

Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Gridley Water Users' Association et al.,)	
)	
Complainants,)	
)	
vs.)	
)	
Sutter Butte Canal Company, et al.,)	
)	
Defendants.)	

Case No. 426

BY THE COMMISSION.

ORDER DENYING APPLICATION
FOR REHEARING.

After a careful examination of all of the points made in the application for rehearing herein, and a review of the evidence submitted in the case, it is our conclusion that this application should be denied.

In addition to what was said in the opinion preceding the original order herein, attention is called to additional reasons for dismissing the complaint.

The contention of plaintiffs in effect is that defendants own the lateral ditches which we are asked to order said defendants to take over and operate; that if the defendants do not own these lateral ditches they have an option to take them over, and the further contention is made that defendant has agreed to deliver water at the land of plaintiffs.

There is not sufficient evidence before this Commission upon which any conclusion as to ownership of these lateral ditches can be based, and in view of the admissions of plaintiffs as to serious doubt as to who does own these ditches, and the fact

that they are in the possession of, and being operated by, under claim of ownership, parties other than defendants, this Commission cannot at this time declare the ownership to be in defendants.

Even assuming that defendants have options permitting them to take over and operate these lateral ditches and that they have agreed to deliver water at the land of plaintiffs, which must be an assumption only, as there is not sufficient evidence before the Commission to establish this as a fact, but assuming for a moment that this assumption is well founded, then a careful examination of the whole record in this case makes it clear that plaintiffs have, by their admissions and contentions, made it impossible for this Commission to issue an order as prayed for in this case.

The only grounds upon which such an order could be based are that consumers are not being given adequate or proper service or that the rates charged for such service are unreasonable. At the hearing plaintiffs admitted that the service was good and insisted that rates should not be considered in this case.

Apparently plaintiffs proceeded upon the theory that if the Commission ordered defendants to take over and operate these lateral ditches then the company could be compelled, under its contracts, to serve water at not to exceed \$1.00 per acre per year. But, bearing in mind that the Commission is to fix just and reasonable rates for water, regardless of contracts, and to prescribe reasonable service, it must be concluded that where these plaintiffs have admitted that service is good and insist that we do not consider rates, that we are left no basis upon which to act.

What was said in the opinion preceding the original order herein and what has just above been said is not intended

as a pronouncement by the Commission that it has finally decided the status of these laterals nor that it will not consider either service or rates to be charged by defendants for water or rates to be charged for service through these laterals. It is only held herein that this complaint and the evidence adduced at the hearing thereon does not warrant this Commission in proceeding further.

The petition for rehearing is hereby dismissed.

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

Max Theben

Edwin O. Edgerton

Frank P. Dolan

Commissioners.