

Decision No. 25769

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

F.W. SCHLESER, F.M. CLARKE,
J.A. FORGAY, LEO KAISER,
JOS. ZANONI, M.B. GOTT,
ARTHUR TOSCANI, W.B. WHEELLOCK,
WM. PERRY, and A.J. SCHLESER,

Complainants,

vs.

THE BIDWELL WATER COMPANY,

Defendant.

ORIGINAL

Case No. 3261.

Harry A. Encell, for Complainants.

A.R. Bidwell, for Defendant.

BY THE COMMISSION:

O P I N I O N

This is a complaint filed by all of the ten agricultural water users who receive irrigation service from the Bidwell Water Company. The Commission is asked to establish rates, rules and regulations for service and to direct defendant to resume water deliveries to all former consumers. In his answer, A.R. Bidwell, owner and operator of the water works, joins in the request for the establishment of rates, rules and regulations but denies that he has discontinued service to any irrigation user and alleges that during the year of 1931 the extreme drought made it impossible for him to supply continuous irrigation deliveries throughout the season.

Public hearings on this matter were held before Examiner Satterwhite at Greenville, Plumas County, California.

The Bidwell Water Company, a fictitious name and title, is owned by the estate of Clara Bidwell, deceased, and operated by A.R. Bidwell, administrator thereof, and is a consolidation of the former Greenville Water Company and the Round Valley Water Company. The former supplied domestic service to the inhabitants of Greenville in Plumas County, while the latter provided storage for the domestic system and also delivered water for irrigation purposes; both were originally owned by the Bidwell interests. For a great many years waters impounded in Round Valley Reservoir, now called Lake Bidwell, have been used by various ranchers located below the Town of Greenville as a supplemental irrigation supply. Defendant owns no irrigation ditches with the possible exception of the Bradford Ditch and one pipe conduit but releases the water from the Round Valley Dam allowing it to flow along the natural channel of North Canyon Creek into Wolf Creek, where it is diverted by a weir constructed by the water users. Practically all irrigation consumers are owners of lands riparian to Wolf Creek and claim their respective shares of all waters flowing therein. However, this stream seldom, if ever, yields any substantial volume of water after the first day of July of each year although, usually, the actual natural flow may be relied upon to provide one early irrigation for each landowner. Additional water therefore is required from defendant. The main difficulty in the past, however, has been to ascertain a proper basis of measuring the stored water and collecting for that furnished. Heretofore, when waters have been spilled from Lake Bidwell, many of the riparian landowners have refused to pay for it upon the ground that it was natural stream flow of Wolf Creek. At other times,

the water users have had disputes among themselves as to their rights to take the discharged storage waters. The whole situation has now resolved itself into a status of mutual distrust. The consumers own and irrigate in part 1,250 acres of land and must have water for the proper maturing of grain, hay, meadowland and pasture. The irrigation season is late, commencing about May or June first, and is short, usually being over by September first. The class of crops grown in this area is such that the users can afford to pay but little for the service. The defendant has water available and is willing to sell it if any arrangements can be made for reimbursement. The actual cost to the utility of delivering this agricultural irrigation service is nominal and incidental to the domestic water system supplying Greenville, as practically no extra labor is required other than releasing the water on schedule at the dam. The users will continue to take care of their own diversion and distribution. Release of storage water in the past has been handled by the regular force operating the domestic service.

For years efforts have been made to deliver and charge for water strictly upon a measured basis. Because of the large losses by seepage, percolation and evaporation from the creek bed and leakage, especially at the weir, this method has caused endless disputes and cannot be worked out practically under existing conditions unless both utility and consumers are willing to spend large sums of money for measuring devices, ditches and zanjeros. None of this is necessary, however, as delivery upon a flat rate per acre basis with a guarantee by the users to cooperate with the defendant and pay for the water will be all that is needed to end this more or less long-standing water controversy. Defendant is

loath to spill the amount of water necessary to cover the transmission losses; however, he should realize that it is practically impossible to operate any irrigation system without comparatively large water losses which must be absorbed by the utility. Compensation therefor is provided for in the rate structure. It should also be noted that some of the largest irrigation systems in this State operate upon a flat rate acreage basis and have been delivering water successfully for years by this method.

Defendant should adopt standard rules and regulations for irrigation service providing, among other things, for the filing with the company on or before the first of May of each year by each water user of a written application for irrigation water which should show the location, ownership and acreage of lands to be served, kind of crops, number of irrigations desired and the approximate date each such run of water is desired. Blanks for this purpose should be provided by the utility. The rules should also provide for the establishment and publication by notice, or otherwise, by the utility of a delivery schedule upon a basis of rotation. By following out this method, the creek channel may be used and the pond above the weir filled by the company and maintained with minimum seepage losses which will necessarily have to be borne by the utility, provided the consumers put this structure in a fair and reasonable state of repair and so maintain it. A deposit of one-quarter of the total yearly charge per acre should be made by each consumer upon the filing of the annual water application; the balance payable in installments as hereinafter provided in the rate schedule. An arbitrary date, such as June 15th for instance, should be adopted and agreed upon by the utility and the consumers as the time when

it shall be mutually assumed that there is insufficient natural flow in Wolf Creek to provide beneficial irrigation to the users to the end that, when storage waters are released, the waters of Wolf Creek subsequent to said date shall be considered as waters discharged from the dam by the utility. Should a date not be agreed upon as herein suggested, such a date will be fixed by the Commission upon request of either the water users or the utility.

Defendant should discharge sufficient water to provide each acre applying for service a proper depth of water for each irrigation. It should also be noted at this point that the waters of Lake Bidwell have been dedicated to the public use for mining, domestic, irrigation and other purposes many years ago and the present efforts of defendant to maintain a certain volume of water in said lake for the propagation or culture of black bass for commercial purposes is not a public use of said waters and is therefore entirely secondary in priority of demand to the requirements of utility consumers.

The deadlock between irrigation water users and the utility has been a serious detriment to both. The ranchers have not received the water and the utility has lost valuable revenue which it might just as well have received at practically no costs in addition to its normal operating outlay. The plan suggested herein is simplicity itself but it should be borne in mind by the consumers that, unless they cooperate fairly with the company and agree among themselves as to the equitable distribution of the water, the plan cannot succeed. The users should appoint some individual as water master and place him in full and complete charge of delivery and allocation of water to those users entitled thereto. Unless such arrangements are made, it cannot be expected that this

Commission will insist upon the continuance of water deliveries by defendant but will be forced, upon proper application therefor, to permit the discontinuance of all future irrigation service.

One other matter remains and that is the irrigation service through the Bradford Ditch and the steel pipe line to certain consumers for irrigation purposes. Admittedly, service through the above ditch and pipe line is more costly than the general irrigation service. However, the users of this water cannot afford to pay any higher rates than their neighbors and, in view of the fact that the one or two users on this pipe line have agreed to maintain a portion of the transmission facilities, it appears that this equalizes, as fairly as may be, the general utility costs and that furthermore under such arrangements this service should not be abandoned but should be maintained and charged for at the same rates assessed for the other irrigation service. There is no unfair discrimination, either as to service or charges, under such circumstances.

The class of crops which can be profitably grown in this section of the State under present practices is such that no very high charge for water can be paid by the users who are mainly dependent upon cattle-raising and some dairying for a livelihood. Under existing depressed economic conditions, the matter of rates is still most vital. The schedule of charges established in the following Order has attempted to reconcile all of the adverse conditions affecting both consumers and the utility and should be reasonable to all considering the circumstances. As soon as the price level of farm commodities recovers sufficiently, the Commission may entertain an application for a readjustment of these rates.

In conclusion it should be stated that the plan for irrigation water distribution as outlined herein should be given a fair trial to indicate, if possible, whether or not the consumers and the utility can cooperate for their mutual advantage. In the event it is demonstrated that such cooperation is not possible, there remains but one other solution. The consumers may construct at little expense their own diversion canal heading at some feasible point on North Canyon Creek following the hillside toward their land holdings lying easterly and below the Town of Greenville, where the waters may be discharged and again picked up for service to the various ranchers, thus obviating the use of the present Wolf Creek weir for diversion of stored water from Lake Bidwell and at the same time eliminating a large amount of the present seepage losses and waste of water. This furthermore would eliminate to a large extent disputes among irrigators over the right to use the utility waters released from the dam.

The allegation of refusal by defendant to serve irrigation consumers in 1931 was not seriously pressed as all parties conceded that the water shortage of that year was one of the worst of record in the State and that the water supplied by the company was all that reasonably could be made available.

O R D E R

Complaint having been filed as entitled above, public hearings having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED as follows:

1. Within thirty (30) days from the date of this Order, A.-R. Bidwell, operating under

the fictitious firm name and style of Bidwell Water Company, shall file with this Commission the following schedule of rates to be charged for all agricultural irrigation service supplied by him to his consumers in and in the vicinity of the Town of Greenville, Plumas County, and rendered subsequent to the date of this Order:

RATE SCHEDULE

Per acre per year-----\$2.00

Twenty-five per cent (25%) of the above charge shall be due and payable on the first day of May of each year upon the filing of an application for water service; the balance thereof shall be payable at the end of the irrigation season or not later than the first of September.

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2. Within thirty (30) days from the date of this Order, said A.R. Bidwell shall file with this Commission rules and regulations governing irrigation service which shall provide, among other things, for the filing with the water company by each water user of a written application for irrigation service, such application to be filed on or before the first day of May of each year and to show the location, ownership and acreage of lands to be served, a statement showing the kind of crops to be irrigated, number of irrigations required and the approximate date each run of water is desired by applicant; said rules and regulations shall also provide for the delivery of water for irrigation purposes upon a rotation basis.

IT IS HEREBY FURTHER ORDERED that the above specific provisions, together with other and general rules and regulations, shall become effective upon their acceptance for filing by the Railroad Commission.

For all other purposes the effective date of this Order

shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 27th day
of March, 1933.

C. L. Jones

Leon Whissell

W. A. Cox

W. B. Haines

M. J. [unclear]

Commissioners.