

ORIGINALDecision No. 74518

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Andrew and Isabel
 G. Bachels, doing business under
 the firm name and style of the
 Bachels Water Right, to grant, sell,
 transfer and convey, and of Bertha
 Wright Bertillion to purchase,
 acquire and operate the ditch,
 distribution lines and water rights
 included in said Bachels Water
 Right located in and near the town
 of Goodyears Bar, Sierra County,
 State of California, and to continue
 the water service heretofore supplied
 by the Bachels Water Right to the
 community of Goodyears Bar.
 (Amended Title)

Application No. 49812
 (Filed November 20, 1967;
 Amended June 24, 1968)

(Appearances at January 8, 11, 1968 hearings
 on original application)

Isabel G. Bachels, for applicants.
Gordon I. Smith, District Attorney and
 County Counsel, for Goodyears Bar
 Public Utility District; Earl T.
 Van Nelson, for Sierra County Board
 of Supervisors; Mrs. Emma S. Schofield,
 for Mrs. Otto A. Strand; Glen B. Mohr,
 for himself and for Jean Nunnally; and
Lawson H. Brainerd, Robert J. Collins,
 John M. Griffith, Mrs. Everett L.
 Bertillion and Henry A. Fischer, in
 propriae personae, all interested
 parties.
Tedd F. Marvin and Herbert R. McDonald,
 for the Commission staff.
Ferol Thorpe Boucher, for Bertha Wright
 Bertillion, co-applicant on amended
 application.

O P I N I O N

Andrew and Isabel G. Bachels, husband and wife, by their
 amended application herein, request authority to sell their water
 right and ditch system at Goodyears Bar, Sierra County, to (Mrs.)

Bertha Wright Bertillion, who joins in the application. Terms of the transaction are set forth in an "Agreement of Sale", which recites a consideration of \$1,000, and in a "Deed and Bill of Sale", which mentions a nominal consideration of \$10 (Appl., Exhibits "D" and "E").

To place the amended application in context, the record discloses that the Bachels, in their original application, requested authority to abandon their water right and system because of their advanced age, non-residence in the community and inability to secure responsible local supervision. During the course of a hearing at Downieville on that application, held on January 11, 1968 before Examiner Gregory, the Goodyears Bar Public Utility District (formed in 1947 to acquire the system as the result of a previous application by the Bachels to abandon it, but dormant since then due to failure of the parties to reach an agreement - see Decision No. 40927, November 12, 1947, Application No. 28146; also - "History of the Goodyears Bar Public Utility District", Exhibit 4 of the instant record) was reactivated and agreed, subject to mutually acceptable terms and Commission authorization, to take over and operate the system, which lies wholly within the District's boundaries.

The prospective purchaser, Mrs. Bertillion, who is a major property owner and taxpayer in Goodyears Bar, was personally present at the Downieville hearing but voiced no objection, on the record, to the District's proposal, nor did any one else who appeared at that hearing, which concluded with submission of the application for decision. Thereafter, Mrs. Bertillion on February 13, 1968 filed a petition to set aside submission of and to reopen the proceeding for receipt of additional evidence, as detailed in her

petition, to the effect that she - and not the District - was in a better position to acquire, operate and improve the system and that she proposed to continue service as a public utility. The petition was granted (Decision No. 73757, dated February 20, 1968). Mrs. Bertillion and the Bachels then negotiated the agreement that is the subject of this amended application. The proposal appears to have the support of the District, the utility's customers and other interested persons in the community.^{1/}

In substance, the Bachels propose to transfer to Mrs. Bertillion "all water production facilities and properties, including the water rights, the ditch and flume, and all transmission facilities and properties comprising the water system of the sellers located in and near Goodyears Bar, Sierra County, California, and described more particularly in Exhibits 2 and 3 on file herein and in the aforementioned Decision No. 40927". (Amended Application, par. VI.) Applicants allege that the book cost of the properties to the sellers is estimated to be \$2,500 and that the original cost is unknown to applicants.

The purchaser alleges that she is financially able to purchase and operate the system as a community service; that she has arranged for the consulting services of a registered civil engineer who is experienced in water system construction and operation; that she has cooperated with neighbors in collecting samples

^{1/} A letter to the Commission, dated June 13, 1968, from Gordon I. Smith, District Attorney and County Counsel of Sierra County and counsel for the District in this proceeding, states that Mrs. Bertillion's proposal to acquire the Bachels system was discussed at a meeting of the District held June 2, 1968 and received the unanimous support of the District's three directors, a majority of the current customers and a number of other residents and possible future water users. A copy of the letter appears as Exhibit "A" to the amended application. The original letter, received by the Commission on June 17, 1968, is hereby included in this record as Exhibit 11.

of water that are now being tested by laboratories approved by the California State Department of Public Health; and that she is familiar with the system and is willing to purchase and operate it for the public use to which it has been devoted by the Bachels.

Applicants allege that, due to the pendency of the instant proceeding, the Bachels, during 1968, have collected no water charges from the customers and have made no expenditures for system maintenance or improvement. Applicants further allege that the purchaser's attorney in this proceeding has determined, from an examination of the sellers' annual reports to the Commission for the years 1964 through 1967, that the system, during those years, earned a small operating profit. The purchaser further states that she intends to adopt the sellers' filed tariffs as her own, to continue to operate the system under the regulatory jurisdiction of this Commission, and to undertake repairs and gradually to make improvements, "in order of their urgency and need, as will provide an adequate and potable water supply". (Amended Application, par. IX.)

Exhibits attached to the amended application, in addition to copies of the above-mentioned purchase agreement, deed and bill of sale and the letter from the Sierra County District Attorney, include a partial financial statement of the purchaser (Exhibit "B"), and a copy of the utility's 1967 Annual Report to the Commission (Exhibit "C").

Upon consideration of the evidence of record in the original application filed herein, together with the allegations of Mrs. Bertillion in her aforementioned petition to set aside submission of and to reopen this proceeding for further hearing and the allegations and exhibits contained in the amended application filed herein, the Commission finds that:

1. Andrew and Isabel G. Bachels, husband and wife, for many years have owned and operated the "Bachels Water Right", an uncertificated, regulated public utility water system that presently supplies untreated water to some 12 customers in the unincorporated community of Goodyears Bar, Sierra County, California, by means of a diversion from Woodruff Creek (a tributary of the North Yuba River) and a ditch, flume and pipe transmission system.

2. The Bachels, by reason of their advanced age, present residence in San Francisco, California, and inability to secure the services of a responsible local supervisor for operation and maintenance of their water system, are no longer physically or financially able to provide present or potential water users in the community of Goodyears Bar and vicinity with a reasonably continuous and adequate supply of water for domestic and irrigation purposes and have, by their original application herein, requested authority to abandon their water right and system.

3. Subsequent to proceedings duly had and taken on said original application, Andrew and Isabel G. Bachels and (Mrs.) Bertha Wright Bertillion, the latter a major landowner and taxpayer in Goodyears Bar, executed, subject to authorization by the Commission, an agreement for the sale of said water right and water system to Mrs. Bertillion, dated June 22, 1968, together with a deed and bill of sale for said properties, bearing the same date; said parties have joined in an amended application to this Commission for authority to carry out the terms and conditions of said agreement and of said deed and bill of sale.

4. The directors of the Goodyears Bar Public Utility District, a public district organized in 1947 and comprising some 80 acres of land in and in the vicinity of Goodyears Bar, including the Bachels

water system and its present service area, together with a majority of the present water users of the Bachels water system and a number of other residents of Goodyears Bar and possible future water users, at a public meeting of said District duly held at Goodyears Bar on June 2, 1968, unanimously voted to support the proposal of Mrs. Bertillion, as set forth in the amended application herein, to acquire and operate said water right and water system.

5. Applicant, (Mrs.) Bertha Wright Bertillion, has adequate financial resources with which to acquire and operate said water right and water system properties in accordance with her proposals as set forth in the amended application herein.

6. The proposed transfer would not be adverse to the public interest.

The Commission, therefore, concludes that:

1. The transfer proposed in the amended application herein should be authorized in accordance with the ensuing order.

2. Upon consummation of said transfer and upon full compliance by Andrew and Isabel G. Bachels and (Mrs.) Bertha Wright Bertillion with the provisions of the ensuing order, said Bachels should be relieved of any public utility obligations in connection with the properties herein authorized to be transferred.

3. A further hearing herein, as provided by Decision No. 73757, supra, is not necessary.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

IT IS HEREBY ORDERED that:

1. Andrew and Isabel G. Bachels, after the effective date of this order, are authorized to carry out the terms and conditions of an agreement and of a deed and bill of sale, each dated June 22, 1968 (copies of which are annexed to the amended application herein as Exhibits "D" and "E", respectively), providing for the sale by Andrew and Isabel G. Bachels and the purchase and operation by (Mrs.) Bertha Wright Bertillion of the public utility water system properties described in said agreement and in said deed and bill of sale.
2. Within thirty days after the date of actual transfer of said properties, applicant Bertha Wright Bertillion shall file with the Commission two copies of the instrument, or instruments, of transfer, and shall also, within said thirty-day period and on not less than five days' notice to the Commission and the public, file with the Commission, in the form of an advice letter and as provided by General Order No. 96-A, a Notice of Adoption of the effective tariff schedules of the sellers, Andrew and Isabel G. Bachels, for the same service area. Said purchaser, (Mrs.) Bertha Wright Bertillion, shall thereafter observe said adopted tariff schedules until further order of the Commission.
3. Within ninety days after the date of actual transfer of said properties, the purchaser, (Mrs.) Bertha Wright Bertillion, shall transmit to the Commission a written report, which shall contain a description, in such detail as may be practicable together with estimated costs and times of completion, of repairs and improvements to said properties to be made during the balance of the year 1968 and, if known, during the year 1969, as generally described or referred to by purchaser in the amended application herein.

4. Andrew and Isabel G. Bachels, upon consummation of the transfer of said properties as herein authorized, including the adoption by the purchaser, (Mrs.) Bertha Wright Bertillion, of the effective tariff schedules of said Bachels on file with the Commission, may concurrently withdraw from public utility water service in and in the vicinity of Goodyears Bar, California, and shall thereafter be relieved of any public utility obligations with respect to said water rights and water system properties.

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

Dated at San Francisco, California, this 13th day of AUGUST, 1968.

William M. Bennett

 President

August

 Commissioners

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

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.