

ORIGINAL

Decision No. 18457

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

-000-

In the Matter of the Application of)
 EUREKA LAKE AND YUBA CANAL COMPANY,)
 Consolidated, a corporation, for)Application No. 12,260.
 leave to discontinue water service on)
 San Juan Ridge, Nevada County, Calif-)
 ornia.

McCatchen, Olney, Mannon & Greene,
 by Allan P. Matthew, and James
 D. Adams, for Applicant.

Mc Laughlin & McLaughlin, by E. C.
 McLaughlin, and Hennesy & Kelly,
 by Lynne Kelly, for Protestants,
 San Juan Water Users' Association.

Messrs. tum Suden & tum Suden, by
 Peter tum Suden, for Protestant
 Louis Nonnenmann, owner of Saint
 Gothard and Delhi Mining Properties.

BY THE COMMISSION:

OPINION

In this proceeding, Eureka Lake and Yuba Canal Com-
 pany, Consolidated, a corporation, engaged in the business of
 distributing and selling water for domestic and irrigation uses
 on the so-called San Juan Ridge between the South and Middle
 Forks of the Yuba River, in Nevada County, asks authority to dis-
 continue water service. Applicant alleges that the service has
 been rendered for many years at a very great annual loss, and
 that if the service is continued applicant will incur a similar
 if not a greater annual loss. It is further alleged that it
 would not be possible for the consumers to pay a rate that would
 make the service compensatory, and that it would be unreasonable
 to require applicant to continue the service.

The system consists of three parallel ditch properties which are known as the Milton ditch, which obtained water by diversion from the North Fork of the Yuba River; the Eureka Lake and Yuba Canal Company ditch, whose source of water was French and Faucherie Lake, and the Bloomfield ditch, whose source of water is Bowman Lake. These ditches were originally constructed to furnish water for mining the gravel beds on San Juan Ridge during the hydraulic mining period. The upper portion of the Milton and Eureka Lake ditches have been washed out, and no water is being diverted from the middle Fork or directly from French and Faucherie Lakes. The water from these lakes now flows into Bowman Lake, from which it is diverted into the Bloomfield Ditch, and conveyed through many miles of flume and ditch to a point below Graniteville where it is dumped into the Eureka and Milton ditches and thence conveyed by one or the other ditches to the points of use on the ridge. About 50 miles of ditch is being used for the delivery of water, together with approximately ten miles of flume.

The rates in effect vary from fifteen to ten cents per miner's inch per 24 hours depending on use. Water for irrigation and domestic use is sold at the rate of fifteen cents per miner's inch, and for established mining use the rate is twelve and a half cents per miner's inch. Water has been sold for ten cents a miner's inch to prospectors in order to encourage prospecting and the development of mining use.

The area served is that portion of the San Juan Ridge lying between the South Fork and the Middle Fork of Yuba River, and extending from a point west of Graniteville to points on the extreme westerly portion of this ridge. The ditch system is the

principal source of water on the ridge and supplies domestic and irrigation water for the ranchers, and domestic water for several villages west of Graniteville. The number of consumers has gradually decreased, and in 1925 only 40 were receiving water, two of whom purchased water for redistribution in the villages of North San Juan and North Bloomfield respectively for domestic purposes.

Evidence was presented by W. H. Warnecke, a witness for Applicant, showing the annual operating revenues and expenses for the years 1921 to 1925, inclusive, which are set out in totals as follows:

	<u>1921</u>	<u>1922</u>	<u>1923</u>	<u>1924</u>	<u>1925</u>
Expenses	\$11,098.38	\$20,096.13	\$16,301.84	\$26,698.46	\$19,243.76
Revenues	1,314.52	1,516.35	2,073.80	1,453.65	700.00

The above expenses do not include any charges for management, office expenses, taxes or any allowance for depreciation.

An analysis of the 1923, 1924 and 1925 operating accounts was presented by Wm. Stava, one of the Commission's engineers, which showed that the following deductions should be made from these expense items, because these amounts appear to cover capital and replacement expenditures not properly chargeable as operating expenses.

	<u>1923</u>	<u>1924</u>	<u>1925</u>
Deductions	\$2,131.10	\$12,008.07	\$3,673.00

The testimony herein shows that there is a possibility of slightly decreasing the operating expenses by operating this system with fewer employees, and that some of the extensive repairs might be due to deferred maintenance. Nevertheless, the possibility of increasing the revenues to make the service compensatory is very remote. In fact, no testimony was produced by any of the parties looking toward a method of operating the system under present conditions, which would make the service compensatory, except in connection with furnishing water for mining the gravel bodies along the

ridge. It was admitted by the company that at some time in the future, if storage of debris from hydraulic mining be provided, mining operations might be resumed, and under such conditions water could then be furnished the ridge without incurring the losses now falling to the Company when operating the system for the ridge alone. It is evident, however, that there is no reasonable possibility of rendering this service compensatory save by this remote chance that hydraulic mining may be resumed.

Louis Nonnemann, owner of the Delhi Mine, appeared, and made certain representations of ownership of a right to take certain water from a watercourse known as "Bloody Run" whose bed is used for a considerable distance for the water here in question. However, since this Commission is not empowered to determine questions of water rights, and since an order herein can apply only to the public utility water service of Applicant, nothing that this Commission may do herein can affect any right of this party. In our opinion, no obligations which Applicant may be under to supply water to him could render the public utility uses of Applicant compensatory, nor has any other plan been put forward by any party hereto which, in our opinion, holds out the hope that the revenues to be expected from this service can or will be sufficient to meet even the bare cost of upkeep, not to mention the items of depreciation, taxes and return upon investment.

In order to provide for the continuance of service to the San Juan Ridge area, a series of conferences with representatives of the Company and the consumers was held, which resulted in an agreement between Applicant and its consumers whereby Applicant has offered to lease its water producing and distributing facilities to the consumers for a term of one year and thereafter from year to year at a nominal rental. We believe that such an arrangement would be beneficial to all concerned. Indeed, during the year 1926 this system was actually operated under a private arrangement approximating this plan, and its continuance appears to

be feasible. That the present public utility service can be continued seems, however, impossible under the revenue situation that obtains.

A Resolution has been adopted by the Nevada Irrigation/District providing for the release of certain water from Bowman reservoir, (now the property of the District) in such amounts as shall be reasonably necessary to serve the existing obligations of water service to the consumers on San Juan Ridge as of February 16, 1926. This lease and resolution of the District may assure the ridge area a water supply as long as the consumers maintain the flume and ditch.

As stated before, the evidence shows without contradiction that the Company cannot operate this system under the present conditions without continued financial loss, and that the possibility of combining the present service with the delivery of water for hydraulic mining is so remote that it would be unfair to expect the Company to continue the service and stand the losses it has suffered for the past years.

In their brief, protestant consumers have urged certain considerations of water right and system title which are without our jurisdiction to determine. We must assume, for the purposes of this case, that Applicant is possessed of these rights and could - if conditions warranted, - continue this service. Conditions, however, do not appear to allow for such continuance, and after a careful consideration of the evidence submitted in this proceeding, together with the briefs that have been filed, it appears that authority to abandon service should be granted. The contention of protestants that this Applicant is not a public utility is, in our opinion, without basis.

ORDER

Eureka Lake and Yuba Canal Company, Consolidated, a corporation, having made application to the Railroad Commission for authority to discontinue public utility water service on San Juan Ridge, Nevada County, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed:

IT IS HEREBY ORDERED that Eureka Lake and Yuba Canal Company, Consolidated, a corporation, be and it is hereby authorized to discontinue public utility water service to its consumers on San Juan Ridge, Nevada County, California, effective from and after the date of this Order.

Dated at San Francisco, California, this 3rd day of

June, 1927.

H. A. Boardman
Chairman

Thos. Stewart
Commissioners.