

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Decision No. 2591

Gridley Water Users Association,  
W. G. Coppernoll, C.W. Van Note,  
W. L. Harkey, F. A. Cowee, James  
Craig, R. K. Craig, D.D. Gilstrap,  
Chris Duns, Charles Baltimore,  
O. T. Shirley, U. Serviss, and  
George W. Tolley,

Complainants,

vs.

Case No. 426.

Sutter Butte Canal Company, a  
Corporation, Gridley Land and  
Irrigation Company, a Corporation,  
California Irrigated Land Company,  
a Corporation, Irrigated Land Com-  
pany of California, a Corporation,  
and W. E. Gilstrap,

Defendants.

W. E. Duncan, Jr., for Complainants.  
Henry Ingram, Isaac Froham and W.H. Carlin,  
for Sutter Butte Canal Company, Defendant.  
A. E. Hewitt, for Gridley Land & Irrigation  
Company and W. H. Gilstrap, Defendants.  
Walter H. Linforth and P. L. Benjamin, for  
Irrigated Land Company of California, Defendant.

Edgerton, Commissioner.

O P I N I O N

Complainants are the owners of land in Butte County. These lands are irrigated with water obtained from the main canal of Sutter Butte Canal Company, and distributed through a system of laterals. These laterals are seven in number and aggregate about 20 miles. The complaint asks this Commission to order Sutter Butte Canal Company to permanently take charge of, maintain and operate all of these laterals.

The 7 laterals which are involved in this complaint are more particularly described as follows:

1. COLONY NO. ONE (1) LATERAL OR MAIN BRANCH DITCH:

Commencing at a point on the West bank of "Main Butte County Canal" near the Northeast corner of Southeast Quarter (S.E.  $\frac{1}{4}$ ) of Section Five (5), Township Eighteen (18) North, Range Three (3) East, M.D.B. and M.; running thence Westerly about three quarters ( $\frac{3}{4}$ ) of a mile; thence Southwesterly about one-half ( $\frac{1}{2}$ ) of a mile; thence Southerly about two (2) miles, making a total length of approximately three and three-quarters ( $3\frac{3}{4}$ ) miles.

2. WEST BRANCH OF COLONY NO. ONE (1) LATERAL OR MAIN BRANCH DITCH:

That certain irrigation ditch commencing at a point on the Colony One Ditch at the North line of Lot Thirty (30) in Gridley Colony; thence Westerly and Northerly to the West line of the right of way of the Southern Pacific Railroad Company. Said West Branch of Colony No. One Ditch being about one-half ( $\frac{1}{2}$ ) mile in length.

3. COLONY NO. FOUR (4) LATERAL OR MAIN BRANCH DITCH:

That certain irrigation ditch commencing at a point on the West bank of "Main Butte County Canal" near the center of Section Twenty-nine (29), Township Eighteen (18) North, Range Three (3) East, M.D.B. and M.; thence running Southerly about one-half ( $\frac{1}{2}$ ) of a mile; thence Southwesterly about three-fourths ( $\frac{3}{4}$ ) of a mile; thence Westerly about one-fourth ( $\frac{1}{4}$ ) of a mile; thence Southwesterly about One (1) mile; thence a little South of West about two (2) miles; thence Southerly about one and one-half ( $1\frac{1}{2}$ ) miles. Said Colony No. Four Ditch being about Six (6) miles in length.

4. COLONY NO. THREE (3) LATERAL OR MAIN BRANCH DITCH:

That certain irrigation ditch commencing at a point on the West bank of the "Main Butte County Canal" near the center of

the Northwest Quarter (N.W.  $\frac{1}{4}$ ) of Section Twenty-nine (29), Township Eighteen (18) North, Range Three (3) East, M.D.B. and M.; thence running Westerly about three-quarters ( $\frac{3}{4}$ ) of a mile; thence Southerly about three-eighths ( $\frac{3}{8}$ ) of a mile; thence Westerly about one-half ( $\frac{1}{2}$ ) of a mile. Said Colony No. Three Ditch being One and five-eighths ( $1\frac{5}{8}$ ) miles in length.

5. COLONY NO. FIVE (5) LATERAL OR MAIN BRANCH DITCH:

That certain irrigation ditch commencing at a point on the West bank of the "Main Butte County Canal" near the Northwest corner of Section Nine (9), Township Seventeen (17) North, Range Three (3) East, M.D.B. and M.; thence Westerly about one-quarter ( $\frac{1}{4}$ ) of a mile; thence running Southerly about one (1) mile; thence Southwesterly about one-half ( $\frac{1}{2}$ ) of a mile; thence Southerly about one-half ( $\frac{1}{2}$ ) of a mile. Said Colony No. Five Ditch being about two and one-quarter ( $2\frac{1}{4}$ ) miles in length.

6. NORTH BRANCH OF COLONY NO. FOUR (4) LATERAL OR MAIN BRANCH DITCH:

That certain irrigation ditch commencing at a point on Lateral No. Four near center of Section Thirty-one (31), Township Eighteen (18) North, Range Three (3) East, M.D.B. and M.; thence running Westerly about one and five-eighths ( $1\frac{5}{8}$ ) miles; thence Southerly about one-half ( $\frac{1}{2}$ ) mile. Said North Branch of Colony No. Four Ditch being about two and one-eighth ( $2\frac{1}{8}$ ) miles in length.

7. LATERAL NO. SIX (6) DITCH:

That certain irrigation ditch commencing at a point on the "Main Butte County Canal" and extending to a point on the North line of the Northwest quarter of Section Seven (7), Township Seventeen (17) North, Range Three (3) East, M.D.M.; a distance of approximately four (4) miles.

The Commission is asked to order Sutter Butte Canal Company to take over, maintain and operate these laterals. The Sutter Butte Canal Company in its answer denies that it owns these laterals or that it is in any way obligated to maintain and operate them, contending that its obligation as a public utility is confined to supplying water through its main canal, and that it never has and is under no obligation to distribute the water beyond its main canal.

The answer of Gridley Land and Irrigation Company states that that Company owns and operates all of the laterals described in the complaint other than Colony No.3 Ditch, Colony No.5 Ditch and Lateral No.6 Ditch. Gridley Land and Irrigation Company claims that these laterals were originally constructed by Irrigated Land Company of California and California Irrigated Land Company and were thereafter conveyed to Gridley Land and Irrigation Company.

Obviously, if these laterals were owned by Gridley Land and Irrigation Company, this Commission cannot make an order, such as is requested in the complaint, that Sutter Butte Canal Company take over, maintain and operate these laterals. Considerable evidence was introduced with reference to the title to these laterals, complainants contending that the title rested in Sutter Butte Canal Company. Gridley Land and Irrigation Company just as vigorously claimed that it owned these laterals. Sutter Butte Canal Company also claimed that the ownership was in Gridley Land and Irrigation Company.

The fact is that the Commission finds Gridley Land and Irrigation Company in possession of these laterals, other than the three above mentioned, and is actually engaged in operating them under claim of ownership.

I believe it is not for this Commission to determine where the title to these laterals actually rests. Gridley Land and Irrigation Company, which claims ownership and is actually operating these laterals, is, of course, a public utility and subject to the jurisdiction of the Commission in the operation of these laterals. The Commission cannot, however, order Sutter Butte Canal Company to take over and maintain the laterals which Gridley Land and Irrigation Company claims to own and is operating. As to these laterals, therefore, the complaint will have to be dismissed.

Of the remaining three laterals, namely, Colony No.3 Ditch, Colony No.5 Ditch and Lateral No.6 Ditch; I believe the record is clear that the obligation to maintain and operate Colony No.3 Ditch and Lateral No.6 Ditch rests upon Sutter Butte Canal Company. This company has in the past voluntarily taken over and assumed the management and control of these two ditches. The Commission is advised that the Sutter Butte Canal Company is at present continuing to operate these two laterals, and so there is no occasion for an order directing them to do so.

With reference to Colony No.5 Ditch, there is practically no evidence in the record. I feel, therefore, that I cannot make any finding one way or the other with reference to the obligation to maintain and operate this lateral. The Commission is advised that the settlers have in the past and are now continuing successfully to manage this lateral themselves. Under these conditions it would seem, therefore, that there is no necessity of making any finding at this time as to the company or person upon whom the obligation to maintain and operate this lateral rests.

The complaint in this proceeding also asks the Commission to direct Sutter Butte Canal Company to enlarge Colony

No. 4 Ditch and Colony No. 5 Ditch. There is no evidence at all introduced by complainants with reference to this part of the complaint, and the Commission is accordingly not in a position to make any order with reference to this matter.

For the reasons set forth in this opinion, I recommend that the complaint be dismissed, and submit herewith the following form of order:

O R D E R

This matter having come on regularly for hearing and the Commission being duly advised in the terms,

IT IS HEREBY ORDERED that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

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 13<sup>th</sup> day of July, 1915.

H. S. Howland

Edwin O. Egerton

Frank R. Berlin  
Commissioners.