

Decision No. 7504

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

A. H. TIGER,  
Complainant,  
vs.  
J. C. PHILLIPS and BESSIE  
PHILLIPS DAY,  
Defendants.

Case No. 1393

A. H. Ticer in propria persona.  
Horace C. Head for Defendants.

BRUNDIGE, COMMISSIONER:

O P I N I O N

Complainant herein is engaged in the business of farming and is the owner of a ten acre orchard tract near Garden Grove, Los Angeles County, California. Defendants are the owners of a water system located on an adjoining tract of land, from which system complainant has obtained water for irrigation purposes for the past four years.

In the above entitled proceeding complainant alleges that defendants now refuse to continue service of water to his premises, and that such action will cause serious damage to fruit trees and result in loss to complainant.

The answer of defendants to the complainant herein denies that said defendants operate a public utility water plant, but alleges that the water system owned by them is operated for the

11

purpose of supplying water for irrigation purposes to their own ranch; admits, however, that during the development stage of their orchard, surplus water has been supplied to neighbors for their accommodation, and also admits that water was refused to complainant this year for any purpose. Defendants deny that they are obliged to hold themselves out to serve water to the public or that they are under the jurisdiction of the Railroad Commission.

A public hearing was held in this proceeding at Los Angeles. The evidence shows that complainant owns a ten acre orchard of which five acres are planted to orange trees, now four years old, the remaining acres being planted to walnuts, apricots, etc. This tract adjoins the Day property of 20 acres, planted to lemons, upon which is located a 10 inch well 178 feet deep, a Woods pump and a 15 H. P. motor, which has been the source of supplying complainant with water for irrigation purposes.

It appears from the testimony that while defendants' twenty acres of lemons have been in the process of development, the water system has produced sufficient water to more than supply the needs of the orchard, and by reason of that fact water was sold to complainant and others whenever it was requested. The Day property has now reached the state of development where all the water produced can be used to advantage on the place, and it is impossible to supply any additional area. Furthermore, it appears that there has been a gradual lowering of the water table, thus reducing the supply and increasing the cost of operation.

While technically, defendants have been operating on a public utility basis in supplying water to consumers for compensation when there was more than sufficient to supply their

own immediate demands; yet in view of the circumstances surrounding the delivery of this water, defendants should not be required to continue to act as a public utility for longer than a reasonable period in which the consumers may procure other service. It would result in a hardship and perhaps mean the loss of complainant's four year old trees to deprive him of water from his present source of supply without providing an interval within which to obtain another supply, <sup>and</sup> as it was testified at the hearing that the only other source of supply available is by drilling a well upon complainant's premises, it appears that he should be given ample time to make this installation.

Although formal application has not been made by defendant for abandonment of the public utility service in question, the facts relative to such abandonment and upon which the Commission would be justified in making an order to that effect, were fully disclosed at the hearing upon this complaint. It would therefore serve no useful purpose to require the formality of a further hearing upon an application for abandonment of service.

I therefore submit the following form of order:

#### C O R D E R

Complaint having been made to the Railroad Commission as entitled above, a public hearing having been held, the matter having been submitted and being now ready for decision.

IT IS HEREBY ORDERED that J. C. Phillips and Bessie Phillips Day be, and they are hereby directed to continue to serve water to complainant A. E. Ticer until December 31, 1920, at the end of which period complainant shall have provided himself with another source of supply and that thereafter defendants be, and they are hereby authorized to discontinue serving water to said complainant.

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 30<sup>th</sup>  
day of April, 1920.

Edwin O. Ely  
H. B. ...  
Frank ...  
H. R. ...  
Iving Martin  
Commissioners.