

Decision No. 44559

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CENTRAL CANAL COMPANY, a corporation
for an Order Authorizing Withdrawal
from Public Utility Service

Application No. 31430

Barton, Petrini & Conron, by Harry Conron,
and McCutcheon, Thomas, Matthew & Green,
by Burnham Enersen, for applicant;
J. J. Deuel, for California Farm Bureau
Federation; Alfred Siemon, for Fanny B. Root;
W. D. Watson for James Thropp.

O P I N I O N

Applicant is engaged as a public utility in supplying water for irrigation purposes in the northern part of Kern County. It has a gross service area of about 36,000 acres. The water supplied is diverted from the Kern River at a point near Bakersfield under a water right known as the Calloway Right and the diverted water is conveyed northwestward through the Calloway Canal and its laterals for a distance of approximately 30 miles. Applicant seeks authority to withdraw completely from such public utility service.

A public hearing on the application was held in Bakersfield on July 6, 1950. A notice of such hearing, and also a copy of the application, was first served upon each landowner known to have been supplied with water during any of the past five irrigation seasons. From the testimony and statements received at that hearing, it clearly appears that the granting of the application is supported by a great majority of the water users. Only one of applicant's customers manifested any protest to the discontinuance of his service.

It is alleged in the application that the existing irrigation service has ceased to be economically feasible and that it is

impossible to place the service on a paying basis. Facts were developed at the hearing to show the unfavorable results of applicant's operations over a period of 15 years. Applicant also presented evidence to explain that other considerations prompt it now to seek authority to discontinue its utility service.

A public district has been created, under the name of North Kern Water Storage District, for the purpose of providing a more adequate water supply within a large area which includes about 80% of the lands now irrigated by means of applicant's canal system. Steps are being taken by that public district to perfect its organization to the point that it may begin functioning at the earliest possible date. Applicant presented evidence intending to show that were it now relieved of its public utility obligation and status, the public district would be able to proceed with its plan to acquire the greater part of applicant's canal system and water rights. Other evidence presented was intended to show that the discontinuance of applicant's service would not result in hardship to any owner of lands either within or without the boundaries of the district.

Applicant is one of several subsidiaries of the Kern County Land Company, a corporation which owns and farms extensive acreages irrigated by water diverted from the Kern River by means of their respective canal systems and under independent water rights. The Calloway Right, the only water right owned by applicant, is subordinate to most other rights on the river. Consequently, in a year of normal water flow, the amount of water made available by the Calloway Canal is insufficient to provide irrigation service beyond the month of June and, in a dry year, scarcely any water flows in this canal during the summer season. All landowners under this canal system have been compelled to resort to water pumped from wells as their primary source of supply.

The evidence shows that the number of landowners who avail themselves of applicant's service is decreasing annually. From data of record showing the amount of water delivered and the revenue received annually since 1935, both to lands of Kern County Land Company and to lands of others, the following table indicating results by five-year periods will serve to illustrate this declining trend.

	<u>Average 1935-1939</u>	<u>Average 1940-1944</u>	<u>Average 1945-1949</u>
Number of Customers, other than Kern County Land Company	48	23	12
<u>Water Supplied (acre feet)</u>			
Kern County Land Company	23,798	16,282	12,028
Other Customers	<u>2,713</u>	<u>1,269</u>	<u>617</u>
Total	26,511	17,551	12,645
<u>Annual Gross Revenue</u>			
Kern County Land Company	\$37,877	\$28,657	\$21,171
Other Customers	<u>4,116</u>	<u>2,246</u>	<u>1,071</u>
Total	\$41,993	\$30,903	\$22,242
Total Annual Expenses (not including depreciation)	\$45,799	\$35,055	\$40,933
Net Operating Loss	\$(<u>3,806</u>)	\$(<u>4,152</u>)	\$(<u>18,691</u>)

(Red Figure)

The foregoing figures reflect all of applicant's public service operations, including water deliveries to lands both within and without the proposed public district. If applicant be granted the right to discontinue all of its utility service, as requested, the effect of such action upon landowners within and without the district should be separately considered. We shall first summarize the evidence with respect to applicant's present consumers who are located within the district.

The North Kern Water Storage District was created in 1935 under the provisions of the California Water Storage District Act of

1921, as amended, (Deering's General Laws, No. 9126). An engineering report on the feasibility of such project has been prepared, and this report must be approved by the State Engineer. Although applicant intends to convey to the district about 80% of its water right and canal facilities, the application here presented is not for an order of the scope required by the Water Storage District Act when such a district proposes to acquire property from an existing public utility. Applicant seeks an order permitting it first to cease all public utility service before entering into an agreement for the conveyance of its property.

Of the lands now being served by applicant which fall within the boundaries of the district, other than those of Kern County Land Company, there are 10 parcels, totaling about 1,450 acres, which have used water from applicant's system within the past five years.

During this five-year period, the combined purchases of water from applicant averaged about 482 acre feet annually. In 1949, there were but three of these customers who purchased water, their combined usage being 138 acre feet.

The Kern County Land Company has given its consent in writing to applicant's discontinuance of service as a utility function. Applicant placed in evidence a written offer or covenant given to each other water user in this area to the effect that, until the district actually begins its operations, applicant will continue to supply him with water on a contract basis, under the same conditions and at the same charges now provided for in the filed tariffs covering its present public utility service. Upon such assurance given by applicant, it was stated by counsel who represented certain of these customers that he was satisfied with applicant's proposal.

Considering now the extent of the use made of applicant's water service by landowners who will not be supplied by the North Kern

Water Storage District, the evidence shows that, other than the Kern County Land Company, there have been but 11 or 12 who purchased water from applicant during any of the past five years. One of these is the owner of a 50-acre parcel located just outside and to the north of the North Kern Water Storage District, but within the boundaries of another public district in the process of formation. Applicant has tendered to this customer a like offer to supply him on a contract basis until such time as the proposed district begins to function, and it has received the customer's consent to such arrangement.

All other users of applicant's service are situated south of the Seventh Standard Line, which is the southerly boundary of the North Kern Water Storage District. No public district has yet been organized to include lands in this area. Other than the lands of the Kern County Land Company itself, applicant has not served more than 10 parcels of land in this area during the past five years. These parcels total about 300 acres. Their total average use of water was 32½ acre feet annually. In 1949, there were only two customers who together used less than 6 acre feet.

Applicant does not offer to continue the delivery of water to customers south of the Seventh Standard Line. The evidence shows that all those who have availed themselves of its water service rely primarily on their well-water supplies. The flow of water in applicant's canal system serves to maintain the underground water table at a level permitting economical pumping, and the continued use of the Calloway Canal and most of its laterals will serve to replenish the underground water supply in the future as in the past.

The owner of one 80-acre parcel in this area expressed his desire to obtain canal water service if he should need it, although he has not applied to applicant for water service during the past five years. There are canals on each side of his property, and the

evidence does not indicate that his well supply will be diminished in any degree should applicant cease its public utility deliveries.

Applicant's showing with respect to the financial results of its operations over a period of 15 years indicates that in only four of those years were its gross revenues sufficient to meet the direct costs incident to the operations, not including any depreciation expense nor any return on a claimed fixed capital investment of more than one million dollars. The years when its revenues exceeded expenses were years when a greater than average amount of water was available to it. Its average annual out-of-pocket loss over the 15-year period from 1935 to 1949, inclusive, was given as \$8,882, and during the last five years it averaged \$18,691. Its witnesses testified that there is no prospect of the operations becoming compensatory, and that the continuation of its service to lands which will not come within the area to be supplied by the North Kern Water Storage District would only increase the losses presently being incurred.

In the light of the evidence presented in this proceeding, the Commission is convinced that the granting of the application to discontinue the delivery of water as a public utility service has been justified. The representative of the California Farm Bureau Federation expressed the opinion that such action would be in the public interest, and that such action is necessary in order that the plans of the North Kern Water Storage District may properly be presented to the State Engineer for his final approval. He indicated that the primary purpose of that and other developments on the Kern River is to provide for the stabilization of the underground water supply. Each landowner will thus be assured of a pumped water supply superior to that now available directly from applicant's canal system, for the amount of water available from that source is wholly insufficient to mature the crops produced. He stated further that in his opinion the undertaking of the water storage district will serve

to stabilize the underground supply available not only to the lands within that district but also all lands to the south thereof within applicant's service area.

O R D E R

A public hearing having been held upon the application of Central Canal Company for authority to discontinue the distribution and sale of water as a public utility service, the evidence received having been fully considered by the Commission, and it being found that the granting of the authority requested would not be contrary to the public interest; therefore,

IT IS ORDERED that Central Canal Company, a corporation, be and hereby is authorized, on or after the effective date of this order, to cease supplying water as a public utility, and to cancel and withdraw all its rates, rules, and regulations applicable to such water service on file with this Commission.

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

Dated at San Francisco, California, this 25th day of July, 1950.

R. F. Anderson
Justice J. Calver
Scott Lawrence
Harold Kile
Pennington Potter
Commissioners.