

Decision No. 36822

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the
SEARLES DOMESTIC WATER COMPANY
for (1) authority to (a) exercise a franchise;
(b) execute a contract; and
(c) issue stock;
(2) a certificate of public convenience and
necessity to construct, maintain and operate a
domestic water system; and
(3) the establishment of domestic water rates.

ORIGINAL

Application
No. 25812

Gibson, Dunn & Crutcher, by
Woodward M. Taylor, for Applicant.

CRAEMER, COMMISSIONER:

OPINION

Searles Domestic Water Company, a California corporation, hereinafter sometimes referred to as the company, asks this Commission for a certificate of public convenience and necessity authorizing it to construct, maintain and operate a public utility water system for the purpose of distributing water for domestic purposes within Argus Townsite, Point of Rocks and Trona, unincorporated communities in the northeast corner of San Bernardino County, and to exercise the rights and privileges granted by Ordinance No. 539, adopted by the Board of Supervisors of San Bernardino County on October 16, 1943. The company also asks permission to issue 60,000 shares of its no par value common stock and to sell said shares of stock for \$60,000 to the American Potash and Chemical Corporation. The Commission is further asked to establish metered rates for water service to be rendered and

to approve an agreement under which the company will purchase water from the American Potash and Chemical Corporation.

A public hearing in this matter was held at Trona, California.

The evidence shows that the residents of Argus Townsite which contains some 118 homes and 12 business establishments and a population in excess of 300, together with the residents of Point of Rocks, containing about 35 homes and a population in excess of 60, must presently, in their own containers, haul or otherwise transport from Trona, all the water they require for domestic use and all other purposes. Argus Townsite is distant 1.4 miles southerly and Point of Rocks is distant 1.5 miles northerly from Trona. These desert communities, together with South Trona, Borosolvay and Westend, are located along the westerly shore of Searles Lake, a dry lake bed.

Point of Rocks is located on government lands and the water system facilities are there being installed under permits issued by the Federal Government. The record shows that the first residents began occupying properties and constructing dwellings at this location about 1930. Argus Townsite was first occupied and residential dwellings constructed prior to 1936 when the land was owned by the government. It was platted as a townsite November 21, 1942, and on April 16, 1943 the Department of the Interior conducted a public sale on the premises and sold lots to those who had made and filed preemption proof and to the public.

Residents of these communities are employed in the plant of American Potash and Chemical Corporation at Trona. It produces and manufactures primarily potash, borax, boric acid, sodium sulphate, salt cake, soda ash and bromine. The plant has been operating since about 1912 and presently has about 1400 employees.

Dormitories for single men and houses for married men and their families have been provided at Trona by American Potash and Chemical Corporation and rented to its employees. Water service is included in the house rental which is presently frozen by ruling of the Federal Government through the Office of Price Administration. For this reason, Searles Domestic Water Company does not now desire to render water service in Trona, except in that portion where a housing project of approximately 100 houses is actively being processed before the Federal Housing Authority. The project plans are made and it is expected construction will proceed within the next several weeks.

The areas within which applicant seeks authority to render public utility water service and desires certificates are described as follows:

Angus Townsite: all thereof excepting the west one-half of Block 5, all of Blocks 6, 7, 8, 9, 21, 22, and Lots 9, 10, 11 and 12 of Block 35;

Point of Rocks: those portions thereof consisting of the E $\frac{1}{2}$ of NE $\frac{1}{4}$ of Section 5; the E $\frac{1}{2}$ of W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Section 5; the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4; the W $\frac{1}{2}$ of NW $\frac{1}{2}$ of SW $\frac{1}{4}$ of Section 4; and that portion of the NE $\frac{1}{4}$ of SE $\frac{1}{2}$ of Section 5 consisting of the east 280 feet thereof, all in Township 25 south, Range 43 east, Mt. Diablo Base and Meridian;

and

Trona: those portions thereof consisting of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 17; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 17; the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17; the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17; the NW $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 17; the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 8; the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 8; the SW $\frac{1}{4}$ of the SE $\frac{1}{2}$ of Section 8; the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 8; the W $\frac{1}{2}$ of NE $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 8; the W $\frac{1}{2}$ of SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 8, all in Township 25 south, Range 43 east, Mt. Diablo Base and Meridian.

The nearest source of potable water supply is a spring flowing three gallons of water per minute located about one and one-quarter airline miles from Point of Rocks or nearly five miles

from Trona. Rock Cabin Springs in Bruce Canyon are most distant at about 15 miles northerly. Some forty miles of pipe line ranging from 4-inch to 1-inch diameter form the collecting system from 24 developed springs located in Wilson, Great Falls, Homewood and Bruce Canyons. The total average flow from all the springs over a five-year period is about 43 gallons per minute. Four wells, two in Great Falls Canyon drilled to a depth of 300 feet, and two dug wells 56 and 64 feet deep, in Homewood Canyon, add an auxiliary source of 58 gallons per minute. Equipment on the Great Falls Canyon wells is electrically driven and on the Homewood Canyon wells is gas engine driven. The water flow from these sources, which are all northerly from Trona and in Inyo County, is delivered by gravity. The estimated annual supply thus obtainable is 30 million gallons. In addition, American Potash and Chemical Corporation has a second source of potable water conveyed by gravity pipe line from Indian Wells located some 28 miles southerly from Trona.

The evidence clearly indicates that a potable water supply is not available from underground or surface sources in close proximity to the areas in which applicant proposes to render water service.

Searles Domestic Water Company estimates it will require 20 million gallons per annum to supply 201 service connections to be installed on its distribution systems at Argus Townsite, at Point of Rocks and at Trona. The Federal Housing project for 100 families will be supplied through one master meter. Applicant desires to obtain 20 million gallons of water per annum for domestic use from the surplus supply of American Potash and Chemical Corporation at 12 cents for each 1,000 gallons under the terms of a proposed agreement, filed in this application as Exhibit No. 3.

The Commission is asked to approve the execution of said agreement by Searles Domestic Water Company. The agreement, among other things, provides that American Potash and Chemical Corporation will, at its own expense, maintain its sources of water supply, transmission mains therefrom, and will, for a period of 30 years, deliver said water fully chlorinated and made potable for domestic use to Searles Domestic Water Company at two points, namely, at the head of its transmission main to Point of Rocks and at the head of its transmission main at Trona where delivery will be measured through meters installed on the respective transmission mains and which meters are to be owned and maintained in good working order by Searles Domestic Water Company.

Exhibit 6 shows that Searles Domestic Water Company will install about 7,640 feet of 3-inch transmission mains and about 21,000 feet of distribution mains varying from 1½ inches to 3 inches in diameter. An 3,000-gallon tank at Point of Rocks and a 68,300-gallon tank at Argus will constitute the distribution storage facilities. Two hundred and one service connections and meters will be installed. The actual contract price for these materials and their installation in place is \$53,373. The additional costs of \$1,000 for organization and \$2,010 for general shop, store and garage equipment bring the total fixed capital investment of Searles Domestic Water Company to \$56,383.00. To meet these costs, applicant proposes to sell to American Potash and Chemical Corporation 60,000 shares of its no par value capital stock for the sum of \$60,000.

The company proposes to use the difference between the \$60,000 and the cost of its water system estimated at \$56,383 for working capital and to meet unseen emergencies, such as a possible loss in the operations. We do not believe that the Commission has

authority under the provisions of the Public Utilities Act to authorize a utility to issue stock to cover operating losses. The Order herein will authorize the company to issue 2,295 shares of its no par value capital stock and sell such shares at not less than \$25 per share or for an aggregate amount of about \$57,385. The company may use approximately \$56,383 of the proceeds to finance the construction of its proposed public utility water system and about \$1,002 for working capital. We do not favor the issue of no par value stock at one dollar per share.

The required consent, franchise or permit from the County of San Bernardino to lay, construct, operate, maintain, etc., a system of conduits, mains, pipe lines and appurtenances in, under, upon, along and across the public streets, highways and public places as they now exist or may exist hereafter, is provided in Ordinance No. 539, duly adopted August 16, 1943, by the Board of Supervisors of San Bernardino County. A copy of said ordinance is filed in this application as Exhibit No. 2. Said Ordinance No. 539 is effective for a period of fifty years and, among other things, requires the grantee to pay to the County of San Bernardino two per cent (2%) of its annual gross receipts arising from the use, operation or possession of said franchise.

The rates proposed by Searles Domestic Water Company are as follows:

Monthly Quantity Rates

First 1,000 gallons, or less	\$1.00
Next 2,000 gallons, per 100 gallons08
Over 3,000 gallons, per 100 gallons06

Monthly Minimum Charge

5/8 x 3/4-inch meter	1.00
3/4-inch meter	1.50
1-inch meter	2.00
2-inch meter	2.50
3-inch meter	3.00

Based upon the above rates and a use of about 15,000,000 gallons per year for 300 families, or an average of about 50 gallons per capita per day, the company estimates its gross annual revenue from water sales will be \$8,410. It estimates its annual normal operating expenses, including cost of water purchased and depreciation, at \$9,107.

The testimony shows that the company does not expect a fair return on its investment. It considers the proposed rates to be in the nature of trial rates subject to possible future revision. Under the circumstances, the proposed rate schedule will be established in the following Order with only such modification as is necessary to bring it into conformity with this Commission's General Order No. 96.

The company and its prospective consumers request the Commission to establish a rate for fire hydrants to be applicable if and when residents in Argus or Point of Rocks or Trona cause the formation of a fire protection district.

The rates for fire hydrants hereinafter established are similar to rates fixed for utilities operating under comparable conditions.

No one present at the hearing protested the granting of this application.

The following form of Order is recommended:

ORDER

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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the construction, maintenance and operation of public utility water systems by Searles Domestic Water Company, a corporation, within Argus Townsite, Point of Rocks and a portion of Trona, unincorporated communities located along the westerly shore line of Searles Lake, San Bernardino County, and all more particularly described in the foregoing Opinion.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it is hereby, granted to Searles Domestic Water Company, a corporation, to construct, maintain and operate public utility water systems in said territory.

It appearing and being found as a fact that public convenience and necessity so require, IT IS HEREBY FURTHER ORDERED that Searles Domestic Water Company be, and it is hereby, granted a certificate of public convenience and necessity to exercise the rights and privileges granted by the County of San Bernardino by Ordinance No. 539, adopted August 16, 1943, necessary to construct, maintain and operate public utility water systems in the areas described in the foregoing Opinion.

IT IS HEREBY FURTHER ORDERED that Searles Domestic Water Company, a corporation, be, and it is hereby, authorized and directed to file in quadruplicate with the Railroad Commission, within thirty (30) days from the date of this Order, the following schedule of rates to become effective on and after the first day of January, 1944:

Schedule No. 1

GENERAL METRED SERVICE

APPLICABILITY

Applicable to all domestic water service rendered on a metered basis.

TERRITORY

Within Argus Townsite, Point of Rocks and Trona, unincorporated communities located along the westerly shore line of Searles Lake, San Bernardino County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Charge:	
First 1,000 gallons or less	\$1.00
Next 2,000 gallons, per 100 gallons08
Over 3,000 gallons, per 100 gallons06
Minimum Charge:	
5/8 x 3/4-inch meter	\$1.00
3/4-inch meter	1.50
1-inch meter	2.00
2-inch meter	2.50
3-inch meter	3.00

The Minimum Charge will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the Quantity Rates.

Schedule No. 2

FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to water service at fire hydrants for public fire protection purposes, including the use of water for fire drills and fire fighting by a duly authorized Public Fire Department. This service will be rendered only under written agreement or contract with the duly authorized public fire department, organization or agency.

TERRITORY

Within Argus Townsite, Point of Rocks and Trona, unincorporated communities along the westerly shore line of Searles Lake, San Bernardino County.

RATES

	<u>Per Hydrant Per Month</u>
Any type or size of hydrant with one 2½-inch outlet	\$2.00

SPECIAL CONDITIONS

1. Hydrants will be furnished, installed, owned and maintained by the Company at its cost and expense, except where different provisions of ownership and maintenance are provided for under written contract. The relocation of a hydrant shall be made only at the expense of the party contracting for the service.
2. Bills for fire hydrant service will be rendered monthly in advance and shall be due and payable upon presentation.
3. The Company will provide only such service as can be given under normal conditions and will not be required to maintain extraordinary pressure in its mains, or to provide any special or standby pumping equipment or storage reservoirs; nor shall the Company be liable for damages from accidental failure of water supply caused by failure or breakdown of any reservoirs, pumps or other machinery, or the failure or rupture of its water mains or hydrants.
4. Water will be taken and used only for the purposes of fighting fire or for fire drills; such drills to employ a flow of water from one hydrant not to exceed 15 minutes per week and from not to exceed one hydrant at a time.

IT IS HEREBY FURTHER ORDERED that Searles Domestic Water Company, a corporation, be, and it is hereby, authorized to enter into an agreement to purchase water at twelve cents (12¢) per 1,000 gallons from American Potash and Chemical Corporation, a corporation, substantially in accordance with the terms and conditions of the agreement filed in this proceeding as Exhibit No. 3.

IT IS HEREBY FURTHER ORDERED that Searles Domestic Water Company, a California corporation, be, and it is hereby, authorized to issue and sell, on or before July 31, 1944, at not less than \$25 per share, 2,295 shares of its capital stock and use the proceeds of approximately \$56,383 for the purpose of acquiring and constructing the public utility water systems described in the foregoing Opinion and approximately \$1,002 for working capital, the Commission being of the opinion that the money, property or labor to be procured by the company through the issue of said stock is reasonably required by the company for said purposes, and that the expenditure of the proceeds realized from the sale of said stock for said purposes is not, in whole or in part, reasonably chargeable to operating expenses or to income.

IT IS HEREBY FURTHER ORDERED that this application, insofar as it involves the issue of 57,705 shares of capital stock be, and the same is hereby, dismissed without prejudice.

IT IS HEREBY FURTHER ORDERED that Searles Domestic Water Company, a corporation, shall file with the Commission monthly reports as required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this Order.

IT IS HEREBY FURTHER ORDERED that Searles Domestic Water Company, a corporation, be, and it is hereby, directed as follows:

- (1) Within thirty (30) days from the date of this Order, to submit to this Commission for its approval four sets

of rules and regulations governing relations with its consumers, each set of which shall contain a suitable map or sketch drawn to an indicated scale upon a sheet $8\frac{1}{2}$ x 11 inches in size, delineating thereupon in distinctive markings the boundaries of its present service area, and the location thereof with reference to the surrounding territory; provided, however, that such map or sketch shall not thereby be considered by this Commission or any public body as a final or conclusive determination or establishment of the dedicated area of service or any portion thereof.

- (2) Within sixty (60) days from the date of this Order, to file with this Commission four copies of a comprehensive map, drawn to an indicated scale of not less than 600 feet to the inch, upon which shall be delineated by appropriate markings the various tracts in the territory for which the certificate is granted herein. This map should be reasonably accurate, show the source and date thereof, and include sufficient data to determine clearly and definitely the location of the various properties comprising the entire utility area of service; provided, however, that such map shall not thereby be considered by this Commission or any other public body as a final or conclusive determination or establishment of the dedicated area of service, or any portion thereof.
- (3) Within sixty (60) days from the date of this Order to file with this Commission a resolution duly authorized by the Board of Directors of Searles Domestic Water Company in which said Searles Domestic Water Company agrees that it, its successors and assigns will never claim before this Commission or any other public body a value for the certificates of public convenience and necessity herein granted in excess of the amount paid to the State or a political subdivision thereof for said certificates or for said franchise.

IT IS HEREBY FURTHER ORDERED that this Order shall become effective upon the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad

Commission of the State of California.

Dated at San Francisco, California, this 12th day
of January, 1944.

Richard B. Baker
J. G. Baker
Justice F. Greiner
Francis R. Havenner
Wm. M. DeLoach
 Commissioners

~~CERTIFIED AS A TRUE COPY~~

~~Secretary, Railroad Commission
of the State of California~~