

ORIGINAL

Decision No. 40927

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of application of Andrew Bachels, owner of Bachels Water Right for permission to discontinue service of supplying water to school and residences of Goodyears Bar, Sierra County, California.

Application No. 22146

Mrs. A. Bachels for Andrew Bachels.

O P I N I O N

Andrew Bachels owns and operates a public utility water system supplying water for domestic and irrigation purposes to nine customers in Goodyears Bar, Sierra County, and in this proceeding asks the Commission for an order authorizing him to discontinue water service.

A public hearing in this matter was held before Examiner MacKall at Goodyears Bar.

The residents of the old mining community of Goodyears Bar for a great number of years last past have been supplied with water diverted principally from Woodruff Creek, a tributary of the North Fork of the Yuba River. This water is delivered through ditches and flumes to the consumers in town who installed and maintained their own connections or take-outs to the ditch. Applicant's right to waters in Woodruff Creek emanates from the Stewart and Shreiber Water Right which was acquired November 29, 1902, from H. H. Kennedy by Paul Bachels, father of applicant herein. Through adjudication in the Superior Court of the State of California, in and for the County of Sierra, by court decree entered on the 19th day of May, 1920, the Stewart and Shriber (Schreiber) Water Right was declared to be the first right to the waters of Woodruff Creek, consisting of the right to divert a portion of the waters of said stream for domestic and irrigation purposes at

Goodyears Bar, and confirmed to Paul Bachels, ownership of an undivided three-fourths interest therein and ownership of an undivided three-quarters interest in and to the Stewart & Shriber (Schreiber) Ditch. The remaining undivided one-fourth interest in the ditch system has now been acquired by C.G. Johnson, also the owner of the Sunset Water Right and Ditch, entitling the owner thereof to divert not to exceed 2 miner's inches from Woodruff Creek. These latter two interests do not appear to be involved in the issues of this proceeding. Mrs. Marie A. Wright, owner of the Kennedy Ranch at Goodyears Bar, pumps water for domestic purposes from applicant's ditch under rights reserved to said Kennedy Ranch at the time Paul Bachels purchased the ditch system from H. H. Kennedy.

The present distribution system now consists of about 500 feet of 12-inch by 12-inch wood flume and 2,500 feet of ditch valued at \$1,400 by applicant. Most of the flume is practically worn out and at least 300 feet thereof needs immediate replacement, as most of the water is lost through this section, causing a shortage of water in the main portion of Goodyears Bar. The revenues collected at the present rate of one dollar per month per consumer amounted to \$106 for 1946 and expenses were estimated to be \$178 for the same period. Applicant claims that under such conditions rebuilding the flumes is out of the question.

Mrs. Bachels testified that for several years last past many of her former consumers have discontinued the use of water from the ditch and have installed independent water systems. Many of the residents of Goodyears Bar have obtained permits from the Division of Water Resources authorizing the diversion of waters from Woodruff Creek. Several such permits have been granted by the Division over the protests of Andrew Bachels. The accumulations of these independent diversions apparently have seriously interfered with the water supply of the Bachels Water Right, especially in periods of low flow of the creek and during years of subnormal runoff. Mrs. Bachels stated that because of the costs involved, it did not appear to be feasible to seek injunctive relief in the civil courts against adverse appropriations.

The evidence indicates that many former consumers who have installed independent water systems for their own private use have done so because of the run-down and dilapidated condition of applicant's ditches and flumes, which no longer are in a condition to carry sufficient water during the late summer and fall months to supply adequately the needs of all consumers served. There are, however, a considerable number of water users who do not care to expend the money which would be required to install independent and individual water systems for domestic and lawn and garden irrigation use. It is obvious, however, that with the small number of consumers remaining and now paying the nominal charge of \$1.00 per month, applicant cannot even meet the out-of-pocket costs of operation, which necessitates mainly expensive flume repairs.

During the course of the hearing in this matter it seemed advisable to save this long established water right for the use of the people in Goodyears Bar and for the future new residents which it appears will be quite substantial in number in the very immediate future. To this end it was suggested that the consumers discuss a plan for the mutual operation of this utility for their own protection, or for the formation of a local county waterworks district. Ample time was given to the water users and the owners of this system to determine upon some final policy. However, the Commission has not been informed that the negotiations have resulted in any concrete plan for such a type of operation. Therefore, in order to preserve this water for the use of the existing consumers and in order to provide sufficient revenue to prevent operation at an out-of-pocket loss, it seems advisable to authorize the utility to increase the charges for water service. Furthermore, such rates should be based upon an annual charge, rather than the present monthly rate wherein a few consumers, occupying their premises for a few months only during a year, have failed to keep up their fair proportional share of the upkeep of this system. The revenues which will be derived hereafter should enable Mr. Andrew Bachels to repair the flumes and place them in an operating condition sufficient to prevent the present great loss of water through leakage. In the event other consumers discontinue service from this utility and decide to

provide independent sources of supply for themselves from further adverse diversions from Woodruff Creek, the community of Goodyears Bar will lose its established and dedicated water right and this Commission will have no alternative other than to permit discontinuance of public utility service. It is to be hoped that all parties concerned will cooperate to make this final effort to save the utility water system.

O R D E R

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

IT IS HEREBY FOUND AS A FACT that the rates now charged by Andrew Bachels for domestic and irrigation water delivered to consumers at Goodyears Bar, Sierra County, are unjust and unreasonable in so far as they differ from the rates herein established; that the rates herein established are just and reasonable rates to be charged for the service rendered; that the increase in rates authorized by this decision is hereby found to be justified; and, basing its Order upon the foregoing findings of fact and upon further statements of fact contained in the Opinion which precedes this Order,

IT IS HEREBY ORDERED that Andrew Bachels be and he is hereby authorized and directed to file with the Public Utilities Commission of the State of California, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all water service rendered on and after December 1, 1947:

Schedule No. 1

ANNUAL CHARGES

Applicability:

Applicable to all domestic and irrigation water service.

Territory:

In and in the vicinity of Goodyears Bar, Sierra County.

Rates:

Per Year

For residence and lot , \$30.00

Annual charge for calendar year is due January first of each year, payable in advance.

IT IS HEREBY FURTHER ORDERED that the request of Andrew Bachels for authority to discontinue public utility water service to consumers in Goodyears Bar, County of Sierra, be and it is hereby denied.

The effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 12th day of November,

1947.

Harold P. Kule
James F. Graham
W. H. Wallace
B. F. [unclear]

COMMISSIONERS.