

Decision No. 31509

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application
of

EVA M. ARNERICH,

for a certificate of Public Convenience and Necessity.

ORIGINAL

Application No. 22253.

E. L. Maxwell and George W. Patterson by
George W. Patterson, for Applicant.
L. D. Bohnett, for Nathan Lester.
G. W. Hunt, for Santa Clara Valley Water
Conservation District.

BY THE COMMISSION:

O P I N I O N

This is a proceeding in which Eva M. Arnerich asks for a certificate of public convenience and necessity to supply water for agricultural irrigation purposes in territory adjoining the service area of her present public utility irrigation system near the City of Los Gatos, in the County of Santa Clara.

A public hearing in this matter was held before Examiner M. R. MacKall at Los Gatos.

Applicant was granted a certificate of public convenience and necessity to furnish irrigation water service in an area embracing about 1,000 acres of land located near the intersection of Kooser, Dent and Kirk Roads, five miles south of the City of San Jose, by Decision No. 31234, dated August 27, 1938. Applicant has had repeated requests to extend service to lands outside her present service area and now desires a certificate to operate in

a section of the adjoining orchard district lying, in general, southeasterly and extending to the outskirts of the City of Los Gatos.

The evidence shows that Mrs. Arnerich proposes to obtain her water supply for this new territory from two wells which she intends to drill, one at a site near the right or easterly bank of Los Gatos Creek on the Bergtold Ranch, and the other to be located at her own ranch on the west bank of Arroyo de los Capitancillos, a stream sometimes called Guadalupe Creek. The distribution system will consist of about eight miles of gravity cement pipe lines and will provide water to about 40 ranch properties now requesting service in an area more particularly described as lying east of the San Jose-Los Gatos Highway, west and south of Union Avenue and the old Southern Pacific Railroad right of way, west of Harwood Road and north of Blossom Hill Road. This system will be operated in conjunction with the present irrigation works by applicant's son, Francis C. Arnerich.

A number of consumers testified that no water was available to them for irrigation use in any of this new territory, except for occasional opportunities to purchase surplus water from two or three private wells when their owners had finished irrigating. As there is no regularly established irrigation system either publicly or privately owned operating in this territory, practically all agricultural activities are conducted upon a dry farming basis. No objection was presented to the operation of a distribution works for irrigation water. Permission has been obtained by applicant from the County Board of Supervisors to lay and maintain pipe lines on, along, and across all county roads, and highways throughout the territory in which service is to be provided.

During the hearing in this proceeding the question of assurance of water supply was brought up in behalf of the owner of one of the private wells used for irrigation purposes in this district. Fear was expressed that litigation might result in any effort to procure water from the well to be drilled along the Bank of Los Gatos Creek. Applicant now has two wells located on her own ranch on Arroyo de los Capitancillos, serving the present existing utility system. It is proposed to drill an additional well or wells on this same property for the new area and in addition a new well is to be drilled through the old dug-well on the Bergtold Ranch. This property is riparian to Los Gatos Creek and is situated near the City of Los Gatos along a portion of the creek which at times is flooded by the waters impounded by the Vasona Dam. This structure is a check weir recently constructed and now maintained and operated by Santa Clara Valley Water Conservation District to store water for surcharging underground gravels. Eva M. Arnerich has by written agreement received the right from Louise C. Bergtold to develop a new well on the Bergtold Ranch, construct and operate a pumping plant and appropriate the waters from such well for sale and distribution. Litigation and interference with the proposed sources of water supply may of course arise in the future. At present, however, there is no other hope for irrigation water for the agricultural operators in this district. Permission therefore will be granted to applicant to distribute such waters as she may obtain from such sources as she may command. In the event she cannot in the future provide an adequate water supply for the service area as proposed herein, this Commission in its discretion may place such limitations and restrictions upon

applicant's operations as may be expedient and if necessary and proper may authorize other water systems to operate in all or any part of this proposed service area. It should be noted also that in view of the fact that the proposed water development program may prove rather costly the Commission will not permit any unfair burden from this source being placed upon water users in the original service area.

The rates to be charged under the new system are to be the same as authorized for the original system and established in Decision No. 31234, dated August 27, 1938. The same rules and regulations will also apply.

O R D E R

Eva M. Arnerich, having filed application as above entitled, a public hearing having been held thereon, the matter 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 Eva M. Arnerich operate a water system in that certain area in the County of Santa Clara, situate between the City of San Jose and the City of Los Gatos, being east of the San Jose-Los Gatos highway, west and south of Union Avenue and the old Southern Pacific Railroad right of way, west of Harwood Road and north of Blossom Hill Road, as such area is more particularly described in the application herein and in Exhibit "A" attached thereto, which are hereby made a part of this Order by reference.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Eva M. Arnerich to operate a public utility water system in the above described area, subject to the following terms and conditions:

Eva M. Arnerich shall keep a written record at all pumping plants or other sources of water supply of the quantity of water produced at and delivered from each such source of supply as shown by a meter or meters, such records to show at least two entries daily during the

period such sources of supply are being used in the delivery of water to consumers for irrigation purposes and said records to be open and available for inspection by any of applicants water users at reasonable hours.

IT IS HEREBY FURTHER ORDERED that Eva M. Arnerich be and she is hereby authorized and directed to file with this Commission within thirty (30) days from and after date of this Order the following schedule of rates to be effective for all water service for irrigation purposes rendered on and after the first day of December, 1938:

Over 500 gallons per minute, \$2.00 per hour,
Less than 500 gallons per minute, \$1.50 per hour.

IT IS HEREBY FURTHER ORDERED that Eva M. Arnerich be and she is hereby directed to place in effect throughout the area in which she is herein authorized to serve water for agricultural irrigation purposes the same rules and regulations as are now or are to be hereafter approved to cover relations with her consumers in the area in which said Eva M. Arnerich heretofore has been granted a certificate of public convenience and necessity to operate a public utility irrigation system through Decision No. 31234, issued by this Commission on the 27th day of August, 1938.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at ^{Los Angeles} ~~San Francisco~~, California, this 5th
day of December 1938.

Rafael J. ...
Frank ...
A. L. Kery
COMMISSIONERS.