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Decision No. _____.

ORIGINAL

Decision No. 36005

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

R. J. Robinson,

Complainant,

v.

Case No. 963.

Mrs. F. A. Green,

Defendant.

R. J. Robinson in propria persona.
C. H. Braynard and C. F. Kimball
for defendant.

BY THE COMMISSION.

O P I N I O N

This case is brought by R. J. ROBINSON, a farmer and stock raiser in the vicinity of Ono, Shasta County, California, against his neighbor, Mrs. F. A. Green, requesting this Commission to order Mrs. Green to furnish complainant with two miner's inches of water for twenty-four hours twice a week.

A public hearing was held at Redding August 15, 1916. From the evidence it appears that defendant obtains about fifty inches of water from the stream known as Jerusalem Creek, by means of a ditch and flume approximately six miles long; and that, with the exception of one year, complainant has been purchasing and using water for the last sixteen years from defendant and her predecessors in interest for the irrigation of his plot of cultivated land. The amount of land irrigated by complainant has varied from one to two acres; for the last six years he has not irrigated more than one acre.

Defendant contended that this Commission had no jurisdiction, upon the theory that defendant was not a public utility and that she had merely been selling surplus water to complainant. There was a sharp conflict of testimony on the question of whether or not defendant had been selling complainant only the surplus water, but under our view of the case it is not necessary to decide this point.

For ten years previous to the acquisition by defendant of her property, complainant had been buying water from her predecessors in interest, and, accordingly, he had certain rights which Mrs. Green was bound to respect when she bought the property. Moreover, Mrs. Green has not only been receiving a very adequate compensation from the complainant for the water he has obtained from her, but she has been receiving Twenty-five (\$25.) Dollars per year from each

of three stock raisers whose property lies below defendant's ranch, and who have been using her surplus water for watering their stock.

Moreover, the testimony of Milo H. Brinkley, one of the Commission's engineers, shows that approximately fifteen inches of water in defendant's ditch was running to waste at the time he made his examination of the premises, and that her flume was leaking badly in several places.

From all the evidence we find that defendant is a public utility and as such is under an obligation to furnish complainant the amount of water he has asked for in his complaint, and we further find that the sum of Thirty (\$30.) Dollars per year, which complainant paid defendant for three years, is ample compensation for the services rendered.

O R D E R

R. J. ROBINSON having filed complaint with this Commission for an order requiring defendant to furnish him two miner's inches of water for twenty-four hours twice a week,

And a public hearing having been held, and this Commission finding that defendant is a public utility under the terms of the Public Utilities Act and that complainant is entitled to the amount of

water asked for in his complaint.

IT IS HEREBY ORDERED that defendant be, and she is hereby, ordered to furnish complainant with two miner's inches of water for twenty-four hours twice a week for the sum of Thirty (\$30.) Dollars per annum.

Dated at San Francisco, California, this 31st day of August, 1916.

Max Thelen
H. S. Loveland
W. L. Gordon
Edwin O. Edgerton

Commissioners