

LEM

Decision No. 14565

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

* * * * *

In the matter of the application of)	
COLONEL ED. FLETCHER and)	
SHERMAN WATER COMPANY, a corpor-)	
ation, for an order authorizing the)	Application No. 10614.
sale and transfer of a portion of)	
the Sherman Water Company system)	
and the issuance of capital stock)	
therefor.)	

Ed. Fletcher, for applicants.

BY THE COMMISSION:

ORIGINAL

O P I N I O N

In this application, as amended at the hearing held before Examiner Fankhauser, the Railroad Commission is asked to authorize Ed. Fletcher to transfer certain public utility water properties to Sherman Water Company, a corporation, and to authorize Sherman Water Company to issue, at this time, in part payment for such properties, stock in a nominal amount only.

The water system involved in this application is known as the Sherman Water Company and is used to supply water for domestic and commercial purposes in and about the town of Sherman, Los Angeles County.

The assets and liabilities of the system, as of November 30, 1924, are reported as follows:-

ASSETS:

Fixed capital	\$171,347.27	
Construction work in progress	3,753.44	
Cash	294.62	
Accounts receivable	7,105.45	
Materials and supplies	1,750.09	
Prepayments	305.24	
Corporate deficit	5,125.99	
Total assets		\$189,682.10

LIABILITIES:

Accounts payable	\$77,552.22	
Consumers' deposits	142.11	
Consumers' advances	23,197.43	
Accruals	619.98	
Reserve for depreciation	5,221.56	
Proprietorship	84,948.80	
Total liabilities		\$189,682.10

The properties are now owned by Ed. Fletcher who acquired them from W.P.Cunningham and F.B.R.Cunningham, pursuant to authority granted by the Commission in Decision Number 12805, dated November 8, 1923 in Application Number 9441. In filing Application Number 9441, with the Commission, it was reported that it was Mr. Fletcher's intention, upon acquiring the properties, to organize a corporation to take over and operate such properties as a public utility, to install an additional storage reservoir and otherwise improve the system.

Accordingly, on or about November 21, 1923, Sherman Water Company, one of the applicants herein, was organized. The articles of Incorporation, a copy of which is filed with the application, show that it has an authorized capital stock of \$500,000.00, divided into 5,000 shares of the par value of \$100.00 each, all common. In the application as originally filed, a request was made for permission to issue the entire authorized capital stock. This request was modified at the hearing, the corporation reporting that, pending a

final determination of the value of the properties, it desired to issue a nominal amount of stock only.

Some evidence was introduced at the hearing bearing on the value of the properties. W. M. Cook, engineer for applicant, introduced a report, which was designated Applicants' Exhibit No. 2 in which he estimates the cost of the water system as of December 30, 1924 as \$167,545.24, including \$25,000. for intangible capital. F. E. Van Eoesen, one of the Commission's hydraulic engineers, introduced a report, the Commission's Exhibit No. 1, in which the original cost as of January 1, 1925, exclusive of lands, franchise value or water rights, was estimated at \$138,231. and the reproduction cost as \$147,834. The amendment of the application at the hearing as indicated above makes it unnecessary to find a definite value for the properties at this time.

In acquiring the properties, Sherman Water Company will assume the payment of the outstanding liabilities, which, as shown in the foregoing balance sheet, aggregated \$101,511.74 on November 30, 1924, the date of the latest financial statement filed with the Commission. The order herein will authorize the transfer of the water properties to Sherman Water Company, a corporation, and the assumption by such corporation of the outstanding indebtedness, and the issue at this time of \$50,000. of stock in part payment therefor. The authority herein granted to issue stock or assume indebtedness is not to be construed as a finding of value of the water properties. Hereafter, upon further request from applicants and upon filing of additional evidence, the Commission, if it deems it appropriate, will enter a supplemental order increasing the amount of stock.

There has been filed in this proceeding a copy of an agreement dated January 1, 1924 by and between the Title Guarantee and Trust Company, called the licensor, and Sherman Water Company, a corporation, called the licensee, covering the sale of water by the former to the latter. Under this agreement, the licensee agrees to

pay the licensor for the right to pump and remove water from Tract No. 4769; Tract No. 4912; Tract No. 4934; Tract No. 5939; and Tract No. 5125, the sum of four cents per hundred cubic feet of water pumped and removed. The licensee is required to install all pumps and to pay all expenses in connection with the operation of the same, and further, hold the licensor free and harmless from any and all loss, damage or liability, by reason thereof. The agreement shall continue in full force and effect as to any and all property owned in said tracts by the licensor during the time that such property is owned by the licensor and for a term of 20 years from the date of the agreement. Quoting from the agreement:

"It is understood that the licensor is the owner of said property in the capacity of trustee only under its Trust No. 764, and that the licensor does not personally assume any obligation or liability and shall be bound only to the extent that as trustee it may obligate the trust estate held by it in trust."

It occurs to us that the agreement between the Title Guarantee and Trust Company and the Sherman Water Company is definite only in one respect, namely, that it gives the Company permission to remove water from the tracts mentioned, at a cost of four cents per hundred cubic feet, the company bearing all expenses incident to drilling wells, installing pumping equipment and operating such equipment. The agreement is not between the actual owners of the tracts, but between the trustee and the Company, and terminates when the trustee's estate in the property ceases. The agreement is not in satisfactory form.

The authority herein granted to transfer property and issue stock and assume indebtedness will not become effective until there has been filed with the Commission, in form satisfactory to the Commission, a copy of an agreement entered into between Sherman Water Company, and the actual owners of the wells from which Ed. Fletcher or Sherman Water Company now obtain their water supply sold to residents served by the property described in this application. The agreement should run for not less than twenty

years and be not terminated by the transfer of the ownership of the wells. While we do not at this time raise any objection to the price being paid for the right of pumping and removing water from the aforesaid premises, the Commission may modify such price in any future rate or other proceeding. The Sherman Water Company, a corporation, should not be obligated to pay more for water than the rate which the Commission will recognize as a proper operating expense.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the transfer of public utility water property, the issue of stock and assumption of indebtedness, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted as herein provided,

IT IS HEREBY ORDERED that upon the filing with the Railroad Commission in form satisfactory to the Commission, of a contract covering the purchase of water by the Sherman Water Company, a corporation, Ed. Fletcher, doing business under the firm name and style of Sherman Water Company, be, and he is hereby, authorized to transfer to the Sherman Water Company, a corporation, the public utility property described in this application, and Sherman Water Company, a corporation, be, and it is hereby, authorized to purchase such property, and in payment therefore assume the payment of not more than \$101,511.74 indebtedness and issue \$50,000. of common stock.

The authority herein granted is subject to the following conditions:-

1. The consideration which the Sherman Water Company, a corporation is herein authorized to pay for the properties referred to above shall not be urged before this Commission as a measure of the value of such properties other than the transfer herein authorized.
2. Within thirty (30) days after the execution of the deed conveying the property herein authorized to be transferred a verified copy thereof shall be filed with the Railroad Commission.
3. Sherman Water Company, a corporation, shall keep such record of the issue and delivery of the stock herein authorized to be issued as will enable it to file on or before the 25th day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
4. Sherman Water Company, a corporation, shall file with the Railroad Commission a detailed statement of the indebtedness which it assumes as part payment for the properties which it is herein permitted to acquire.
5. The authority herein granted will not become effective until applicants have filed with the Commission a copy of the contract referred to in this order.
6. The authority herein granted to transfer properties, issue stock and assume indebtedness will terminate on December 31st, 1925.

Dated at San Francisco, California, this 14th day of February, 1925.

H. B. ...
C. ...
Robert Shore
George D. Squires

Commissioners.