

Decision No. _____

ORIGINAL

Decision No. 5363

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Ed. Creighton, et al.	(
Complainants,)	
vs.	(Case 1199
Hugh A. Boyle and Ida M. Boyle,)	
his wife,	(
Defendants.)	

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In the Matter of the Application)	
of Hugh A. Boyle for an order	(
authorizing him to discontinue)	Application 3604
service to certain water users at	(
Tiburon, California.)	

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Ed. Creighton,
for complainants

Harry F. Sullivan,
for applicant.

GORDON, Commissioner.

O P I N I O N

Complaint in the above entitled Case was filed February 2nd, 1918, and sets forth in effect that complainants have been greatly inconvenienced and damaged by entire lack of water at intervals during several weeks prior to the filing of the complaint; that at best the water service is inadequate and unsatisfactory; that defendants visit the district supplied by them only to collect water rates, and that in general the system receives little or no attention. Complainants ask the Railroad Commission to order defendants to provide an adequate and continuous water supply and to provide for proper operation of the system.

The Application to discontinue service was filed on March 16th, 1918. Authority is requested to discontinue water ser-

vice to eleven of applicant's consumers, all situated on Marwest Street, between the bridge and the railroad station at Tiburon.

Applicant alleges that due to lack of rainfall the springs which supply the system will not be sufficient to provide water for all his consumers; that he is not financially able to develop or construct additional sources of supply, and that the eleven consumers whose service it is desired to discontinue are in the position to obtain water at little or no expense from the Bolvedere Water Company. In addition to discontinuing service to such consumers, applicant desires authority to put in effect a rule prohibiting any of his customers using water for the cultivation of flowers, plants or trees, and a rule requiring that consumers whose services are metered shall be held responsible for all damage to the meter.

For convenience the above Complaint and Application were consolidated and public hearing was held April 5th, 1918, at which considerable testimony relative to the present condition of the system was offered by complainants. Both matters were submitted for final decision, pending investigation and report by the Commission's engineer, it being stipulated that said report would be received in evidence.

After review of the testimony and evidence in these matters I believe the following is a correct statement of the facts relative to this situation.

This system derives its supply from Surface Springs. Its service area covers two distinct districts. Boyle reports that at present water rates are collected from some forty-two consumers. Monthly receipts are stated to be \$70.00. In 1913 the gross revenue was reported as \$90.00 per month. Beyond the expense of collecting rates there appears to be little expended for operation. A description of the system is found in Decision 328, Application 212 and Case 306, Vol. 1, Opinions and Orders of the Railroad Commission of the State of California. Only twelve of the services

are metered at present. A considerable number of these meters are out of order and fail to register. The Commission's engineer reports a total of fifty-five houses under the system which when fully occupied total seventy-four separate consumers. At present vacancies account for about eighteen consumers. None of these consumers are engaged in commercial gardening or have unusual facilities for using water. The premises served consist of substantial homes with lawns, flowers and shrubs, and an occasional small garden plot. A number of the houses are rented as two or three family flats.

While there has been some decrease in the flow from the springs this year due to light rainfall, the evidence indicates a present yield sufficient for the absolutely necessary requirements providing all waste is checked and the system properly operated. Boyle testified that he visits the district about every month for a day, but that during his absence no one was employed to operate the plant. Under Decision 328, in Application 212, decided November 12th, 1912, Boyle was permitted to meter all his consumers and charge meter rates for water service. Although on a number of occasions subsequent to 1912 Boyle has been advised to meter the system and arrange for continuous supervision of the plant, nothing has been done beyond the installation of a few meters noted above. Notwithstanding these unsatisfactory water conditions, some twelve or more new houses have been constructed under the system during the last few years, most of them on land purchased from Boyle. I am convinced that satisfactory water service will never be rendered by this system until it is completely metered and a competent person placed in continuous charge thereof, and shall recommend that such be done.

Relative to the application to discontinue service to some eleven consumers on Marwest Street, no showing was made by applicant that such consumers could easily and at little or no expense obtain water service from the Belvedere Land Company or in fact from any other source except that from which they are now supplied.

The facts appear to be as follows:

On Marwest Street and adjacent to Boyle's consumers on this street are situated some eighteen consumers who are supplied wholesale by the Belvedere Land Company. These consumers are a voluntary association made up of individuals who have contributed to the cost of laying their supply and distribution pipes and who each bear a proportion of the cost of the water service. The supply is delivered through meter by the Belvedere Land Company at the outer edge of its service area and from this point conveyed through a 1½" supply main to the consumers. This situation is fully explained in Decision No. 774, Case 373, decided July 2nd, 1913, Hugh A. Boyle vs. Belvedere Land and Water Company, et al; wherein it was held that sale of water by the Belvedere Land and Water Company to the above mentioned voluntary consumers did not constitute an invasion of the territory supplied by Boyle. It is to be noted that most of the parties of this mutual association were former patrons of the Boyle system. The Commission's engineer reports that the pipe line supplying this association is capable of giving a fair degree of service to twice the number of consumers now supplied therefrom provided an equalizing storage tank is installed on the line. This Commission has no power, however, to order that such mutual association take on the eleven consumers under consideration. It is also reasonable to presume that any new member of this association would be required to pay a portion of the cost of the existing plant before he could obtain service.

In reference to the general water situation in Tiburon and vicinity it was testified that the Marin Municipal Water District intended at some future date to enter this territory through the purchase of the Belvedere Land and Water Company's system. When this is accomplished it will be a most satisfactory solution of present conditions, but there appears to be no certainty when the event will be consummated, and the present service conditions under this particular system do not warrant any temporizing. The rules which Boyle desires to place in effect will not be applicable

to the character of service which is contemplated herein.

I recommend the following order:

O R D E R

HUGH A. BOYLE having made application for authority to discontinue water service to some certain consumers supplied through the water system owned by him and to put into effect certain rules and regulations relative to the operation of said system, and formal complaint having been filed with this Commission by a number of consumers of the said system, alleging that water service conditions were extremely unsatisfactory, and petitioning this Commission to order said Hugh A. Boyle to operate said water system in such a manner as to provide a continuous and dependable supply of water, and public hearing having been held and the Commission being fully apprised in the premises,

IT IS HEREBY ORDERED that said application to discontinue service to certain consumers of said water system be and the same is hereby denied, and

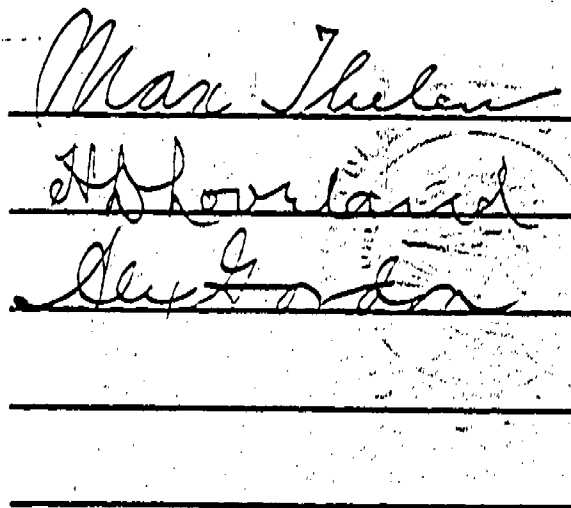
IT IS FURTHER ORDERED that said Hugh A. Boyle install meters on each and every one of the services of his water consumers and take immediate steps to provide means of operating the water system owned by him so that an adequate, dependable and continuous supply of water can be furnished to all of his consumers.

IT IS FURTHER ORDERED that Hugh A. Boyle so provide that a responsible representative will reside in or nearby the district served. His duty will be to inspect the plant at brief

periods and to perform all the essential functions in operation of the same. Patrons are to be notified that any complaint should be brought to the attention of this representative who must be given authority to act for Boyle.

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 30th day of April, 1918.

Max Thelen
A. H. Stewart
A. G. Gordon

Commissioners.