

Decision No. 8170

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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MARY ANNIE UPTON, et al.,
Complainants,

-vs-

AMOS H. STINSON, et al.,
Defendants.

ORIGINAL

Case No. 1465.

A. H. Upton for complainants.
N. E. Fitzhenry for defendants.

BY THE COMMISSION:

O P I N I O N

The complaint alleges that defendants operate a public utility serving domestic water in and about Stinson Beach, Marin County; that complainants, whose premises are adjacent to property now served by defendants have demanded service of domestic water, which demand has been refused.

The answer alleges that the Commission by its Decision No. 3000 of December 24, 1915, (See Vol. 8, Opinions and Orders of the Railroad Commission, p. 806), upon application of defendants to establish rates, fixed rates only for water served upon defendant's subdivision; that the complainants' properties are in an adjacent subdivision known as the Chas. Robinson tract; that defendants have not sufficient water to serve complainants and that complainants can secure water from wells and springs.

A public hearing was held in the matter by Examiner Westover at Stinson Beach.

It appears from the testimony that about 1871, defendant A. H. Stinson, purchased a large ranch herein referred to as the Stinson Ranch, from Isaac Morgan, who reserved and excepted from the transaction a tract of land of about 3 $\frac{1}{2}$ acres, which had been previously deeded to a Capt. Escott and now known as Jordan Tract, on which is located the structure known as Cypress Inn. The ranch consists principally of rather abrupt hills intersected by a number of canyons, with considerable flat land and beach extending along the Pacific Ocean. Soon after acquiring the property there was established upon it a summer camp and pleasure resort known as Willow Camp. This was supplied with water from a small diversion dam and tank upon one of the small streams flowing through the canyon nearby. Subsequently portions of the flat land extending back upon the hills were subdivided and known as subdivisions 1, 2 and 3. Lots were sold in these subdivisions and dwellings erected from time to time.

Defendant herein at the present time serves from 50 to 60 consumers. Water for the services and consumers in Willow Camp and Dipsea Lodge, a hotel property in Willow Camp and the two houses of Mr. Fitzhenry is furnished as part of Mr. Fitzhenry's compensation for managing the water system and Stinson Ranch. Willow Camp is owned by defendant Fitzhenry. The Jordan property on which Cypress Inn is now located, has been supplied for a number of years with water from the water system of defendants.

Complainant, Mary Annie Upton, owns the property adjoining Willow Camp, a large part of which has been subdivided and is now known as the Chas. Robinson tract, a number of the lots having been sold for residence

and camp purposes. She has also established on the tract a summer camp and resort, known as Camp Upton. About 30 acres of her tract has not yet been subdivided. She and the other complainants wish to obtain water at present for their residences built on the Chas. Robinson tract. Mrs. Upton also owns a residence in one of the subdivisions of the Stinson ranch and is a regular consumer supplied by the water system of defendants. For some time she has been hauling water in barrels from defendants' water service on her property in the subdivision of Stinson Ranch, not only for the use of herself and family but for the use of her summer camp and the three other complainants who have erected residences upon property purchased from her.

The position of defendants in the matter is that they have not an abundance of water and wish to retain all the water they have to aid them in the sale of lots in their subdivision of the Stinson Ranch. They argue that the Commission's Decision No. 3000 purports to fix rates only for water to be furnished upon Stinson Ranch and is in sympathy with their desire to retain the water upon their own property or for the use of those to whom they sell lots. An examination of the opinion and order, however, shows that the only reference to such a limitation is in the first paragraph of the opinion in which the application is described as one seeking "an order fixing the rates for water furnished to the inhabitants of the subdivisions of lands within the boundaries of what is known as Stinson Ranch***." The order is silent as to the territory to be served and so

are all portions of the opinion initiated by the Commission. It is apparent, therefore, that we are free to discuss the territory to be served upon its merits without reference to the language used by applicants' in their previous application for the establishment of rates.

As the Commission has indicated in many previous decisions when utility property is devoted to public service, members of the public living upon or under the system must be served without discrimination and without reference to the ownership of the property in which the service is required. Where extensions of service are needed the question of the reasonableness of the demand for service must likewise be treated without reference to the ownership of the property upon which service is required.

We turn therefore to the question of the adequacy of water supply and the reasonableness of the demand for an extension of service.

It appears from the report in evidence of Mr. M. R. Mackall, one of the Commission's hydraulic engineers, who made an investigation and inspection of the source of supply, that there is an ample supply for the needs of the present consumers and for the immediate future and that the adequacy of service can be greatly increased by proper measures to conserve the supply and to provide additional storage facilities.

As to the reasonableness of the extension, it appears that all of the complainants can be served by an extension of mains of about 1000 feet. The topography of the ground is such that these extensions can be made into the adjoining subdivisions at reasonable cost. It appears

from the evidence that other services will probably be required in subdivisions of the Stinson Ranch and also in the Chas. Robinson tract, when the water facilities are improved as suggested.

The present rates established by Decision No. 3000 were those requested by defendants. Complainants expressed their willingness to pay reasonable rates based upon cost of operation, allowance for depreciation and an ample return upon investment in the water system. It is the policy of the Commission to require high-class service and to allow sufficient rates to justify such service. If it is found that present rates do not justify the necessary extensions to serve complainants, the defendants may file new application to adjust rates when the question of adequate compensation in rates will be investigated by the Commission. It is apparent, however, that the complainants are entitled to the service described in the complaint.

O R D E R

Complainants, Mary Annie Upton, et al, having applied to this Commission for an order requiring Amos H. Stinson, et al, defendants, to serve them with water at Stinson Beach, a public hearing having been held and the Commission being fully apprised in the premises,

IT IS HEREBY ORDERED that defendants, Amos H. Stinson, Mabelle Idella Skinner and Newman L. Fitzhenry be and they are hereby directed to serve water to the complainants at their respective properties by an adequate extension of their mains and services upon the following conditions and not otherwise:

1. That the complainants and any other parties desiring services upon the same extension deposit with the defendants a sum of money sufficient to cover the reasonable cost of said extension, upon receipt of which amount the defendants will construct the extension within 60 days.

2. That the said sum of money is to be returned to the respective depositors at such time in the future as the total amount of the annual water bills from all consumers on the extension shall amount to 20% of the amount of money originally advanced to the defendants.

Dated at San Francisco, California, this
12th day of October ~~September~~, 1920.

Edwin O. Edgerton
J. D. Loveland
Frank P. Quinn
J. H. Brundage

Commissioners.