

Decision No. 19837**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 GEORGE R. BLISS for order authorizing)
 the alteration of the boundaries of) APPLICATION NO. 14415
 the territory in which he is authorized)
 to supply irrigation water.)

George R. Bliss, in propria persona.

BY THE COMMISSION:

OPINION

George R. Bliss, owner of a public utility water system in the vicinity of Carpinteria, has made application to the Railroad Commission for permission to eliminate from the boundaries of the district in which he was authorized to supply irrigation water under Decision No. 14586 on Application No. 10476, certain areas shown on a map marked "Exhibit No. 2." and filed at the hearing.

A public hearing herein was conducted by Examiner Williams in Santa Barbara.

Applicant now desires to exclude from the area which he is authorized to serve, the properties of D. L. Ellery, M. E. Cravens, Jack Rock, F. W. Hoffman, G. E. Franklin, H. W. Moore and Mrs. E. J. Russell, altogether about two hundred acres. The circumstances under which he asks authority to exclude this area from demand are, first, that in order to supply this area, it will be necessary for him to develop an

additional water supply at his plant which is located more than one mile west of these lands, as the present supply would be insufficient to provide for them, and while he is able to make the investment necessary to supply the additional water, he would be burdened with litigation if he attempted so to do. This litigation would arise from property owners in the vicinity of his source of supply who allege that this would take the percolating waters underneath their land and deliver them where there could be no recovery in the area from which they were taken; that this would impoverish their supply, and that such removal is contrary to statute, and contrary to decisions of the Supreme Court of the State of California (Eudson v. Dailey, 156 Cal. 617, Miller v. Bay City Water Co., 157 Cal. 256, Katz v. Walkinshaw, 141 Cal. 116).

Applicant testified that he was served with notice by William H. Yule and seventeen other landowners in the area from which he pumps percolating water, that any attempt to serve additional area than that now served by him would be met with litigation seeking injunction or damages. Copy of this notice was filed as "Exhibit No. 3."

Another reason urged by applicant is the fact that none who are to be omitted from his service area has ever asked for or demanded service of water, and further that the area in which they are located has its own percolating flow as is evidenced by pumps now in use by several.

John William Heaney, of the law firm of Heaney, Price & Postel of Santa Barbara, testified that the landowners immediately adjacent to Bliss's well had agreed with Bliss that the elimination of the lands included in the present

application by the applicant would satisfy the complaining landowners and prevent litigation.

The sole supply of applicant herein is a well producing approximately fifty inches per day, and appears to be a sufficient supply for the area now being served. In view of the fact that no demand has been made upon applicant for water in the area to be withdrawn, and that no one now in this area protested the elimination as asked for, and as any attempted enlargement of his service would invoke litigation over the removal of the percolating waters available to him, we believe the application should be granted.

O R D E R

George R. Bliss having filed application with the Railroad Commission to eliminate from the area in which he is authorized to sell irrigation water, a public hearing having been held, and the matter having been duly submitted,

IT IS HEREBY ORDERED that applicant herein be, and he hereby is, authorized to eliminate from his area or domain of service those portions originally included by Decision No. 14586 on Application No. 10475, as shown by Exhibit No. 2 filed herein; and

IT IS FURTHER ORDERED that applicant herein shall file on or before May 31, 1928, a corrected map of his

service area, showing the exact area eliminated and the area retained, and until such map is so filed and accepted, this order shall not become effective.

For all other purposes, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20th day of April, 1928.

Leon Whitely

C. J. Seamy

Paul S. Latta

M. J. Lee

Commissioners