

ORIGINAL

Decision No. 83708

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of E. E. Erich, owning and operating two separate water systems, namely, FRENCH GULCH WATER SYSTEM and FRENCH GULCH DITCH SYSTEM: to sell and transfer, and Mark V. Parrott to purchase and acquire the ditch and water rights included in the French Gulch Ditch System located in and near the town of French Gulch, Shasta County, California, and to merge users of the French Gulch Water System with users of the French Gulch Ditch System and terminate the French Gulch Water System as a public utility.

Application No. 55134  
(Filed August 26, 1974)

O P I N I O N

This joint application of E. E. Erich and Mark V. Parrott requests authority for the following:

1. That E. E. Erich be allowed to sell and transfer the French Gulch Ditch System, a certificated public utility, and Mark V. Parrott be allowed to purchase the said water system, which is located in and near the town of French Gulch in Shasta County, California.

2. That the French Gulch Water System, a public utility system having 11 customers in and near the same area, be allowed to terminate its service as a public utility, and to have its customers hereafter serviced by the French Gulch Ditch System.

3. That the proposed consideration to be paid is the sum of \$10 and the willingness of the purchaser to undertake the responsibility for the continued maintenance and operation of the French Gulch Ditch System, and to serve the present users of the French Gulch Water System.

The French Gulch Ditch System is a gravity water system certificated under authority granted in Decision No. 51457 dated May 10, 1955.

The French Gulch Water System was transferred to the present operator by Decision No. 72712 dated July 6, 1967 and is a system furnishing water under pressure to 11 active service connections.

Mark V. Parrott acknowledges that he is aware that each year since 1955 the cost of maintenance and operation of the French Gulch Ditch System has exceeded the revenues and he has indicated his willingness to acquire and operate the system and to be responsible for its maintenance and operation. Mr. Parrott has indicated that he will continue to service the existing 11 users of the French Gulch Water System, through the facilities of the French Gulch Ditch System. Applicants have represented that all 11 users of the Water System have agreed to allow that system to terminate its service and have their water supplied by the French Gulch Ditch System under the latter's gravity supply, primarily because the users will receive the water at a lower cost than they had received it from the Water System.

The present owner of these systems, Mr. Erich, is now 80 years of age and desires to be relieved of the responsibility of maintaining and operating the system.

Findings

1. The proposed purchaser has the ability to acquire and operate seller's system without interruption of service.
2. The proposed sale and transfer will not be adverse to the public interest.
3. The present customers of the French Gulch Water System will be adequately served by the French Gulch Ditch System if the French Gulch Water System is discontinued as a public utility.
4. The French Gulch Water System's discontinuance is not adverse to the public interest.
5. The existing customers of the French Gulch Water System have indicated their willingness to be served under the gravity system of the French Gulch Ditch System.
6. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Conclusion

1. The application should be granted in accordance with the findings.
2. The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.
3. Mark V. Parrott is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1974 E. E. Erich, doing business as French Gulch Water System and French Gulch Ditch System, may sell and transfer the French Gulch Ditch System referred to in the application to Mark V. Parrott.

2. As a condition of this grant of authority purchaser shall assume public utility obligations of seller within the area served by the water system being transferred and shall assume liability for refunds for all existing customer deposits and advances pertaining to the water system being transferred. Purchaser shall assume to furnish water service from the French Gulch Ditch System to all existing customers of the French Gulch Water System under the same tariffs and terms applicable to customers of the French Gulch Ditch System.

3. Within ten days after completion of the transfer purchaser shall notify the Commission, in writing, of the date of completion and of the assumption of the obligation set forth in paragraph 2 of this order.

4. Purchaser shall either file a statement adopting the tariffs of seller now on file with this Commission or refile under its own name those tariffs in accordance with the procedures prescribed by General Order No. 96-A. No increase in rates shall be made unless authorized by this Commission.

5. On or before the date of actual transfer, seller shall deliver to purchaser, and the latter shall receive and preserve all records, memoranda, and papers pertaining to the construction and operation of the water system authorized to be transferred.

6. On or before the end of the third month after the date of actual transfer purchaser shall cause to be filed with the Commission, in such form as it may prescribe, an annual report covering the operations of seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

7. Upon compliance with all of the terms and conditions of this order, seller shall be relieved of its public utility obligations in connection with the water system transferred.

8. On or before December 31, 1974 and on not less than 10 days' notice to the Commission and the public, E. E. Erich, doing business as French Gulch Water System, may discontinue this public utility water system.

9. Upon such discontinuance of service, all tariffs presently on file with this Commission in the name of French Gulch Water System are cancelled.

10. Upon such discontinuance of service, the rights authorized by Decision No. 72712 dated July 6, 1967 are revoked.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup>  
day of NOVEMBER, 1974.

Vernon L. Sturgeon  
President  
William J. Lyons, Jr.

Robert E. McFarland  
Commissioners

Commissioner Thomas Moran, being  
necessarily absent, did not participate  
-5- in the disposition of this proceeding.