

Decision No. 40508

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of

SOUTHERN PACIFIC MILLING COMPANY,
a California corporation,
and
CALIFORNIA PACIFIC DEVELOPMENT
CORPORATION, a California
corporation.

for an order authorizing the transfer
of properties and the issuance of
shares of preferred and common stock
pursuant to the merger of Southern
Pacific Milling Company into
California Pacific Development
Corporation.

ORIGINAL

Application
No. 28137
(First Supplemental)

FIRST SUPPLEMENTAL OPINION

In the First Supplemental Application filed June 24, 1947, the Commission is asked to make its order authorizing Southern Pacific Milling Company, hereinafter sometimes referred to as "Milling Company" and California Pacific Development Corporation, hereinafter sometimes referred to as "Development Corporation", when appropriate proceedings shall have been taken by the officers, directors and shareholders of applicants, to merge Milling Company into Development Corporation pursuant to the provisions of the Agreement of Merger filed in this application as Exhibit "A", and authorizing the transfer of properties and issue of securities to which reference will be made.

The Commission by Decision No. 39951, dated February 11, 1947, denied the original application, in which the Commission was asked to make an order authorizing Pacific Development

Corporation to merge into Milling Company. The First Supplemental Application shows that subsequent to February 11, applicant Milling Company continued to discuss the proposed merger with the stockholders who objected thereto at the hearing had on January 24, 1947, and has purchased all the shares of stock owned by said objecting shareholders.

In the original application it was proposed to merge Pacific Development Corporation, a corporation organized under the laws of Delaware, into the Southern Pacific Milling Company. Subsequent to the Commission's decision denying the application, Pacific Development Corporation, the holder of 27,790 shares of the outstanding stock of the Milling Company, has been reorganized through the incorporation of a California corporation, to wit, California Pacific Development Corporation. Pursuant to such reorganization, the properties of Pacific Development Corporation have been transferred to the Development Corporation upon issuance of 11,250 shares of 4% preferred stock and 50,000 shares of common stock by the Development Corporation to the stockholders of the Pacific Development Corporation, and the assumption by the Development Corporation of the liabilities of Pacific Development Corporation, such liabilities in the main being a \$444,750 demand note held by the Bank of The Manhattan Company. The payment of this note is secured by the deposit of the 27,790 shares of common stock of the Milling Company.

It is now proposed that the Milling Company merge into the Development Corporation under the terms of the Agreement of Merger on file in this application. A copy of the Agreement of Merger has been mailed to the stockholders of the Milling Company with a notice calling a special meeting of its stockholders.

to be held July 14, 1947, for the purpose of acting on the proposal of merger. The Milling Company now has 28,575 shares of common stock outstanding. Of these shares, 27,790 as said are owned by the Development Corporation and 785 shares by others. Under the Agreement of Merger, the holders of the 785 shares may, at their option, convert each of said shares into three shares of common stock of the Development Corporation, or receive \$40 per share which the Milling Company has agreed to pay for the stock. In its notice to stockholders the Milling Company states that it is willing, at the request of any shareholder, to pay to such shareholder in lieu of \$40 per share, such price per share as shall be fixed by an impartial qualified appraiser to be designated by agreement between the company and the shareholder, the award of such appraiser to be binding upon both parties.

As of April 30, 1947, the Milling Company reports assets and liabilities as follows:

<u>Assets</u>	
<u>Current Assets</u>	
Cash on hand and in transit	\$ 16,469.22
Notes and accounts receivable	535,791.41
Inventories	886,232.34
Total current assets	<u>\$1,438,492.97</u>
<u>Fixed Assets</u>	
Investments	40.00
Non-operative property	15,793.42
Operative property:	
Land	\$ 84,974.73
Buildings	743,962.06
Machinery and equipment	884,705.68
Total fixed assets	<u>1,713,642.47</u>
Prepaid Charges	<u>52,192.41</u>
Total	<u>\$3,221,161.27</u>

Liabilities

<u>Current Liabilities</u>	
Notes payable	\$ 150,000.00
Drafts payable	43,425.78
Vouchers payable	108,553.84
Taxes payable	159,615.68
Current liabilities, other	30,530.03
Total current liabilities	<u>\$ 492,125.33</u>
<u>Reserves</u>	
For notes and accounts doubtful of collection	27,510.59
For depreciation on non-operative property	7,135.77
For depreciation on operative property	983,177.92
Total reserves	<u>\$1,017,824.28</u>
<u>Deferred Credits</u>	
Total liabilities, reserves and de- ferred credits	875.00
	<u>\$1,510,824.61</u>
<u>Capital Stock and Surplus</u>	
Common stock	577,500.00
Surplus	1,114,998.15
Surplus arising from appreciation	17,838.51
Total capital stock and surplus	<u>\$1,710,336.66</u>
Total	<u>\$3,221,161.27</u>

For the eleven months ending April 30, 1947, the gross sales of the Milling Company amounted to about \$5,175,000, of which approximately \$206,000 or 4% represents revenues from the operation of public utility warehouses. For the eleven months the Milling Company reports a net profit of \$248,354.98.

Under the terms of the Agreement of Merger, the Development Corporation will acquire the assets of its subsidiary, the Milling Company, will assume its liabilities and will change its name to "Southern Pacific Milling Company" in order to preserve continuity of relationship with Milling Company's customers and business connections.

As stated, the Development Corporation has outstanding 11,250 shares of 4% preferred stock of the par value of \$20 per share, and 50,000 shares of common stock of the par value of \$1 per share. Under the Agreement of Merger, each holder of

outstanding 4% preferred stock of the Development Corporation will exchange his certificates on a share-for-share basis for certificates bearing the name of the surviving corporation, to wit, "Southern Pacific Milling Company", and similarly each holder of the outstanding shares of common stock of the Development Corporation will exchange his certificates on a share-for-share basis for certificates of common stock bearing the name of the surviving corporation, to wit, "Southern Pacific Milling Company". Holders of the common stock of the Milling Company, other than the Development Corporation, who have not elected to receive cash value for their shares, will receive three shares of common stock of the surviving corporation, to wit, "Southern Pacific Milling Company", of the par value of \$1 for each share of common stock of Milling Company now held by such shareholders. The 27,790 shares of common stock of the Milling Company now owned by the Development Corporation will be surrendered and canceled.

Under the proposed Agreement of Merger the surviving corporation will issue 11,250 shares of 4% preferred stock and not exceeding 52,355 shares of common stock. The surviving corporation asks permission to issue said shares of stock. As of April 30, 1947, the book value of the Milling Company's common stock was about \$59.54 per share. Had the merger been consummated as of that date, the book value of the common stock of the surviving corporation would have been approximately \$21.67 per share. Inasmuch as the minority stockholders of the Milling Company are offered three shares of common stock of the surviving corporation for one share of common stock of the Milling Company, they will receive in exchange a book value of about \$65 per share, as

compared with their present book value of \$59.54 per share.

The Development Corporation also asks permission to issue to the Bank of The Manhattan Company ten \$50,000 4% serial notes of the aggregate principal sum of \$500,000. The tenth note is due June 30, 1952. The amount of \$444,750 realized through the issue of such notes will be used to refund the demand note due the Bank of The Manhattan Company. The remainder of the proceeds will be used by the surviving corporation for working capital. A copy of the loan agreement under which the notes will be issued is on file in this application as Exhibit "D".

The refinancing of the Milling Company's properties, as herein proposed, will assure the continuance of the present efficient management of the properties. The Bank of The Manhattan Company demand note of \$444,750 will be refunded upon a five-year basis. The surviving corporation will, so the record indicates, be able to carry on without impairment all the public utility functions of the Milling Company.

FIRST SUPPLEMENTAL ORDER

The Commission has considered the requests contained in applicants' First Supplemental Application and is of the opinion that inasmuch as no holder of presently outstanding stock of Southern Pacific Milling Company, other than Pacific Development Corporation, appeared at the hearing had on January 24 no further hearing is necessary on this matter, that the money, property or labor to be procured or paid for by the issue of stocks and notes herein authorized is reasonably required by the surviving

corporation for the purposes herein mentioned, that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Southern Pacific Milling Company may, after the effective date hereof and on or before December 31, 1947, merge into California Pacific Development Corporation pursuant to the provisions of the Agreement of Merger on file as Exhibit "A" in this First Supplemental Application, which Agreement of Merger applicants are hereby authorized to execute.

2. Southern Pacific Milling Company may, after the effective date hereof and on or before December 31, 1947, transfer all of its assets and liabilities to California Pacific Development Corporation pursuant to said Agreement of Merger.

3. California Pacific Development Corporation may, after the effective date hereof and on or before December 31, 1947, issue to the holders of the outstanding common shares of Southern Pacific Milling Company, other than California Pacific Development Corporation, not exceeding 2,355 shares of common stock of said California Pacific Development Corporation of the par value of \$1 per share, bearing the title of said company as the surviving corporation under said merger, to wit, "Southern Pacific Milling Company", in exchange for and upon surrender of the common shares of Southern Pacific Milling Company now held by such persons at the ratio of three shares of common stock of California Pacific Development Corporation for each share of stock of Southern Pacific

Milling Company held by the exchanging shareholder.

4. California Pacific Development Corporation, upon amendment of its Articles of Incorporation, pursuant to said Agreement of Merger may, after the effective date hereof and on or before December 31, 1947, issue to the holders of the outstanding 11,250 shares of 4% preferred stock of said corporation 11,250 shares of the 4% preferred stock of said corporation of the par value of \$20 per share, bearing the title of said corporation as surviving corporation under said merger, to wit, "Southern Pacific Milling Company", in exchange for and upon surrender by the holders thereof of the said 11,250 shares of 4% preferred stock of said corporation.

5. California Pacific Development Corporation, upon amendment of its Articles of Incorporation, pursuant to said Agreement of Merger may, after the effective date hereof and on or before December 31, 1947, issue to the holders of the outstanding 50,000 shares of the common stock of said corporation of the par value of \$1 per share, bearing the title of said corporation as surviving corporation under said merger, to wit, "Southern Pacific Milling Company", in exchange for and upon surrender by the holders thereof of the said outstanding 50,000 shares of common stock of said corporation.

6. California Pacific Development Corporation may, after the effective date hereof and on or before December 31, 1947, issue to the Bank of The Manhattan Company ten (10) promissory 4% serial notes in the amount of \$50,000 each and in the aggregate amount of \$500,000, and execute a form of loan agreement with the Bank of The Manhattan Company in relation to

said serial notes in, or substantially in, the form of the loan agreement on file in this application as Exhibit "D", with such modifications therein as may be necessary by reason of the advancing of initial maturities by six (6) months. The proceeds of said notes shall be used by said corporation to refund indebtedness and for the maintenance of its service.

7. The authority herein granted will become effective twenty (20) days after the date hereof, and when the surviving corporation has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is Five Hundred (\$500.00) Dollars.

8. Within thirty (30) days after the execution of the Agreement of Merger to which reference is made herein, the surviving corporation shall file with the Commission two (2) certified copies of said Agreement of Merger; also, a copy of the loan agreement under which the surviving corporation has borrowed \$500,000 from the Bank of The Manhattan Company, together with a statement showing the purposes for which the proceeds of said notes have been expended, and further, a statement showing the number and class of shares of stock issued under the authority herein granted and the purposes for which said shares of stock were issued.

Dated at San Francisco, California, this 8th day
of July, 1947.

Harold P. Huls

Justice F. Crocker

Just. Kucell

R. E. Murrain

Harold P. Huls
Commissioners

