

ORIGINAL

Decision No. 48169

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of NORTH CUCAMONGA WATER COMPANY,)
a corporation, for a certificate to operate)
and for authority to issue and sell stock,)
to acquire properties, to execute a purchase)
agreement, to execute a promissory note and)
to establish rates for water service.)

Application
No. 33950

Application of NELSON M. VAN FLEET, a married)
man, dba California Vineyard & Improvement Co.)
to sell his water system properties and to)
thereafter be relieved of any and all public)
utility obligations.)
-----)

Everett L. Clark, for applicants.

O P I N I O N

This is an application for an order authorizing Nelson M. Van Fleet to sell a public utility water system located in San Bernardino County to North Cucamonga Water Company, a corporation, and authorizing said corporation to issue a note in the principal amount of \$3,000 and 1,000 shares of its no par value common stock.

A public hearing on this application was held in Los Angeles on January 8, 1953. The Commission has received no protests in the matter.

The record shows that Nelson M. Van Fleet, doing business as California Vineyard & Improvement Co., is engaged in operating a water system supplying approximately 350 customers in and about the unincorporated towns of West Cucamonga and North Cucamonga. According to the testimony, his investment in the system as of December 31, 1952, amounted to \$38,650.40 and the accumulated reserve for depreciation to \$12,998.67, leaving a net book cost of \$25,651.73.

It appears that Van Fleet now desires to incorporate his business and that he has caused North Cucamonga Water Company to be organized to take over the properties comprising the water system and thereafter to continue the operations. The corporation proposes to issue 1,000 shares of its no par value common stock in payment for the properties and, in addition, to issue to Van Fleet an unsecured note for \$3,000, payable on or before five years after its date with interest at the rate of 5% per annum, to provide funds to pay organization expenses, to purchase materials and supplies, and for use as working capital.

The testimony shows that Van Fleet does not hold any consumers' deposits or advances for construction or donations in aid of construction and that he has no outstanding indebtedness to be assumed by the corporation. It is planned for the corporation to adopt the existing rates, rules and regulations governing service within the area now supplied by Van Fleet. There will be no change in the management and operation as a result of the proposed transfer.

It appears that Van Fleet and his predecessor have been engaged in the operation of the water system referred to in this application since prior to the effective date of the Public Utilities Act, that Van Fleet does not hold a certificate of public convenience and necessity issued by the Commission, but that he does hold a franchise granted by the Board of Supervisors of San Bernardino County by Ordinance No. 333, adopted on June 30, 1930, authorizing him, his successors and assigns, to lay, construct, maintain and operate, for a period of fifty years, a system of pipe lines over and across the public highways, streets, alleys and public places in the following territory:

The South 300 feet of Tract No. 2248, as per map in Book 34 of Maps, page 63. Lots 1 and 2 and the South 300 feet of

Lot "A", Block 50, West Cucamonga, as per map in Book 13 of Maps, page 1; Blocks 53, 54, 55, 58 to 63 inclusive, 67 to 70 inclusive, and 75 and 76, North Cucamonga, as per map in Book 4 of Maps, page 8.

Tract No. 2203, as per map recorded in Book 34 of Maps, page 65; Lots 1 to 12, Block 66, Lots 1, 3, 5, 7, 9, 11 of Block 65, North Cucamonga, as per map in Book 4 of Maps, page 8.

Blocks 1 to 12 inclusive, West Cucamonga, as per map in Book 13 of Maps, page 1; and the North 646 feet of the West 1,335 feet of the North half of the Southwest quarter of the Southwest quarter of Section 11, 1 South, 7 West, San Bernardino Base and Meridian.

Also Tract No. 2425, Resubdivision of Van Fleet's Sub-division, as per map recorded in Book 34 of Maps, page 62.

All references to maps being to the records of the office of the County Recorder of said San Bernardino County.

It is intended that the corporation will succeed to the interests of Van Fleet in said ordinance. The corporation asks that the Commission grant it a certificate of public convenience and necessity to operate the public utility water system. It has filed as Exhibit C a map showing the service area of Van Fleet, as Exhibit D a description of said service area, and as Exhibit F a copy of the ordinance. The service area delineated on the map includes the territory described in Exhibit D and in the ordinance.

According to the evidence taken at the hearing, the system now serves, and for many years has served, a few customers lying outside the service area boundaries as delineated on the map. The testimony shows that it is the intention of the corporation to assume all the public utility obligations of Van Fleet and to continue serving the customers now served by the present owner. It is of record that there is no other public utility water system in or adjacent to the area now being served.

Upon a review of this matter we are of the opinion that the proposed transfer will not be adverse to the public interest and that

the application should be granted. The certificate of public convenience and necessity to be issued in this proceeding is subject to the provision of law that the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the state as the consideration for the issuance of such certificate of public convenience and necessity or right.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

A public hearing having been held on the above entitled matter, and the Commission having considered the evidence and being of the opinion that the application should be granted, as herein provided; that the money, property or labor to be procured or paid for by the issue of the note and stock herein authorized is reasonably required by applicant corporation for the purposes specified herein; and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require and will require North Cucamonga Water Company to exercise the rights and privileges granted by Ordinance No. 333, passed by the Board of Supervisors of the County of San Bernardino on June 30, 1930, and to operate a public utility water system in the area now served by Nelson M. Van Fleet, doing business as California Vineyard & Improvement Co.; therefore,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it hereby is, granted to North Cucamonga Water Company in accordance with the foregoing declaration.

IT IS HEREBY FURTHER ORDERED as follows:

1. Nelson M. Van Fleet, doing business as California Vineyard & Improvement Co., on and after the effective date hereof and on or before June 30, 1953, may transfer his public utility water system to North Cucamonga Water Company, a corporation, such transfer to be made in accordance with the terms of the agreement of purchase and sale filed in this proceeding as Exhibit G. North Cucamonga Water Company shall assume all the public utility obligations of Nelson M. Van Fleet.

2. North Cucamonga Water Company, on and after the effective date hereof and on or before June 30, 1953, may issue not exceeding 1,000 shares of its no par value common stock in payment for the properties of Nelson M. Van Fleet and may issue its unsecured promissory note in the principal amount of not exceeding \$3,000, payable on or before five years after date of issue with interest at the rate of 5% per annum, to pay organization expenses, to purchase materials and supplies, and to provide working capital.

3. North Cucamonga Water Company shall file with the Commission in its own name the present rates on file by Nelson M. Van Fleet, to be effective on or before the date service is first rendered by it, together with rules and regulations and service area maps acceptable to this Commission, such filings to be made in accordance with the requirements of the Commission's General Order No. 96. No increase in the present rates shall be made unless authorized by the Commission.

4. Within forty (40) days after acquiring the water system under the authorization herein granted, North Cucamonga Water Company

shall file four (4) copies of a comprehensive map, drawn to an indicated scale of approximately 400 feet to the inch, delineating by appropriate markings the territory served, and the location of the various properties operated, in connection with said water system.

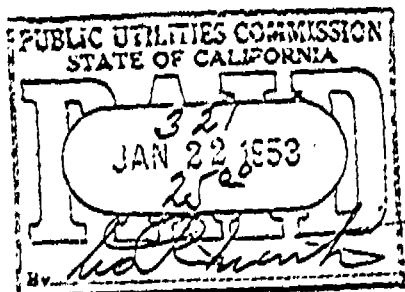
5. Upon the transfer of the water system to North Cucamonga Water Company under the authorization herein granted, Nelson M. Van Fleet is relieved of all public utility obligations with respect to the operation of said water system.

6. If the authority herein granted is exercised, North Cucamonga Water Company, within thirty (30) days thereafter, shall notify the Commission in writing of the date of the completion of the transaction and of its compliance with the terms of this order.

7. North Cucamonga Water Company shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

8. The authority herein granted will become effective when North Cucamonga Water Company has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is twenty-five (\$25.00) dollars.

Dated at San Francisco, California, this 19th day of January, 1953.



[Signature]
President
Justus J. Calver
[Signature]
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Commissioners