

Decision No. 6226

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

AMERICAN COLONY CANAL AND
IRRIGATION COMPANY, et al.,

Complainants,
vs.

FRESNO CANAL AND LAND
CORPORATION,

Defendant.

Case No. 1230.

M. K. Harris for complainants.
Short & Sutherland, by W.A. Sutherland,
for defendant.

BY THE COMMISSION.

O P I N I O N.

The complaint herein alleges, among other matters, that during the irrigation season of 1917 and until after the filing of the complaint on May 8, 1918, defendant refused to deliver to the complainants herein the amount of water to which they were entitled; that defendant discontinued all of its 1917 irrigation deliveries on August 8th, although it had water available after that date, and that its service has been inadequate and irregular. The answer admits that other water users have, at times, taken more than their share of water out of defendant's canal (thus depriving complainants of their portion), but alleges that defendant has taken steps to remedy this condition.

A public hearing in this proceeding was held in Bakersfield on February 28, 1919, before Examiner Bancroft.

From the evidence herein it appears that the complainants, comprising some 38 farmers in Fresno County, owning a total of over 2000 acres, obtain their water from the defend-

ant at a point locally known as the Walnut Avenue Headgate, from which point it is conducted through the system of American Canal and Irrigation Company, a mutual ditch company owned by the other complainants; that during the irrigation season of 1917 defendant failed to furnish complainants with the amount of water called for by their contracts and that the water which was furnished was delivered with reprehensible irregularity, and often without proper notice to complainants, which frequently resulted in their not being able to make proper use of the water when they did receive it. The evidence also shows that one reason why the delivery of the water was inadequate and uncertain was that the portion of defendant's canal extending above said Walnut Avenue Headgate for a distance of about four miles was not at that time properly cared for or controlled by defendant, in that no ditch tender properly looked after said portion of the canal, and that other parties along the line of said canal took from it a much greater amount of water than they were entitled to. During the year 1916, defendant-employed complainants' ditch tender to look after this portion of the canal and the results were apparently entirely satisfactory to complainants. It also appears that since the filing of this complaint, on May 8, 1918, defendant's service has been, on the whole, satisfactory, which may or may not have been due to the institution of this proceeding. One fact should be noted, however, which is that defendant has established a rotation system of delivery from the Walnut Avenue gate up to the intake, by which the water users receive their allotted amount of water twice a month instead of daily, which has prevented water users along this portion of the ditch from taking water to which they are not entitled. This has also resulted in a distinct saving of water to the company.

O R D E R.

A public hearing having been held in the above entitled proceeding and the matter having been submitted and being now ready for decision,

IT IS HEREBY ORDERED that FRESNO CANAL AND LAND CORPORATION shall hereafter always give to the complainants herein at least five days' notice of any change or irregularity in the delivery of water to said complainants, unless such irregularity results from causes which could not have been foreseen five days in advance, in which case defendant shall give complainants as much notice as possible.

IT IS FURTHER ORDERED that defendant continue in force its present rotation system of delivery and take such steps as may in the future be necessary to insure complainants receiving their just proportion of the water turned into the canal above the Walnut Avenue Headgate.

Dated at San Francisco, California, this 26th day of March, 1919.

Edwin O. Egan

A. L. Land

Frank R. Martin

H. C. Bunnage

Commissioners.