

Decision No. 24386

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Miriam M. Johnson
 Jas. Leo Halley
 W.B. Towle
 Florence B. Towle
 Bertha A. Isnor
 Henry Behrman
 Timothy F. Collopy
 May L. Shortall
 Elizabeth A. Kruger
 W.A. Carter,

Complainants,

vs.

Thomas Scoble
 Alice Scoble
 A.J. Harwood
 Laura Harwood, and
 Del Rio Properties, Ltd.,

Defendants.

ORIGINAL

Case No. 3109.

Lincoln V. Johnson, for Complainants.
 A.J. Harwood, for Defendants.

BY THE COMMISSION:

O P I N I O N

In this proceeding certain consumers receiving water from a system supplying the subdivision known as Del Rio Woods located near the City of Healdsburg, Sonoma County, complain that the water supplied them is highly discolored, of offensive odor and unfit for human consumption and allege that complainants are ready and willing to pay a reasonable monthly charge for water suitable for drinking and cooking purposes but believe that for the quality of water heretofore received the present monthly

charge of one dollar (\$1.00) is exorbitant and unfair. The Commission is asked to require defendants to remedy the conditions complained of and to fix and determine a proper monthly rate to be paid for the service received hereafter. The answer of defendants is a general denial of the allegations in the complaint and in addition thereto defendants allege that their operations have not been and are not now public utility in character and that they are not therefore subject to the jurisdiction and control of the Railroad Commission.

A public hearing was held in this matter before Examiner Kennedy in Healdsburg.

According to the evidence the subdivision known as Del Rio Woods, located on the banks of the Russian River approximately one mile easterly from the City of Healdsburg, was originally placed upon the market about fifteen years ago by Cook and Pohley who installed a water system to supply the purchasers of lots in the tract. On or about the year 1927 Del Rio Properties, Ltd., a corporation in which the entire capital stock was owned or controlled by Thomas Scoble and A.J. Harwood, acquired the water system and the unsold lots in the subdivision from the original promoters, Cook and Pohley.

The source of supply is a well located near the Russian River, from which water is pumped into two storage tanks of a total capacity of 6,500 gallons. At present the distribution system consists of approximately 11,300 feet of one and two-inch pipe, furnishing about seventy consumers on a flat rate basis. The class of service rendered is practically all summer-resort in character, the cabins and homes usually being occupied only during the summer months and for short periods throughout the remainder of the year

during week-ends and holidays. According to the evidence the water as delivered directly from the well is potable, clear and uncontaminated; however, a certain section of distribution main consisting of approximately 4,650 feet of casing along the Fitch Mountain County Highway was second-hand pipe when installed and apparently at one time had been used for some industrial purpose which very seriously rusted the interior thereof and has caused all water supplied through it to absorb a distasteful odor and to carry in suspension minute quantities of iron rust and a considerable amount of discolored foreign matter which has in fact actually rendered this water unpalatable and unfit for drinking or cooking purposes. The above turbid and unsatisfactory quality of the water supplied through this pipe line has existed practically ever since its installation and has failed to show the expected improvement through continued use. The evidence quite clearly indicates that there is no proper remedy for this condition other than replacement of the line with new pipe of standard material.

A.J. Harwood, counsel for defendants, has stated that the proper party defendant in this proceeding is Del Rio Properties, Ltd., which owns and is responsible for the operation of the water works supplying the subdivision. Counsel has contended that this plant is not public utility in character. In this connection the evidence shows clearly that up to the year 1929 no charges were made to any of the residents of the Del Rio Woods Tract for water service; however, during the latter part of said year defendant Del Rio Properties, Ltd., sent to all of its consumers bills for water covering a period of three years from 1927 to and including 1929 at an annual rate of twelve dollars (\$12). A great many of the residents have paid the charges as rendered; however, a con-

siderable number, principally those served by the Fitch Mountain County Highway pipe line, have refused or neglected to pay upon the grounds that the quality of the water was such that it was not usable for human consumption. No evidence or testimony was submitted by defendant tending to disprove in any manner whatsoever the fact that since 1927 water supplied by it to its consumers has been sold without refusal for compensation to all members of the public generally who were and now are residents of the Del Rio Woods Tract. Irrespective of the acts of certain consumers in failing to pay for water service as billed, such acts on the part of defendant under the circumstances existing in this case conclusively indicate the dedication of the water service to the public generally and that defendant Del Rio Properties, Ltd., a corporation, is operating a public utility and therefore is under and subject to the control and jurisdiction of this Railroad Commission.

Mr. Scoble, who acts as superintendent of the system, admitted the unsatisfactory and turbid condition of the water supplied to certain of the consumers and stated that every effort had been made to give proper service through this Fitch Mountain County Highway line, without reasonable success, however. He further stated that he is ready and willing to replace the objectionable pipe line as soon as finances warrant, the estimated cost thereof being approximately fifteen hundred dollars (\$1,500). The superintendent indicated that it would very probably be possible for the defendant corporation to make the above replacement provided all consumers would promptly pay up their past and current bills for water service.

No further complaint was made by consumers except as to

the rates now charged by defendant. Under reasonable operating conditions an annual charge of twelve dollars per year for water service to a summer-resort community of this character cannot be considered unreasonable at this time. No evidence was submitted either by complainants or defendant which would enable the Commission to determine a proper rate for the service heretofore rendered or to be rendered in the future upon the remedying of the conditions complained of herein. In view of the fact that defendant is operating as a public utility and that it has admitted the quality of water supplied through the Fitch Mountain County Highway pipe line is unsatisfactory and unpotable, there is no alternative left other than to direct defendant to replace said pipe line before the coming summer season. Should any of the consumers continue to fail or refuse to pay for water, defendant should adopt rules and regulations empowering it to discontinue further deliveries to such consumers until payment is made by them in full. In the event the costs of operation of this system are such that the revenues receivable do not give defendant herein a reasonable and fair return upon its investment, it has its legal remedy of applying to the Railroad Commission for the establishment of a proper rate for the service rendered.

O R D E R

Formal complaint having been filed with this Commission as entitled above, 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 Del Rio Properties, Ltd., a corporation, be and it is hereby directed to file with this Commis-

sion, within thirty (30) days from the date of this Order, the schedule of rates now charged to its consumers in the subdivision known as Del Rio Woods located in the County of Sonoma in the vicinity of the City of Healdsburg.

IT IS HEREBY FURTHER ORDERED that Del Rio Properties, Ltd., a corporation, file with the Railroad Commission, within thirty (30) days from the date of this Order, rules and regulations governing service to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

IT IS HEREBY FURTHER ORDERED that Del Rio Properties, Ltd., a corporation, cause to be replaced by a main of first-class material and not less than two inches internal diameter the existing two-inch pipe line located on Fitch Mountain County Highway, said pipe line being approximately 4,650 feet in length; said installation to be completed not later than the first day of June, 1932.

IT IS HEREBY FURTHER ORDERED that Del Rio Properties, Ltd., a corporation, file with this Commission, within ten (10) days after the completion of the installation ordered above, a certified statement indicating that such installation has been so completed and setting forth also the size, quality of material, length and cost thereof.

Dated at San Francisco, California, this 11th day of

January, 1932.

O. C. Seamy
Leon Whittell
W. A. Lee
W. B. Harris
Frederic A. Stewart
Commissioners.