

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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Decision No. 5263

In the matter of the application	)	
of BAYOU VISTA DITCH COMPANY for	)	
authority to issue stock and for	)	
certificate of public convenience	)	Application No. 3466.
and necessity; and of the trustees	)	
in liquidation of The Tulare Lake	)	
Canal Company for authority to con-	)	
vey an irrigation system.	)	

Chas. G. Lamberson of Lamberson,  
Burke and Lamberson, for applicant.

BY THE COMMISSION:

O P I N I O N

The Board of Directors of The Tulare Lake Canal Company, a defunct corporation, acting as trustees for the stockholders and creditors of said corporation in liquidation, seeks authority to convey its irrigating system in Tulare County to Bayou Vista Ditch Company, a corporation with a capital stock of \$50,000, divided into 500 shares of the par value of \$100 each, organized for the purpose of acquiring the property; and the new corporation applies for authority to issue stock for the property and seeks certificate that public convenience and necessity require it to operate the system.

A public hearing upon the application was held by Examiner Westover at Angiola, Tulare County.

The Tulare Lake Canal Company was incorporated in 1891 with a capital stock of \$50,000 divided into 500 shares of the par value of \$100 each, for the purpose of diverting water out of the Tule River or Elk Bayou, in Tulare County, at a point near the center of Section 33, Township 21 South, Range 23 East, M.D.B.&M., and using the waters for the irrigation of lands belonging to the incorporators and others. Two main canals were constructed, one known as the East Ditch, extending from the point of diversion southeasterly to a point near the center of the east line of Section 22, Township 22 South, Range 23 East, and thence due south to the south line of the township where it connects with the canal of the Kings County Canal Company; the other known as the West Ditch, extending south through the center of Sections 4, 9, 16, 21 and 28 in said Township 22, and thence southeasterly to the south line of the township. Three laterals lead west from the west ditch, two of which extend to the west line of the township, and the third extends westerly along the south line of the township.

The weir and headgate of wood and the west ditch, were built about 1892, and now irrigates about 3700 acres. The east ditch was built about 1897 and now irrigates about 300 acres.

The corporate existence of The Tulare Lake Canal Company was terminated on February 28, 1914, because of the failure of the corporation to pay its

corporation tax for the year 1913. When the stockholders sought to revive its corporate existence they found that the name had been taken by a new corporation subsequently formed. They were obliged to form a new corporation and they therefore organized the applicant, Bayou Vista Ditch Company, with a like capital of \$50,000 divided into 500 shares of the par value of \$100 each, which they now wish to issue to stockholders in the original company in exchange for their stock in said The Tulare Lake Canal Company, on the basis of share for share.

The cost of construction of canals, ditches or structures is not known. A rough estimate by applicants of the original cost of canals and ditches is \$10,000, and of the original wooden weir and headgates about \$2000. The control of The Tulare Lake Canal Company was acquired a few years ago by the purchase of  $\frac{2}{3}$  of its 500 shares of capital stock for the sum of \$7000. The purchasers installed a new cement weir and headgates, replacing the wooden structure which had been washed out, at a cost of \$5234.64, which was advanced by three of the purchasers in equal portions and for which, with interest, they have a claim against the old company, and which the new company will assume. This work was done in the winter of 1914-15. In the winter of 1917-18 new structures were placed in the west ditch, replacing those which had rotted out, at a cost of about \$1,200; and the canals and ditches 1-1

were cleaned and scraped in 1916 at a cost of about \$1100, so that the system is now in good condition. There was also expended \$233.45 for attorney's fees and expenses in connection with the prosecution of a suit involving the title to the right of way of the west ditch.

The testimony shows that there is water in the bayou or river for a month or two about four seasons out of five, and in other seasons no water at all; also that in a stipulated judgment in an action involving the rights of appropriators above applicant's weir and headgates it is provided that all of the water is permitted to flow down to applicant's diverting weir between March 22d and April 10th in each year, which it is said the evidence in said case showed would usually include the period of greatest flow. The system has never furnished water for more than 4000 acres, and generally for one ~~an~~ irrigation only, but some lands have been irrigated twice and in a few instances three times in a season. The river or bayou is usually dry the remainder of the season, but frequently overflows, during rainy seasons. No measurement of water has been made, but it is estimated by applicants that 100 and 50 cubic second/<sup>feet</sup> respectively have frequently been seen flowing in the ditches, during the limited season.

The rate heretofore charged to patrons of the system is 50¢ per acre per irrigation. Applicant wishes to establish the same rate. It will be unnecessary to make any order on this feature of the application as this can be done by filing schedule. The property also earns a rental from Kings County Canal Company of 25¢ for each acre irrigated by the latter with its water conveyed through the east ditch under a 10 year agreement dated November 18, 1904.

It seems unnecessary in this case to make a valuation of the property in question. Considering the amount paid for 291 2/3 shares, the cost of constructing

weir and headgates and the expense of litigation concerning right-of-way, we will authorize the issue of stock of the par value of \$25,000. The particular reason for incorporating the new company with an authorized capital of \$50,000 was so that stock in the old company might be exchanged for stock in the new company on the basis of share for share. However, stockholders in the old company will readily see that the value of their property remains relatively the same no matter how many shares are issued to represent it. Each stockholder of the old company receiving the shares of the new company in the proportion set forth in the order will possess the equivalent value of his old stock, have the same voting power, and will own the same proportion of the system which was incident to the ownership of the stock in the old company.

The lands served by the system in question are not served by any other present system.

No franchise to cross public roads appears to be necessary as the existing canals and ditches were constructed before the present roads in the locality were laid out.

#### O R D E R

THE BOARD OF DIRECTORS OF THE  
TULARE LAKE CANAL COMPANY, a defunct corporation, acting  
as trustees for the stockholders and creditors of said

corporation in liquidation, having applied to the Railroad Commission for authority to convey its property to Bayou Vista Ditch Company, a corporation, and the latter corporation having applied for authority to issue its stock for the purpose of acquiring said property and for certificate that public convenience and necessity require it to operate the irrigation system so acquired, and a public hearing having been held, and in the opinion of the Commission the property to be procured or paid for by such issue of stock is reasonably required for the purposes specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

IT IS HEREBY ORDERED that Chas. G. Lamberson, A. V. Taylor, Nis Hansen, Louisa D. Tennent and George Hanna, acting as trustees in liquidation for The Tulare Lake Canal Company, and its stockholders and creditors, are hereby authorized and empowered to convey to Bayou Vista Ditch Company, a corporation, the property described in Exhibit "A" attached hereto.

Bayou Vista Ditch Company, a corporation, is hereby authorized and empowered to issue 250 shares of its capital stock of the par value of \$100 each to the persons named below upon the surrender and cancellation of two (2) shares of the capital stock of The Tulare Lake Canal Company, incorporated October 10, 1891, for each share of stock of Bayou Vista Ditch Company herein authorized to be issued.

Said stock hereby authorized shall be issued to the following persons and in the amounts set

opposite their respective names, to-wit:

Chas. G. Lamberson	20 5/6
A. V. Taylor	20 5/6
Nis Hansen	41 2/3
W. A. Cranmer	20 5/6
Louise D. Tennant	20 5/6
Alan Gardner	12 1/2
H. J. Whitley	8 1/3
George Hanna	1/2
Corcoran Land Co.	57 5/6
Mercantile Trust Co.	20 5/6
Bela Adams	4 1/6
Easton Mills	20 5/6
Total	250

The proceeds of the stock above authorized to be issued shall be used for the purpose of procuring the irrigation system in Tulare County, formerly owned and operated by The Tulare Lake Canal Company, needed by said Bayou Vista Ditch Company in the conduct of its business of distributing irrigation water as a public utility water corporation.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Bayou Vista Ditch Company of the irrigation system in Tulare County, formerly owned and operated by The Tulare Lake Canal Company, a description of which said system is contained in Exhibit "A" attached hereto.

The conditions upon which the authority to convey property and to issue stock are herein granted is as follows:

1. The authority to convey property shall apply only to such property as shall hereafter be

conveyed within sixty (60) days from date hereof.

2. Within ten (10) days after said conveyance has been executed and delivered, Bayou Vista Ditch Company shall file with the Railroad Commission a copy of said conveyance as hereafter executed.

3. The authority to issue stock shall apply only to such stock as shall have been issued within six months from date hereof.

4. During the period in which the stock herein authorized to be issued is being exchanged for said stock of The Tulare Lake Canal Company, Bayou Vista Ditch Company shall make verified report to the Railroad Commission on or before the 25th day of each month of the stock issued and stock surrendered and canceled, in substance and form as required by General Order No. 24, which order in so far as applicable is made part hereof.

5. Nothing herein contained shall be construed as a finding by the Railroad Commission of the value of the property herein authorized to be conveyed for any purpose in any proceeding before this Commission or any public tribunal or court.

Dated at San Francisco, California, this  
6<sup>th</sup> day of ~~March~~<sup>April</sup>, 1918.

Wm. J. Shellen

Alvin G. Brown

Edwin O. Edgerton

Frank A. Huber  
Commissioners.



Exhibit "A"

Being a description of property to be conveyed to  
Bayou Vista Ditch Company.

"A diverting weir across the channel of Tule River or Elk Bayou near the center of Section 33, in Township 21 south, range 23 east, Mt. Diablo Base and Meridian, and two diverting ditches taking out of the channel of said stream therefrom and running thence in a southerly and southeasterly direction to the south line of Township 22 south, range 23 east, Mt. Diablo Base and Meridian. One of said ditches being known as the East ditch and running South from the center of said Section 33 as aforesaid to the quarter section corner between Sections 9, and 10, in Township 22 South, Range 23 East, Mt. Diablo Base and Meridian, and running thence in a Southeasterly direction to a point about the center of the East boundary line of the Northeast quarter of Section 22, in said last named Township and Range, and thence South upon the section line between Sections 22 and 23, 26 and 27, 34 and 35, in said last named Township and Range. The other of said ditches being known as the West ditch and running from the point of diversion above the said weir in the channel of said stream, near the center of Section 33, as aforesaid, in a southwesterly direction to the center of the North boundary line of Section 4, in Township 22 South, Range 23 East, Mt. Diablo Base and Meridian, and running thence South through the center of Sections 4, 9, 16, 21, 28 and 33 to the South boundary line of said Township 22 South, Range 23 East, Mt. Diablo Base and Meridian, all in the said County of Tulare, State of California.

TOGETHER with all and singular the rights acquired  
by the said Tulare Lake Canal Company to divert water from the

chamel of Tule River or Elk Bayou near the center of said Section 33 as aforesaid, which the said Tulare Lake Canal Company" and its succeeding trustees have had and enjoyed ever since the incorporation of said corporation, about the 10th day of October, 1891.