

Decision No. 3395

ORIGINAL

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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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WILLIAM LEECAN, et al.,
Complainants,

-vs-

THE TRUCKEE RIVER GENERAL
ELECTRIC COMPANY,

Defendant.

Case No. 939.

Ben P. Tabor for complainants.

Goodfellow, Bells, Moore & Orrick,
by C. J. Goodell, for defendant.

BY THE COMMISSION:

O P I N I O N.

The complaint as amended at the hearing held at Cool, El Dorado County, alleges that defendant's flumes and ditches are in such poor repair that they do not carry sufficient water to the complainants who are irrigators served by defendant; that 100 miner's inches or more of water is lost through such neglect; that in two places water escaping from defendant's system injures the public road and the traveling public; and also that manure is allowed to get into defendant's ditch from the ranch of J. M. Steever, one of the complainants, near Cool.

The answer alleges that the flumes and ditches in question have been repaired since the filing of the complaint in the particulars complained of; that they now carry

sufficient water; that the manure does not get into the ditch through its neglect; that the water below the point of pollution is not sold for domestic use but only for irrigation; and that the pollution can be prevented by the expenditure of about \$10.00.

At the hearing, plaintiffs admitted most of the allegations of the answer, the issues being limited by agreement of the parties to the questions of the pollution of the water and its escape and injury of the public roads in two places. It was admitted that the loss of water at the places mentioned, which was first complained of by amendment at the hearing, was not sufficient in extent to interfere with the service to complainants. Defendant gave assurance, however, that its ditch and flume would be repaired at the two points mentioned, thus removing said causes of complaint. On the remaining question of the pollution of water, the only controversy arises as to the duty of defendant to furnish pure water for domestic uses.

Defendant is engaged in serving water for domestic purposes to the inhabitants of Georgetown, far above the point of pollution. All of its regular service below that point is for irrigation use, which the parties agree would not be injuriously affected by the pollution complained of. The only consumer below the point of pollution who uses the water for any domestic purposes is complainant, William Lehman. Defendant has provided no means for domestic service in the vicinity of Mr. Lehman's home. Its schedule of rates filed with the Commission does not include any rates for domestic purposes except in Georgetown. He laid a 2 inch pipe and takes water from defendant's

main canal through the two inch pipe to his house about 1500 feet away and stores it in a tank. He installed a three quarter inch pipe through which the water is taken from the tank and distributed through his house, in which are installed all of the modern conveniences for the domestic use of water, and where it is used for bathing, laundry, toilet and cooking purposes, but not for drinking. Drinking water is supplied from a nearby spring. The testimony does not show that water from the spring or other similar sources could not also be used for cooking and other domestic purposes. Mr. Lehman purchases 2 inches of water which is stated in his application for service to be for irrigation use between May 1 and September 30, for which he pays the established rate of \$30.00 per inch for the season. He testified that he asked Mr. Devore, defendant's superintendent, if defendant would serve him water for domestic purposes and Mr. Devore replied that he thought they would and if so that the rate would be about \$1.00 a month extra - he did not know exactly. Mr. Lehman replied that he thought the rate too high and that he paid enough when he paid \$30.00 an inch for water. Without further discussion he subsequently piped his house for domestic water with the knowledge of Mr. Devore and has been using the water in his house as stated ever since. Defendant offered no testimony.

It is clear that defendant did not offer or agree to serve water for domestic purposes and is not paid therefor. There being no obligation upon defendant to serve domestic water, polluted or pure, we cannot properly require it to remove the cause of pollution. No doubt the pollution

can be prevented by private arrangement between Mr. Lehman and Mr. Steever and at a very small expense.

O R D E R.

A PUBLIC HEARING HAVING BEEN HELD in the above entitled case and the same having been submitted and it being now ready for decision,

IT IS HEREBY ORDERED that the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this 2nd day of ~~May~~ *June*, 1916.

Max Thelen

A. J. Howard

Stan P. Rubin

Commissioners.