

ORIGINAL

Decision No. 72711

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF)
 DANE W. STURGEON FOR A CERTIFICATE)
 OF PUBLIC CONVENIENCE AND NECESSITY)
 TO CONSTRUCT A PUBLIC UTILITY WATER)
 SYSTEM IN AN UNINCORPORATED AREA)
 KNOWN AS A PORTION OF THE EAST)
 ONE-HALF OF THE SOUTHEAST ONE-)
 QUARTER OF THE NORTHEAST ONE-)
 QUARTER OF SECTION 9, TWP. 20, RANGE)
 25, BEING 15 ACRES NEAR THE CITY OF)
 TULARE IN TULARE COUNTY, AND TO)
 ESTABLISH RATES FOR SERVICE BY AN)
 INDIVIDUAL.)

Application No. 49113
(Filed January 27, 1967)

O P I N I O N

Applicant requests a certificate to construct and operate a public utility water system in a 15-acre, partially developed area about four miles east of the City of Tulare. Applicant and his wife own 11 acres of the area. The remaining four acres are owned by John C. Lampe and his wife, who have requested water service from applicant at some indefinite future time in the event of sale of their lots. The area has not been recorded as a subdivision. Applicant resides in a portion of the area and has an insurance brokerage business in Tulare. He has proposed to conduct the water operation from his residence.

A staff field investigation, described in a report, hereby included in this record as Exhibit 1, supplemented by information furnished by applicant (in response to a questionnaire submitted to him by the staff), hereby included in this record as Exhibit 2, discloses that applicant desires a certificate in order to be in a position to serve only Lots 1, 2, 3, 4 (the Lampe lots),

11 and 12 (applicant's lots), and that he does not propose to split up the rest of his 11 acres, shown on a map (Application, Exhibit B) as lots numbered 5 through 10. Applicant's response to the staff inquiry states "... we only wish to serve my two houses that are shown on the map as 11 and 12." The staff report also discloses that applicant believes he needs a certificate to furnish water to his house, under construction on Lot 11, because his bank will not grant a loan on the property unless there is a separate well on the premises, or the water service is to be furnished by a public utility. The nearest water system in the area is Tulco Water Company, a public utility system located about 1-1/2 miles west of applicant's property.

The staff report describes the present and proposed water installations, states that they meet the requirements of General Order No. 103 and that the supply is potable and adequate to serve the 15-acre area. Financial data submitted by applicant indicate adequate resources for construction of the proposed installations and for provision of necessary capital to meet possible early operating losses. Applicant's proposed metered and flat rates, as modified in the staff exhibit, appear to be reasonable for the service proposed.

The staff has recommended that the application be denied for two reasons: (1) Section 2704 of the Public Utilities Code exempts from Commission regulatory jurisdiction an owner of a water supply, not otherwise dedicated to public use and primarily used for domestic purposes by him or for the irrigation of his lands, who "... (c) sells or delivers a portion of such water supply as a matter of accommodation to neighbors to whom no other supply of water for domestic or irrigation purposes is equally available....";

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(2) applicant has failed to show that public convenience and necessity require the granting of the requested certificate.

Based on a review of the application, the staff report and applicant's response to the staff's questionnaire, the Commission finds that applicant has not shown that public convenience and necessity now require the issuance to him of the requested certificate.

We conclude that the application should be denied.

O R D E R

IT IS ORDERED that the application of Dane W. Sturgeon for a certificate of public convenience and necessity, filed herein on January 27, 1967, be and it hereby is denied.

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

Dated at San Francisco, California, this 6th day of JULY, 1967.

[Signature]
President

[Signature]
William S. [Signature]
[Signature]
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.