

Decision No. 39657

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PANOCHÉ FARMS, et al,
Complainants,

vs..

THE SAN JOAQUIN CANAL COMPANY,
a corporation,
Defendant.

ORIGINAL

Case No. 4762

J. R. HAMMONDS,
Complainant,

vs.

THE SAN JOAQUIN CANAL COMPANY,
Defendant.

Case No. 4782

LINNEMAN & BURGESS; by L. M. LINNEMAN, for Complainants.

J. E. WOOLLEY for Defendant.

J. J. DEVEL and EDSON ABEL for California Farm Bureau Federation.

HARRIS, WILLEY, CARLSON & REEVE by RONALD B. HARRIS, for Dr. Fred Mott.

C. RAY ROBINSON by WILLARD B. TREADWELL, for Central Mutual Water District.

OPINION ON SUPPLEMENTAL PETITION

By supplemental petition filed on October 18, 1946, the complainants in the above cases asked the Commission to modify the order made in Decision 38355 issued October 30, 1945, so as to permit the defendant, San Joaquin Canal Company, to transport water to plaintiffs' lands through the Outside Canal rather than through the Main and Parallel Canals. A hearing on this supplemental petition was held in Los Banos on November 1, 1946.

In its Decision 38355, the Commission held that the lands of these complainants and others which are at an elevation above the canals of the San Joaquin Canal Company could not be supplied with water by the Canal Company as a public utility service. The Commission did authorize the Canal Company to transport for

such complainants not to exceed 250 second feet of water which they intended to purchase directly from the U. S. Government. The Commission's order required, however, that the Canal Company transport such water through its Main and Parallel Canals. It was further provided that the land owners should first jointly or severally enter into agreements with the Canal Company covering such water transportation service, and provided also that such service should be subordinate and secondary to the use of the canal system for the rendition of regular utility water service.

The owners of the lands to which the Canal Company was thus authorized to transport government water have now organized an association under the name of Panoche Water Association. Engineering studies were presented, showing proposed enlargements to be made in the Outside Canal at the sole expense of such land owners for the purpose of increasing the capacity of that canal to permit the transportation of this additional quantity of water without interference with its efficient operation for public utility purposes. A written agreement between the Canal Company and the Panoche Water Association dated November 5, 1946, was introduced in evidence as Exhibit No. 23. This agreement covers in some detail the obligations imposed upon the land owners to construct the proposed works at their own expense and to the satisfaction of the Canal Company. They have agreed upon a transport charge of 35¢ per acre foot. The agreement provides that any further detailed plans and specifications covering the installation and operation of the works installed in the Outside Canal for the purpose of transporting and delivering water to Panoche Water Association shall be filed with this Commission.

No objection was offered by any group of land owners receiving utility service from the Canal Company to an amendment to the Commission's original order permitting the Canal Company to transport water for the complainant land owners through the Outside Canal. Complainants do not ask for any other amendment of the Commission's original order. They understand that they are not thereby acquiring any right to receive utility water service. The Commission is of the opinion that the supplemental petition should be granted.

O R D E R

A supplemental petition having been filed in the above proceedings, seeking a modification of the order of the Commission contained in its Decision No. 38355 issued October 30, 1945, a public hearing having been held thereon, the matter having been submitted and the Commission being fully informed of the premises,

IT IS HEREBY ORDERED as follows:

Paragraph 2 of the Commission's order contained in its Decision No. 38355 issued October 30, 1945, is hereby modified and amended to read as follows:

"2. That the San Joaquin Canal Company be and hereby is authorized to transport through its Outside Canal such quantity of water not exceeding a flow of 250 cubic feet per second as may be purchased from the United States by Panoche Water Association, or the members thereof, for the consideration and under the terms and conditions set forth in that certain agreement executed on the 5th day of November, 1946, between the San Joaquin Canal Company and Panoche Water Association, a copy of which was filed as Exhibit No. 23 in these proceedings, subject to the condition, however, said use of the Outside Canal for the transportation of all or part of such water transported for Panoche Water Association shall be subordinate and secondary to the use of said canal by the San Joaquin Canal Company for the rendition of regular utility water service."

IT IS HEREBY FURTHER ORDERED that the San Joaquin Canal Company shall file with this Commission copies of all further agreements, plans and specifications which relate to the installation and operation of the works installed

for the transportation and delivery of water to Panoche Water Association as hereinabove authorized.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 26th day of November, 1946.

Harold P. Huls
Justin F. Craemer
Francis D. ...
W. H. ...
G. E. ...

Commissioners.

CORRECTION

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**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

for the transportation and delivery of water to Panoche Water Association as hereinabove authorized.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 26th day of November, 1946.

Harold P. Huls
Justin F. Caswell
Ernest D. ...
... Caswell
J. F. ...

Commissioners.