

Decision No. 30278

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
TARRANT PUTNAM
for certificate of public convenience
and necessity.

Application No. 20989

In the Matter of the Investigation upon
the Commission's own motion into the
rates, rules, regulations, charges,
classifications, practices, contracts,
operations, and service, or any of
them, of TARRANT PUTNAM, owner of an
irrigation system in the vicinity of
Cupertino, Santa Clara County,
California.

Case No. 4223

ORIGINAL

I. D. Bohnett, for applicant.

A. M. Stockmeir, for certain
protestants and consumers.

Frank A. Leib, for Estate of
S. F. Leib.

BY THE COMMISSION:

O P I N I O N

Tarrant Putnam, engaged in the business of producing and selling water for agricultural irrigation purposes in the vicinity of Cupertino, Santa Clara County, asks for a certificate of public convenience and necessity to operate as a public utility. The Commission also instituted an investigation upon its own motion in order to broaden the issues and to permit the introduction of evi-

dence concerning rates, service, private contracts, rules and regulations, etc.

A public hearing was held in these proceedings before Examiner Claude C. Brown and by stipulation they were combined for hearing and decision.

The proposed service area is described in the application as including those lands:

"Lying between the Stevens Creek Road on the North, Blaney Road and Calabasis Creek on the East, the Prospect Road and Bubb Road and the westerly extension of the Bubb Road on the South, and Stevens Creek on the West."

This area includes approximately 1,600 acres located in Sections 13, 14, 23, 24, and 25, Township 7 South, Range 2 West, M.D.B. & M., devoted largely to the culture of prunes and apricots. At the hearing applicant asked to have the North Half of the Southwest Quarter of Section 13, Township 7 South, Range 2 West, M.D.B. & M., consisting of eighty (80) acres, excluded from the above service area as said acreage is served by privately-owned pumping plants. There are sixty-five different land owners in the territory covered by applicant's system; however, but thirty-five of these owners with a total of 800 acres have been served at various times by applicant. The other ranches are either dry-farmed or obtain water, when available, from other sources.

According to the evidence, a large number of wells have been drilled in this section of the county but not one has produced sufficient water for large scale irrigation use and few sufficient water for the individual parcels. Applicant has been delivering and selling water in this area since 1919 and has the only water supply at present capable of furnishing a large percentage of the

land owners with a sufficient head of water to use beneficially during the irrigation season. The supply is estimated to be capable of serving 1,300 acres.

The rates charged by applicant for water delivered in the past are as follows:

<u>Size of Stream Delivered*</u>	<u>Rate**</u>
600 gallons per minute or more-----	\$4.00 per hour
600 to 400 gallons per minute-----	3.00 per hour
400 gallons per minute or less-----	2.50 per hour

* All measurements are made by a meter at the pump. The pump has a rated capacity of 1,000 gallons per minute.

** The rate of \$4.00 per hour was reduced this season to \$3.50 per hour for the months of May and June.

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Applicant in 1918, together with three other owners of adjacent lands desiring water for irrigation of their orchards, attempted the development of water near Stevens Creek by means of a well. The first well failed to produce sufficient water and during the next ten years efforts were made through the drilling of other wells and the digging of infiltration galleries near the creek to secure more water. Applicant acquired the interests of the other partners and is now the sole owner and operator of the present pumping plant which obtains its principal source of water from tunnels and galleries along Stevens Creek. The production facilities consist of a 4-foot by 5-foot pit, 101 feet deep, 370 feet of tunnels or infiltration galleries connecting with the pit and an adjoining well. Two hundred (200) feet of the tunnels are at the 32-foot level, 170 feet being at a lower depth 101 feet below the

shaft collar. This well drilled in 1927 is 620 feet deep but produces little or no water, its main function at present being a pumping sump through connection with the pit and tunnels. Distribution is through approximately 55,000 feet of concrete pipe lines ranging from ten to fourteen inches in diameter. According to the testimony applicant owns 15,000 feet of these lines and claims an interest to the extent of two thousand dollars (\$2,000) in 26,000 feet of pipe. Various individual land owners taking water from this pumping plant claim ownership of the remaining 14,000 feet of pipe line.

A report was presented by Wm. Stava, one of the Commission's hydraulic engineers, containing an appraisal of the properties, an analysis of the results of operation together with estimates of the reasonable costs of conducting the affairs of this utility in the immediate future. The physical properties of the system were appraised at forty-two thousand five hundred and fifty-five dollars (\$42,555) based upon the estimated historical cost including two thousand dollars (\$2,000) in the jointly used pipe lines as indicated above. This appraisal includes also eleven thousand forty-six dollars (\$11,046) expended in the drilling of wells which did not produce any practicable supply of water and the 1927 well, only a portion of which is now operative. The following table shows the average annual revenues and the operating expenses together with the results of operation for the ten-year period last past. There are also estimates showing future operations at charges of three dollars (\$3.00) and three dollars and fifty cents (\$3.50) per hour.

	: Actual :	: Estimated :	: Estimated :
	: 10-Year :	: Future :	: Future :
	: Period :	: Future :	: Future :
Base Rate per hour	\$ 4.00	\$ 3.50	\$ 3.00
Average Hours Pumped	2,588	2,717	2,846
Average Rate Paid per hour	\$ 3.53	\$ 3.15	\$ 2.65
Average Revenue	9,142.00	8,560.00	7,500.00
Average Maintenance & Operation	4,448.00	4,530.00	4,610.00
Average Net Revenue	4,694.00	4,030.00	2,890.00
Return on \$42,555	11.0%	9.5%	6.9%
Return on \$31,509 (Excludes non-operative property)	14.9%	12.8%	9.2%

Protests were made by a large number of water users against the granting of a certificate of public convenience and necessity to this applicant. However, practically all of these protests were made under the misapprehension that the owner of this well and pumping plant was attempting to form a water district or an irrigation district and that such action would force them to relinquish all rights or prospects of obtaining additional water from other sources. Admittedly applicant's water supply is insufficient to serve adequately all those residing within his present service area and reliance in the past has been made upon all available sources of surplus water from private pumping plants in the vicinity. There is no question but that this same condition will obtain for some time in the future. For this reason there is no intention upon the part of the Commission or upon the part of applicant to restrict all water use in this area to the supply available to the Putnam system. The Commission is asked to grant a certificate of public convenience and necessity in this proceeding for the operation of a public utility water works, which latter is wholly separate and distinct from a county water works district or

an irrigation district over which forms of organization the Railroad Commission has no jurisdiction or control.

One other ground of protest made by certain water users was that in their opinion the present charges for water were too high for the limited period during which water could be pumped. In this connection it should be pointed out that underground water supplies in this particular section of the Santa Clara Valley are very limited and whatever water can be obtained should be wisely and economically used and necessarily a fair and reasonable price should be paid for the actual production costs.

A review of the evidence substantiates to some extent the claims of this latter group of protestants. Using the former base charge of four dollars (\$4.00) per hour, this plant actually earned eleven per cent (11%) net upon its investment including capital expended for exploratory work and initial development. As the expenditures made for these latter items were made primarily for the use of the former partners upon their own lands at a time when the project was more or less a private or mutually cooperative venture and now no longer represent used and useful water production facilities, such capital must be excluded from the rate base structure as non-operative. Upon an operative fixed capital investment of thirty-one thousand five hundred nine dollars (\$31,509) the former basic charge of four dollars (\$4.00) per hour may be very materially reduced and still permit applicant a fair and reasonable return upon his investment. The graduated charges fixed in the following Order are designed to encourage the use of water at periods outside of the peak seasonal demands.

Applicant at present has not been able to develop sufficient water to satisfy the requirements of all dependent water users within the territory in which he requests authority to serve. However, there is no other public utility operating in this section in competition with him and the certificate therefore will be granted.

O R D E R

Application having been filed as entitled above and the Commission's investigation on its own motion having been instituted in Case No. 4223, a public hearing having been held in these proceedings, the matters having been duly submitted and the Commission being now fully advised in the premises,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that Tarrant Putnam operate a water system in that certain area including approximately 1,600 acres located in Sections 13, 14, 23, 24, and 25, Township 7 South, Range 2 West, M. D. B. & M. and lying between the Stevens Creek Road on the North, Blaney Road and Calabasis Creek on the East, the Prospect Road and Bubb Road and the westerly extension of the Bubb Road on the South, and Stevens Creek on the West, exclusive, however, of the North Half of the Southwest Quarter of Section 13, Township 7 South, Range 2 West, M. D. B. & M., consisting of eighty acres more or less, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Tarrant Putnam

to operate a public utility water system in the above described area, subject to the following terms and conditions:

Tarrant Putnam, applicant herein, shall keep a written record at his pumping plant of the quantity of the water produced by the pump as shown by the meter, said record to show at least two entries daily during the period that the pump is in operation and delivering water and to be open for inspection by the water users at reasonable hours.

IT IS HEREBY FURTHER ORDERED that Tarrant Putnam be and he is hereby authorized and directed to file with this Commission, within five (5) days from and after the date of this Order, the following schedule of rates to be effective for all water service rendered on and after the first day of November, 1937:

RATES PER HOUR

	Gallons per Minute			
	:900 or more	:900 to 700	:700 to 500	:500 to 300
January and February	\$2.50	\$2.25	\$1.70	\$1.15
March	3.00	2.70	2.00	1.35
April	3.25	2.90	2.20	1.45
May and June	3.50	3.10	2.35	1.55
July to December	3.00	2.70	2.00	1.35

IT IS HEREBY FURTHER ORDERED that Tarrant Putnam be and he is hereby directed to file with this Commission, within thirty (30) days from and after the date of this Order, rules and regulations governing relations with his consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes the effective date of this Order

shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 25th day
of Oct, 1937.

Matthew...
Leon...
Frank...
Ray...
Paul...
Commissioners