

Decision No. 20184

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

V.T. MCGILLYCUDDY, Stockholder and Director,	}	Case No. 2505
Complainant,		
vs.	}	
LOS VERJELS LAND AND WATER COMPANY,		
Defendant.		

V.T. McGillicuddy, in Propria Persona.
Evan J. Hughes, for Defendant.

BY THE COMMISSION:

O P I N I O N

The amended complaint herein alleges that, without the authority of the Railroad Commission, defendant issued three deeds of trust totaling \$211,194.61 and covering all lands and properties of the corporation; that defendant proposes to extend its distribution system outside its present dedicated area and that the plan is impractical from engineering and financial standpoint; that defendant neglected to replace a flume at its diversion works, which resulted in a serious loss and damage to the crops under the system, as water could not be delivered when required. In answer, defendant entered a general denial of all the allegations set out in the complaint.

A public hearing in this proceeding was held by Examiner Satterwhite at Marysville.

Complainant was formerly general manager and engineer

of this company for several years and is now a director and one of the minor stockholders thereof. The company operates a small irrigation system supplying water to about 300 acres of orchard and vineyard lands in Yuba County, lying between the Cities of Marysville and Oroville.

The evidence shows that sometime ago the defendant, through misunderstanding, attempted to issue certain securities without proper authorization from the Railroad Commission but that it has since canceled \$165,230. in deeds of trust and has now applied to the Commission for permission to mortgage its properties for \$45,964.61, thus bringing all such matters regularly before the Commission.

Complaint is made against defendant that it intends to extend its service to supply new territory and that such extension is not practicable, either from an engineering or economic standpoint. The testimony shows that defendant company is now engaged in making surveys of additional storage sites and canal locations and has applied to the Division of Water Rights for permission to divert and store, for agricultural purposes, 24,000 acre feet of water from Dry Creek. This project is merely in the formative stage and is by no means a certainty at this time. No application has been made to this Commission as yet for a certificate of public convenience and necessity to serve water in the territory embraced within the new project.

On or about the twenty-sixth of March, 1928, storm and high water conditions resulted in the washing out of a section of the flume carrying the waters of the main canal. No effort was made by the defendant to effect temporary repairs until complaint was made informally to the Commission by the consumers

in the latter part of May, and defendant was directed to make the necessary repairs without delay. Service was resumed on June 18th. The evidence shows that considerable damage resulted to the consumers' crops and trees through the unnecessary neglect and delay on the part of the utility in repairing the flume. The Railroad Commission, however, is not the proper forum to determine the question of damages and the liabilities therefor resulting from the lack of adequate water service.

The matters complained of in this proceeding having now been satisfied in so far as the authority of this Commission extends, the complaint may, therefore, be dismissed.

O R D E R

V.T. McGillycuddy having filed complaint against Los Verjels Land and Water Company, a corporation, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that the above entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 30th
day of August, 1928.

C. S. ...

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Commissioners.