

Decision No. 11977.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
HAPPY VALLEY IRRIGATION DISTRICT) Application No. 8667.
for abandonment of service of water.)

Carr & Kennedy, by Francis Carr,
for applicant.

C. W. Leninger, for S. R. Miller.

BY THE COMMISSION:

O P I N I O N

In this proceeding applicant requests the Commission to grant it permission to abandon its main canal from the head works to Hoover Creek, a distance of approximately 12 miles, and to abandon its service to S. R. Miller, the only remaining consumer on that portion of the main canal.

An Order to Show Cause was issued on February 28, 1923, directing applicant to appear and show cause, if any it had, why this Commission should not dismiss the said application for want of jurisdiction on the ground that applicant is a public corporation, not subject to the provisions of the Public Utilities Act, nor to regulation by this Commission.

A public hearing was held in this matter before Examiner Satterwhite at Redding. It appeared at the hearing that, due to the high seepage losses and expense connected with operating that portion of the applicant's canal which it now seeks to abandon, a tunnel was constructed to replace the canal. The only remaining consumer on the canal referred to in this proceeding who comes within the terms of this Commission's Decision No. 4771, dated October 20, 1917, in Application No. 3236, In the Matter of the Application of Happy Valley Land and Water Company and Happy Valley Irrigation District, for an order approving lease and option agreement and authorizing the water company to sell and convey its property to the irrigation district, is the said S. R. Miller.

It seems clear that, under the doctrine of the California Supreme Court in the case of City of Pasadena vs. Railroad Commission, 183 Cal., 526 (1920), this Commission has no jurisdiction over the subject matter of this application, and that the application should be dismissed. Therefore:

IT IS HEREBY ORDERED that the application herein be and the same is hereby dismissed.

Dated at San Francisco, California, this 26th day of April, 1923.

C. S. Avery
H. B. Rindley
J. W. Martin

Commissioners.