

Decision No. 13822.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

ELON DUNLAP,)
)
Complainant,)
)
vs.)
)
EL DORADO WATER CORPORATION,)
)
Defendant.)

Case No. 2011.

Elon Dunlap in propria persona.

R. W. Browne for El Dorado Water Corporation.

BY THE COMMISSION:

O P I N I O N

This is a proceeding brought by Elon Dunlap, a farmer residing near Diamond Springs, against the El Dorado Water Corporation, a public utility which supplies water for irrigation purposes in El Dorado County.

The complaint alleges that defendant operated the Diamond Ridge Ditch, a branch of which runs through four other properties before entering complainant's land; that defendant owns and keeps in repair this branch ditch through three of these properties, and sells water to three consumers thereon but refuses to clean out the ditch through the fourth property and to supply complainant with water therefrom. It is further alleged that complainant's land could use ten times the combined water use of the other consumers on the branch ditch, and that last year water was withheld from the area served by the Diamond Ridge Ditch and di-

verted to another section supplied by defendant. The Commission is asked to order defendant to clean out the branch ditch leading to complainant's land and to sell to him water therefrom during the present irrigation season.

The answer to the complaint denies ownership to a greater portion of the ditch in question for which reason among others it has refused to maintain and operate the same.

A public hearing in this proceeding was held at Sacramento before Examiner Satterwhite, after all interested parties had been duly notified and given an opportunity to be present and be heard.

The testimony shows that by reason of an unprecedented drought which has prevailed throughout the state during the present summer, service on the Diamond Ridge Ditch was discontinued on June 18th and that it would be impossible to make deliveries of any additional water during the present season. The complaint was amended accordingly to request the cleaning of the branch ditch and the delivery through it of water to complainant during the irrigation season of 1925.

The evidence indicates that defendant has operated the Diamond Ridge Ditch system since 1923 under an option to purchase, and having assumed all of the obligations to render service stands ready to deliver water in accordance with the desires of complainant providing that the service be made compensatory. Defendant contends that this branch ditch is not owned by it or by the Diamond Ridge Ditch Company but has been abandoned for over twenty-five years. It is claimed that the cost of cleaning and installing the necessary flumes on this lateral will amount to \$1,000, and that there will be an additional expense for maintenance and operation. The testimony further shows that the operation of the Diamond Ridge property in 1923, when water was

delivered during the entire season, resulted in a loss to defendant of at least \$1,500, and that the estimated loss from operation during 1924 will be approximately \$3,000.

Practically all of the consumers on this system take water from the main ditch through private laterals, and it is apparent that defendant cannot at this time take over and operate all of the lateral ditches used in supplying its consumers without suffering additional losses from operation.

The complainant testified that he now receives water through approximately one mile of privately owned ditch, which however is located at such a low elevation as to be incapable of irrigating over ten acres of land, but that an additional area of approximately 500 acres could be irrigated provided the defendant properly cleaned out the branch ditch in question. Nevertheless complainant would give no definite assurance that he would take any additional water in the future, nor would he make any proposal as to future water use which would in any way result in additional revenue to defendant; in fact, in answer to an inquiry for an estimate of probable future water use he stated that "the present rate is too high".

A careful consideration of the evidence presented indicates that defendant would be required to clean out and operate approximately 4,000 feet of lateral ditch which has been abandoned for many years in order to satisfy this complaint. It is also apparent that no material increase in revenue could be expected as a result of the change in method of delivering water to complainant. Under the circumstances it would be unreasonable to require defendant to make additional capital expenditures and to burden itself with increased operating expenses, without definite assurance that its revenues would be increased to such an extent as to make the expenditures compensatory. This complaint should therefore be dismissed.

O R D E R

Elon Dunlap having made complaint against El Dorado Water Corporation, a public hearing having been held thereon, the matter having been submitted, and the Commission being fully informed in the matter,

IT IS HEREBY ORDERED, for the reasons set out in the preceding opinion, that the above entitled complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 18th day of July, 1924.

H. H. Brown

Dwight Martin

J. T. Whittney
Commissioners.