District, which has an area of approximately 30,000 acres, and which results in a sale of 54.65% of water and water rights that is applicable to 41% of the service area. The remaining 59% of the area will have available only 45.35% of the water. Mr. E. A. Julian,

President and Manager of the Company, testified that the remaining acreage to the Company consisted of orchards, alfalfa and general crops, which did not require the quantity of water that was necessary to grow rice. He testified that from the Company's past experience he was satisfied that there was sufficient water retained by the Company to supply the remaining area, particularly with the additional supply that would be available from the Sunset Pumping Plant. This plant was installed in 1920, but has only been operated during periods of emergency and water shortage. Consequently, the original right to take water from the river was revoked. However, a renewal of the application has been made for 500 cubic second feet of water. Mr. Julian also stated that as the exact service area of the Company had never been established, there was no justification for apprehension of an inadequate remaining supply for the remainder of the service area.

After considering the testimony submitted in connection with this proceeding, it is concluded that the transfer of the properties requested should be granted, subject, however, to the terms and conditions of the following Order:

ORDER

Sutter-Butte Canal Co., a corporation, having applied to this Commission for authority to transfer a portion of its properties to the Biggs-West Gridley Water District, which joins in the application, a public hearing having been held thereon, the matter having been submitted and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED that Sutter-Butte Canal Co., a corporation, be and it is hereby authorized to transfer to Biggs-West Gridley Water District, a public corporation, for the sum of \$500,000 those certain portions of its public utility properties, water rights and other interests described in Exhibit "A" attached to the application, and by reference made a part hereof, subject to the following conditions:

- (1) Within sixty (60) days after the execution of the deed transferring the aforesaid properties to the Biggs-West Gridley Water District, Sutter-Butte Canal Co. shall file with the Railroad 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 Biggs-West Gridley Water District. *within the boundary of*
- (3) The consideration paid for said properties by Biggs-West Gridley Water 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 this 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 service or operating agreement between said Sutter-Butte Canal Co. and Biggs-West Gridley Water District providing for the control, replacement, maintenance and operation of the properties owned and used jointly by said Sutter-Butte Canal Co. and said Biggs-West Gridley Water District.

rem.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will be effective upon the date thereof.

Dated at San Francisco, California, this 29th day of December, 1942.

Justus D. Colver
Ray W. Rice
A. J. Baker
Francis R. Havens
Richard Jackson
 Commissioners.