

Decision No. 28119

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Seville Senning, et al.,
Complainants,
vs.
Upton Beach Water System,
Defendant.

Case No. 3885.

ORIGINAL

Seville Senning, for complainants.

A.E. Upton, for defendant.

BY THE COMMISSION:

O P I N I O N

In this proceeding, Seville Senning and fourteen other consumers on the Upton Beach Water System allege that there is not sufficient pressure maintained to provide a reasonable quantity of water; that, at times, there is no water in the distribution mains; and that the water has a bad taste and is undrinkable. The Railroad Commission is asked to require defendant to correct the unsatisfactory conditions and supply the consumers with a reasonable quantity of potable water.

A.E. Upton, owner and operator of the Upton Beach Water System in his answer denies the conditions complained of exist and further states that an analysis made by the State Department of Public Health shows the water "to be highly mineralized but not

in chemicals which are injurious to health" and asks for such ruling as the Commission may deem meet under the circumstances.

A public hearing in this matter was held before Examiner MacKall at Upton Beach.

The evidence shows that the Upton Beach Water System serves some twenty-eight consumers in Upton Tract, a real estate subdivision adjacent to Stinson Beach on the ocean shore, in Marin County. Practically all of the consumers are week-end and summer residents who own small cottages. Their demands on the system occur all at about the same time over week-ends with very small use during the rest of the week. The existing facilities are not capable of providing this type of service, resulting in a wholly insufficient quantity of water being available. Water is obtained from a drilled well 109 feet deep and pumped into a 4,000-gallon tank located twenty feet above ground level. The distribution system consists of about 2,000 feet of 1½-inch pipe from which the consumers are served by 1-inch and ¾-inch laterals. In some instances two or more consumers are served from the same service connection.

The evidence clearly shows that the causes of the poor service are the inadequacy of the pumping and storage facilities and the small sized mains. The water has a very marked taste and at times an odor. When used in connection with heating appliances, it precipitates a heavy incrustation of lime within the pipes making it necessary to change water coils every three or four months. There is no doubt, however, that the water is not injurious to health nor detrimental for human consumption. Mr. Upton concedes these facts but states quite frankly that

he is financially unable to provide the improvements demanded and further is handicapped by the refusal of most of his consumers to pay their bills.

The Upton Tract is located on a narrow sand-spit between the Pacific Ocean and the high and precipitous main land which rises abruptly from the shore. There is no water supply available to this tract other than through the drilling of wells upon the sand-spit and in the marshy ground lying between the bar and the bluff. Naturally, this water is highly impregnated with minerals which are not entirely palatable although not injurious. Request for water service to be extended from the adjoining public utility Stinson Beach Water Works, operated by Newman L. Fitzhenry and supplying Willow Camp and certain subdivisions of the Stinson Ranch properties, repeatedly have been refused. As a matter of fact, the right of this utility to refuse service to the Upton Tract residents was upheld by this Commission in Decision No. 8721, dated March 9, 1921, (19 C.R.C. 475). Writ of review therein was denied April 25, 1921, by the Supreme Court of California in Spencer vs. The Railroad Commission. Suggestions made by certain consumers that water be brought from the Kent estate approximately one mile from the Upton Tract through the installation of a large pipe line for this purpose, the water to be acquired by condemnation, are wholly impracticable. The cost of the pipe line alone would be more than the consumers could afford to pay a fair return upon at any rate that would not be prohibitory. The cost of the litigation required to condemn the necessary water rights would run into an impracticable, if not an unwarranted sum.

For the past four years, the Commission informally has

made every effort to solve the difficulties of the water supply in the Upton Tract. Mr. Upton concedes very frankly that the pipe lines, pumping equipment, and storage are entirely inadequate. For this reason, most of the consumers have refused to pay their water bills resulting in the operator of this plant being unable to pay for his power and repair bills. Mr. Upton is absolutely without funds with which to make the necessary improvements. All efforts made by him to obtain credit for the required pipe, tanks, and new pumping equipment have been of no avail. It is evident from the facts before this Commission concerning this water works and its difficulties in financing its operation that it would be an idle act to order the installation of the improvements required which would mean the junking of the entire plant and the complete rebuilding of a new one.

Under the circumstances there is nothing that this Commission can do to relieve existing conditions. It is, therefore, suggested that the consumers form an organization among themselves to install the necessary facilities to supply themselves with water. In the meantime, Mr. Upton, if he so desires, may file an application with this Commission to abandon public utility service, which will be granted without further hearing by ex parte order, thus giving the water users a free range to install and operate their own plant.

O R D E R

Complaint as entitled above having been filed with this Commission, a public hearing having been held thereon, the

matter having been submitted and the Commission now being fully
advised in the premises,

IT IS HEREBY ORDERED that the above entitled proceeding
be and it is hereby dismissed.

Dated at San Francisco, California, this 5th day
of August, 1935.

Leon C. White

W. H. Allen

M. B. Davis

M. H. Thompson

Frank R. Kelly

Commissioners.