

Decision No. 22575

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of Anthony Raiche for a Certificate of Public Convenience and Necessity and for the establishment of rates for domestic water service for Subdivisions in the vicinity of San Jose, Santa Clara County, California.

Application No. 22575

Brooks Tompkins, for applicant.

C. B. Leib, of Leib and Leib,
for San Jose Water Works.

BY THE COMMISSION:

O P I N I O N

Anthony Raiche requests the Commission to grant him a certificate of public convenience and necessity for the purpose of operating a public utility water system to supply water for domestic uses in two subdivisions situate westerly of the City of San Jose, in Santa Clara County, and also requests the establishment of rates for the service rendered.

A public hearing was held in this proceeding before Examiner MacKall at Tracey Gardens, Santa Clara County.

The area proposed to be served by Mr. Raiche comprises a portion of the Francis Smith Tract and all of West San Jose Tract, which tracts have areas of 113 acres and 20 acres, respectively. At present, service is provided to twenty consumers on the Francis Smith Tract, there being no pipe lines installed or water service furnished on the West San Jose Tract. These subdivisions are located along

Stevens Creek Road five miles west of the City of San Jose, near the intersection of Stevens Creek Road with the Saratoga-Santa Clara Road and near a community that is known as Meridian. At the time of the hearing, no other public utility was supplying water service in the immediate vicinity of the area covered by this application.

The record shows the water system was purchased by applicant in 1928 in connection with an 13-acre ranch property situate in the Francis Smith Tract. At that time there were two consumers receiving domestic service from the water system. This service has continued and has been extended until at present there are twenty water users dependent on the system for domestic service. The well was installed originally to furnish irrigation service to an 80-acre portion of the 113 acres, for which a certificate is requested. A 3-inch pipe line was installed to provide domestic service and aid in the sale of lots after the tract was subdivided. The system at present consists of a well, a turbine pump, a 10,000-gallon storage tank on a 40-foot tower, and 3,000 feet of mains varying from three inches to one and one-half inches in diameter. Approximately 1,200 feet of the 2-inch and 1-1/2-inch pipe lines were installed by the consumers at their own expense. The investment in all water production and distribution facilities is estimated to be approximately five thousand dollars (\$5,000). The rates now charged and which applicant desires to have made effective are as follows:

FLAT RATE

Monthly Flat Rate-----\$2.00

METER RATES

Minimum Monthly Charge-----\$2.00

Monthly Quantity Rates:

First 1,000 cubic feet, per 100 cubic feet-----	\$.23
Next 2,000 cubic feet, per 100 cubic feet-----	.20
Next 5,000 cubic feet, per 100 cubic feet-----	.15
Over 8,000 cubic feet, per 100 cubic feet-----	.12

The above measured charges with the exception of the minimum monthly charge are the same as the rates at present in effect in the City of San Jose and vicinity for the water service rendered by the San Jose Water Works. The minimum monthly meter charge in the San Jose area, however, is one dollar and twenty-five cents (\$1.25). Water is also furnished by applicant for irrigation purposes through open ditches at a rate of two dollars (\$2.00) per hour for the run of the pump. No certificate or rate is desired for this class of service as the area is being rapidly subdivided into home sites, and applicant proposes to furnish whatever demand there is in the future for irrigation water service on an accommodation basis only, at the present charges.

Some of the consumers located at dead-ended pipe lines complain of poor pressure and inadequate water service. Applicant proposes to install additional storage facilities, a new well and larger pipe lines, also a system to maintain a 60-pound pressure at the pump, in order to correct this condition. The estimated cost of these additional facilities is approximately eight thousand dollars (\$8,000). Applicant has no franchise or permission from the county to install and repair mains in the county roads, but the record shows that he can and will obtain such a franchise if he is granted a certificate.

Mr. Fred H. Smith, the owner, and Mr. H. W. Walters, the sales agent of the West San Jose Tract, testified that they had petitioned San Jose Water Works to extend its mains to serve the tract. They asked to have the subdivision excluded from the service area

sought by applicant and have the water service furnished by the San Jose Water Works. Otherwise, they desire to install their own water system to serve this property. Applicant thereafter requested that the West San Jose subdivision be excluded from the area covered by the certificate.

Some of applicant's consumers testified that they were satisfied with the water service furnished by applicant, and in particular they approved the flat rates in effect which permit them to grow vegetable gardens and irrigate flowers and lawns without any restriction in the use of water. Other consumers testified that they desired an adequate and dependable water service regardless of which utility provided it; while others desired water service from the San Jose Water Works on the grounds that the present service is inadequate and intermittent and that sufficient pressure is not maintained to supply water in the second story of any building on the tract. This latter group of consumers took the position that even with applicant's proposed additions to the system, the service would still be inferior to that furnished by the San Jose Water Works and that if that company extended its mains to Meridian Corners, all of applicant's consumers would be dissatisfied with the service furnished them by applicant.

Representatives of San Jose Water Works testified that the company had installed a 4-inch main on the Stevens Creek Road within 8,000 feet of applicant's service area, and that residents along the road, the owners of the West San Jose Tract and some of applicant's consumers, together with consumers of a water system owned and operated by one Antoine Czarevich, had petitioned the company to extend its mains and furnish them with water service. A survey was made of the area and it was found that there were sufficient appli-

cants for service to warrant the company in making the extension. Material has already been ordered for the new pipe line. Several attempts also were made by San Jose Water Works to acquire applicant's system, but these negotiations were not successful. The testimony shows that the company is ready and willing to provide the entire area covered by this application and adjoining territory with water service and fire protection of the same standard furnished in the City of San Jose. The Commission is informed that since applicant's withdrawal of his application covering the West San Jose Tract, San Jose Water Works has extended its mains to Meridian Corners and is serving all of the petitioners who asked for service with the exception of applicant's consumers.

Under the circumstances it does not appear to be to the best interests of the public to deprive the present and future residents of the Francis Smith Tract of their right to receive an adequate and dependable water supply for domestic, lawn, and garden sprinkling and irrigation and, in addition, a very high class fire protection service not possible under any proposals of applicant herein. The water supply of San Jose Water Works is fortified by mountain stream diversions and large impounding dams providing great storage capacity. On its system are a number of regulating reservoirs of considerable magnitude. In addition, it has many well fields throughout its service area and several booster plants to maintain proper pressures throughout the system. There are already a considerable number of fine homes built in the Francis Smith Tract and unquestionably more will be under construction very soon according to the testimony. With such water facilities actually installed along the border of this tract and now available to the residents upon demand, it seems that in all fairness such residents should be afforded a reasonable opportunity to take advantage thereof. The measured rates

of San Jose Water Works are lower than those now charged by applicant, the service should be adequate at all times and the protection afforded by fire fighting facilities should not only lower the insurance rates but raise property values.

Petition of applicant, therefore, will be denied and San Jose Water Works will be permitted to make whatever arrangements are just and proper under the circumstances to serve those residents of the Francis Smith Tract making application to it. It is suggested that said company immediately take the initiative by canvassing this territory for consumers desiring to take water from it to the end that there be as little delay as possible in relieving existing unsatisfactory service conditions.

O R D E R

Application having been filed with the Railroad Commission as entitled above, a public hearing having been held thereon, the matter having been duly submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that the above entitled application be and it is hereby denied.

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 3rd day of October, 1939.

Frank P. Wilson
Carl P. Bailey
Justice J. G. Gorman
Commissioners