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Decision No. ✓

Decision No. 3808

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application
of FRED F. DUSTERBERRY, for a
Certificate of Public Convenience
and Necessity.

} Application No. 2331

Peter J. Crosby, For Applicant.

BY THE COMMISSION:

O P I N I O N

This is an application by Fred F. Dusterberry, for a certificate that public convenience and necessity require the furnishing by him of water to the inhabitants of a limited portion of the Town of Centerville, Alameda County.

At the public hearing which was held in Centerville, July 3rd, 1916, applicant testified that he has been furnishing water to about a dozen of his neighbors in Centerville, in addition to two tanks maintained by the County of Alameda for road sprinkling, from a well and pumping plant constructed by him on his premises. It further appeared from the testimony of a large proportion of applicant's consumers that he has rendered excellent service, and that his system was installed when the service of the water company then supplying the Town of Centerville was extremely unsatisfactory.

It is true that applicant had never obtained a franchise from the County of Alameda and that he had never obtained a certificate of public convenience and necessity

from this Commission, but it also appears that his failure to do so was due simply to his lack of knowledge of the law and that upon the matter being called to his attention, he promptly filed the above entitled application. At the hearing applicant expressed his desire to apply to the County of Alameda for a franchise; and said franchise has now been granted, authorizing him, his successors and assigns, for the term of twenty-five years, to lay and maintain water pipes, with all necessary cross pipes and connections, in, across and along the following road and highway of said County of Alameda, to-wit:-

"Beginning at the intersection of County Road No. 1948 (popularly known as Chicken Lane, or Dusterberry Road) with the main road between the Towns of Centerville and Irvington; running thence in a Southeasterly direction, in a continuous line, along said County Road between said Towns of Irvington and Centerville to the intersection (popularly known as Chadbourne's Corner) of County Road No. 49 with the said main County Road between the said Towns of Centerville and Irvington".

It further appears that applicant does not desire to extend his system or to supply any new consumers excepting those whose lots at present front on his mains, and that the Centerville Water Company is ready and willing to serve other consumers in applicant's vicinity.

O R D E R

FRED F. DUSTERBERRY, having applied to this Commission under Section 50 of the Public Utilities Act for permission to exercise the rights and privileges under a franchise granted him by an ordinance of the County of Alameda, passed September 25th, 1916, authorizing him, his successors and assigns, to lay and maintain for the term of twenty-five years water pipes, with all necessary cross pipes and connections, in, across and along that portion of the County public road and highway described in the foregoing opinion; and a public hearing having been

hold and the matter being now ready for decision;

The Railroad Commission of California declares that public convenience and necessity require the exercise by applicant of the rights and privileges granted him by said franchise; provided that Fred F. Dusterberry shall, within sixty days from the date hereof, file with this Commission a stipulation duly agreeing that he, his successors and assigns, will never claim before the Railroad Commission of the State of California, or any other public authority, any value for the said franchise granted by said County of Alameda in excess of the actual cost thereof, which cost shall be stated in said stipulation, and shall have secured from this Commission a supplemental order herein, declaring that such stipulation, satisfactory to this Commission, has been filed.

Dated at San Francisco, California, this 21st
day of October, 1916.

Max Thelen

Alfred Gordon

Edwin O. Edgerton

Frank R. Holm

Commissioners.