

Decision No. 23896

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Albert Simon, H.A. Williams, J.R. Mendonca, E.E. Twitchell, F.E. Twitchell,  <p style="text-align: center;">Complainants,</p> <p style="text-align: center;">vs.</p> Diamond Ridge Water Company,  <p style="text-align: center;">Defendants.</p>	<p style="font-size: 2em; font-weight: bold; text-align: center;">ORIGINAL</p> <p>Case No. 3038.</p>
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Thomas Maul, for Complainants.  
 Henry S. Lyon, for Defendant.

STEVENOR, COMMISSIONER:

O P I N I O N

In this proceeding, Albert Simon and four other consumers enter complaints against the inadequacy of the irrigation service rendered consumers by Diamond Ridge Water Company, a corporation, which owns and operates a ditch system supplying water for irrigation and, to some extent, also industrial and domestic purposes in and in the general vicinity of the towns of El Dorado and Diamond Springs, in El Dorado County.

The complaint alleges that for a number of years defendant has neglected to properly maintain and repair its ditches, flumes and diversion dams and, as a result thereof, the entire system is now in such a state of disrepair that a large proportion of its available water supply is wasted and lost through excessive leakage from flumes and ditches resulting in the inability of the

utility to deliver during the irrigation season the quantity of water which the consumers must have for the proper irrigation and maturing of their crops. Wherefore, the Commission is asked to order the utility to repair its ditch system and diversion dams and thereafter maintain them in proper and serviceable condition. Defendant in its answer makes a general denial of the above allegations of inadequate plant condition and service and alleges that it has maintained its properties far better than its financial condition should warrant.

A public hearing in this matter was held at Placerville on June 4, 1931.

This water system was designed and constructed originally about 1851 to supply water for hydraulic mining and at one time comprised over two hundred miles of canals and ditches. Since the decline of this class of mining in this territory, however, it has been used to supply water for the irrigation of a comparatively small and widely scattered acreage located principally in the vicinity of Diamond Springs, El Dorado County, and for domestic and industrial uses in said town. The ditches and canals now in use have been reduced to a total length of forty-five miles, including flumes. There are no primary storage reservoirs on the system, dependence being solely upon the unregulated stream flow of Camp Creek and the North Fork of the Cosumnes River which is diverted by means of log-crib dams. The average number of consumers supplied by defendant during the past few years is thirty domestic, one industrial (California Door Company), and twenty-eight irrigation users. The maximum acreage irrigated in any single season during the last ten years has been less than six hundred acres, said acreage being scattered widely along the lower half of the

canal system.

Complainants, among other things, request that defendant company repair or replace the diversion dams providing, if possible, adequate storage facilities, and also make more extensive repairs of the flumes and a more systematic and thorough cleaning of canals and ditches, thereby eliminating excessive loss of water by seepage, which waters could be made available to consumers. The evidence shows that all of these requests undoubtedly are greatly desirable and would prove highly beneficial not only to consumers but to the company as well through greater revenues. However, it is equally clear that the financial condition of this utility is such that it is wholly unreasonable to demand at this time that it increase its expenditures for such purposes by any substantial amount. Defendant has been operating for years at a deficit which since 1926 has ranged from \$1,000 to \$5,358 per annum, the total during said period being in excess of \$15,000, as shown by the following table.

COMPARISON OF MAINTENANCE AND OPERATION EXPENSES  
AND REVENUES FOR PAST FIVE YEARS  
1926 to 1930

	<u>1926</u>	<u>1927</u>	<u>1928</u>	<u>1929</u>	<u>1930</u>
<u>OPERATING EXPENSES:</u>					
Transmission and Distribution Expenses	\$1,172.00	\$1,735.85	\$1,314.95	\$ 996.70	\$ 614.85
Repairs to Transmission and Distribution System	3,455.77	755.39	4,318.93	3,651.15	1,081.51
General Expenses	1,160.30	379.03	526.95	457.15	500.49
Taxes	631.55	192.56	189.79	192.59	193.33
Depreciation	-	-	-	-	-
<b>TOTAL OPERATING EXPENSES</b>	<b>\$6,425.62</b>	<b>\$3,052.83</b>	<b>\$6,350.62</b>	<b>\$5,297.59</b>	<b>\$2,390.18</b>

	<u>1926</u>	<u>1927</u>	<u>1928</u>	<u>1929</u>	<u>1930</u>
<u>REVENUES:</u>					
Commercial - Flat Rate	\$ 125.15	\$ 343.70	\$ 381.45	\$ 169.86	\$ 43.75
Industrial - Flat Rate	187.50	534.90	758.95	655.00	438.80
Irrigation Sales	754.60	1,174.70	781.95	908.24	455.55
Miscellaneous Earnings from Operation	-	-	-	25.00	40.00
TOTAL OPERATING REVENUES	\$1,067.25	\$2,053.30	\$1,922.35	\$1,818.10	\$ 978.10
ANNUAL OPERATING DEFICIT	\$5,358.37	\$ 999.53	\$4,428.27	\$3,479.49	\$ 1,412.08
TOTAL DEFICIT 5 YEARS					\$15,677.74

Based upon the annual reports of this company together with data included in decisions of this Commission involving defendant, its operations from the year 1913 to 1930, both inclusive, have resulted in a deficit for each year (with the exception of 1923 and 1924 when no reports were filed and 1917 showing a profit of \$270), the total amount of which is \$48,171. Most of the operation costs upon which these results are based do not include depreciation charges.

The record shows that this utility has been before the Railroad Commission many times since the year 1914 on precisely the same issues again raised here. (See Decisions Nos. 1310, issued February 28, 1914; 7749, issued June 19, 1920; and 7814, issued June 30, 1920.) In 1925 the company filed a petition to abandon its operations whereupon negotiations instituted by this Commission resulted in the withdrawal thereof and the purchase of the water system for the sum of \$10,000 by certain parties, all of which were water users or indirectly such. Since this time these stockholder-consumers have, in addition to paying their water bills at the regularly established rates, also been forced

through assessments to pay the additional charges representing the operating deficits shown above. Complainants herein obviously not being stockholders have therefore escaped their share of this burden which rapidly is approaching the point where it is practically unbearable. This situation is well illustrated in Decision No. 19092, 30 C.R.C. 730 at 733, from which the following is quoted:

"There is no practical storage on this system and in years of deficient rainfall there is always a shortage of water before the irrigation season is over. There is also the usual tendency among the consumers of irrigation water to delay applying for water as long as possible to take full advantage of the possibility of late rains and a wet year with a corresponding heavy demand for water in dry years, resulting in financial inability of this company to maintain its system in proper order. There is the additional element in this case that several of the consumers are not stockholders in the company and, as the revenues do not and can not under present conditions equal operating and maintenance charges, the stockholders are faced with the burden of making up the deficit through stock assessments which the nonstockholders escape. The net result of this situation is that a part of the consumers are not only paying for their own irrigation service but are paying also a very large portion of the water costs of the other water users. This situation must be remedied soon for the good of the territory served, for the evidence indicates that the rates asked for in this proceeding at best can only bring about temporary relief.

"The Commission desires to suggest that the water users of this utility take early steps to adopt some form of organization which will prevent the present unfair spread of the burden of maintaining this system and will place all consumers upon an equal basis. This may be accomplished in several different ways, such as by a mutual water company organization or irrigation district, or otherwise."

The conditions complained of in this proceeding are no different in any material aspect than those brought before this Commission at many times in the past with the exception, perhaps,

that the past four consecutive years, having been far below normal in rainfall and stream runoff throughout the State, the present season of 1931 being one of the worst dry seasons ever experienced in this section, have for this reason intensified and aggravated the situation.

In 1930 the company's ditch was dry and deliveries ceased entirely on the sixth day of July. For this irrigation season (1931), deliveries in usable quantities cannot be maintained after the middle of June.

The testimony shows that defendant has already expended a considerably larger sum of money for maintenance and repair this year than it can possibly recover through revenues, a very substantial part of which expenditures (in excess of \$500) was devoted solely to repairs to provide continued and improved service to the chief complainant herein, Albert Simon, a non-stockholder whose service this season the testimony clearly shows has been far better than that received by many of the consumers who have acquired stock in this concern in order to aid in the continuation of the operation of the ditch system.

While the evidence as submitted indicates that none of the officers or directors of defendant corporation receive or have for many years ever received any salary for their services other than the accountant whose office expenses are paid for in water and that the expenses are kept at a reasonable minimum under the circumstances, the record clearly shows that there still exists the lack of systematic operation and water distribution which has so definitely characterized the methods of this utility in the past. No one is in charge of the receipt of water applications and the actual distribution thereof. There are no comprehensive

rules and regulations governing the distribution of water and such as there are apparently have traditionally been ignored and disregarded. The adoption of a modern set of such rules providing for definite methods of water distribution upon a rotation basis, strictly and rigidly followed, will go a long way toward the elimination of waste of water. This function should be delegated to one of the zanjeros actively engaged in operating the canals during the irrigation season rather than to one of the stockholder-officials.

Testimony presented further indicates that it is possible to conserve a considerable amount of water through certain line changes in the present method of water transportation which will eliminate the use of a large length of natural stream channel with its accompanying heavy percolation and evaporation losses. While this will require the construction of a section of new ditch, defendant may well be repaid through its installation as soon as finances will permit.

As to the replacement or substantial remodeling of the present diversion structures or the suggested construction of an impounding dam or dams, which would cost not less than \$20,000 and very probably considerably in excess thereof, it is hardly necessary to state that while existing conditions prevail such improvements, however desirable, are not only unwarranted but impossible to consummate as long as defendant's present financial status continues. As heretofore so often suggested by this Commission in various of the many proceedings arising before it involving this canal system, the most potent remedy for the improvement of service conditions thereon more certainly lies in the willing and serious cooperation with the defendant stockholder-consumers

rather than the continued filing of complaints with this Commission. It is also and equally true that a sincere and earnest effort on the part of the said stockholder-consumers and officials of defendant company to meet with non-stockholder-consumers and discuss with them their common problems would not be amiss and without doubt would remove many of the present causes of misunderstanding and perhaps ultimately result in the adoption of a plan to raise sufficient capital to install the much needed improvements discussed above.

As it is apparent from the record that the present consumers cannot reasonably afford to pay any substantially increased rate for the class of service which they have received in the past and now are receiving from this utility, it is clear that there is no course open to me under the circumstances other than to recommend the dismissal of this proceeding, subject, however, to the provisions set out in the following form of order which I hereby recommend.

#### O R D E R

Formal complaint having been filed as entitled above, a public hearing having been held, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that Diamond Ridge Water Company, a corporation, be and it is hereby ordered and directed to file with this Commission, within ninety (90) days from the date of this Order, revised rules and regulations which, among other things, shall provide for the distribution of water to irrigation consumers upon a rotation basis if and when, in and during any irrigation season or portion thereof, the quantity of water



available to the utility indicates a supply thereof less than that which can be economically and without unnecessary loss and waste distributed to consumers in accordance with the dates of their respective delivery requests, said revised rules and regulations to become effective upon acceptance thereof for filing by this Commission.

IT IS HEREBY FURTHER ORDERED that said Diamond Ridge Water Company for the irrigation season of 1932 and each season thereafter shall delegate to one of its officials and/or employees the duty of assembling, compiling and arranging from the applications filed for irrigation water by consumers a schedule of deliveries thereof, based upon a system of rotation, and the duty of seeing that water is distributed thereunder and in accordance therewith and in accordance with the rules and regulations governing such distribution whenever the condition of water supply so demands.

IT IS HEREBY FURTHER ORDERED that in all other respects this proceeding be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21<sup>st</sup> day of July, 1931.

Al J. J. J.  
Leon J. J. J.  
W. B. J. J.  
Fred G. J. J.  
 Commissioners.