

ORIGINAL

Decision No. 6275

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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A. Gillison, Lee L. Gregory, Joe Staufcek and E. A. Wagner,

Complainants,

vs.

Case No. 1237.

Fred Devenney, Margaret E. Devenney and Gloyretta Water Company, John E. Otto, Clarence A. Otto, Aline Hinze,

Defendants.

In the matter of the application of D. W. Emmett and John Nichols for permission to sell and transfer a certain domestic water plant and system.

Application No. 4240.

In the matter of the application of John E. Otto, Clarence A. Otto, John Nichols, Fred Devenney, Margaret E. Devenney, Aline Hinze and Erika Hinze Vermeulen, heirs at law of E. W. Hinze, deceased, for permission to sell certain land and water system to John Nichols.

Application No. 4341.

E. C. Head for complainants in Case No. 1237; for applicants in Application No. 4240, and for Fred Devenney, Margaret E. Devenney, Aline Hinze and Erika Hinze Vermeulen in Application No. 4341.

S. M. Davis for John E. Otto, Clarence A. Otto in Case No. 1237 and for said parties and John Nichols in Application No. 4341.

Fred Devenney in propria persona in Case No. 1237.

BY THE COMMISSION:

O P I N I O N

The amended complaint alleges that defendants do not supply sufficient water for domestic purposes and al-  
leges that <sup>the</sup> <sup>delivered</sup> water is impure. The answer denies the allegations of the complaint as amended.

A public hearing was held by Examiner Westover at Santa Ana on the original complaint which made the same allegations against the three defendants Fred Devenny, Margaret E. Devenny and Glorietta Water Company, a fictitious name under which Fred Devenny served domestic water in territory just south of Santa Ana, Orange County, known variously as South Santa Ana, Glorietta and Delhi.

It developed at the hearing that water service was inadequate, pressure being poor and patrons being entirely without water at various times; also that the property had changed hands several times without authority of the Commission.

Under these circumstances complainants were advised to amend their complaint joining previous owners as parties defendant and to cause suitable application for authority to transfer the property to be filed. The case was continued for further hearing that all parties in interest might be before the Commission. The complaint was subsequently amended by joining the defendants shown in the title, and answer thereto was filed by John E. Otto and Clarence A. Otto only. The two applications above entitled were also filed.

A public hearing of the case upon the amended pleadings and of the two new applications was held by Examiner Westover at Santa Ana. All three proceedings were by stipulation of parties consolidated for hearing and decision.

In addition to the facts shown at the first hearing it appears that the Glorietta system referred to in Case No. 1237 and Application No. 4341 was constructed by H. W. Hinze about 1912 and transferred about March 15, 1915 to John E. Otto and Clarence A. Otto without applying for or receiving authority from the Commission therefor. On or about August 24, 1918, Mr. Hinze died leaving as his sole and only heirs his widow, Aline Hinze and his daughter, Erika Hinze Vermeulen.

February 8, 1917, the Ottos transferred the property to Fred Devenney and wife, also without applying for or receiving authority from the Commission. The Devenneys executed deed transferring the property to John E. Otto under date of November 13, 1918.

The Glorietta plant consists of a 2 h. p. engine, a  $1\frac{1}{2}$  inch pump, a well 395 feet deep, flowing at times, and two tanks of a capacity of about 2000 gallons each on towers about 20 feet high, with 48 services, a number of which are in directly connected with mains through services of others. The territory served is level and most of the services are in one story houses. The agreed purchase price is \$750.

It appears from the testimony that the principal need is more pressure and some one who can give more direct attention to the pumping equipment.

The property referred to in Application No. 4240, in which D. W. Emmett seeks authority to transfer to John Nichols, consists of well, 2 inch centrifugal pump, 2 h. p. motor, four storage tanks of an aggregate capacity of about

12,500 gallons and about 50 services in Emmett's Addition, lying about 2000 feet from the Otto system. The agreed purchase price is \$1,200.

Mr. Nichols has been operating the Emmett system for some time in the absence of Mr. Emmett, who is engaged in business enterprises in Ventura County. Mr. Nichols, who conducts a general store near these plants, is prepared to devote the necessary time and attention to them, and to make necessary improvements in equipment and service. It appears that the authorized transfer to him will result in better service with no increase in rates. The transfer of these properties as prayed will be for the public interest.

The parties are apparently satisfied as to title of the Otto property without administration of the estate of H. W. Hinze deceased. For regulatory purposes administration is not necessary at present, and we therefore do not require it.

We are asked to ratify and confirm previous transfers. As the Public Utilities Act makes unauthorized transfers void and provides no means for validating transfers of public utility property after they are made, it will be necessary for all parties to hereafter execute new conveyances as provided in the Order.

#### O R D E R

Public hearings having been held in the above entitled case and upon the applications above numbered, and all three matters having been submitted and being now ready for decision,

IT IS HEREBY ORDERED that John E. Otto, Clarence A. Otto and Aline Hinze and Erika Hinze Vermeulen, heirs at law of H. W. Hinze, deceased, be and they are hereby respectively authorized and empowered to hereafter transfer and convey to John Nichols the real estate situated in the County of Orange, State of California, described as follows:

Commencing at a point 155 feet East and 161.6 feet North of the Southwest corner of Block "A" of South Santa Ana, as shown on a map recorded in Book 5, page 43 of Miscellaneous Maps, Records of Orange County, California; thence East 525 feet to the East line of said Block "A"; thence South 16.6 feet; thence West 480 feet; thence South 8 feet; thence West 45 feet; thence North 24.6 feet to the point of beginning. Also, a right of way over and upon a strip of land described as commencing at a point 155 feet East and 161.6 feet North of the Southwest corner of said Block "A"; thence West 24 feet; thence South 3 feet; thence East 24 feet, and thence North 3 feet to the point of beginning.

Together with the well, pump, tanks, equipment and machinery comprising what is commonly known as the Gloryetta Water Works.

IT IS HEREBY FURTHER ORDERED that D. W. Emmett be and he is hereby authorized and empowered to hereafter transfer and convey to John Nichols that certain parcel of land situated in Orange County, California, described as follows, to-wit:

The north 81 feet of Lot 1, in Block "C" of Emmett's Addition to South Santa Ana, as shown on a map recorded in Book 8 at page 13 of Miscellaneous Maps, Records of said Orange County; together with a certain well, pumping plant, tank and tank stand on said lot, with motor, pump, valves, water pipes and connections for the pumping of water from said well into said tank and together with water mains and laterals in the streets.

alleys and lots of said Emmett's Addition to South Santa Ana, connected with said tank and constituting a water supply system for furnishing domestic water to the residents in Emmett's Addition to South Santa Ana, which comprises a portion of the village of Delhi, located about two miles south of the City of Santa Ana in said Orange County.

The authority herein contained is granted upon the following conditions:

1. Within thirty days after the transfer of the property herein authorized said John Nichols shall file with the Railroad Commission a verified copy of each of said deeds of conveyance.
2. Nothing herein contained shall be construed before this Commission or any other public authority as representing the actual value of the property authorized to be transferred for rate fixing or other purposes than those incident to the present proceedings.
3. The authority herein granted shall apply only to such property as shall be transferred on or before thirty days after the date hereof.

IT IS HEREBY FURTHER ORDERED that said John Nichols or John E. Otto shall furnish to the consumers of both systems hereinabove described an adequate supply of water at all times under conditions affording high class service, and that within thirty days after transfer he elevate the two tanks used in connection with said Otto system so that the bottoms of said tanks will be at least 40 feet above the ground and he shall at all times maintain an adequate supply of water in said tanks to prevent interruption of service.

Dated at San Francisco, California, this  
19 day of ~~March~~ 1919.

Edwin C. Edgerton  
H. D. Friedman  
Howard K. Smith  
H. C. Brundage

Commissioners