

ORIGINAL

Decision No. 29386

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ROSE ANNA McDONALD for authority to abandon and discontinue public utility water service in the Town of French Gulch, County of Shasta, State of California.

Application No. 21415

Francis Carr, for applicant.  
E. E. Erich, for himself and other consumers.

WHITSELL, COMMISSIONER:

O P I N I O N

Rose Anna McDonald, owner and operator of a domestic water system in the unincorporated Town of French Gulch, Shasta County, asks for authority to abandon and discontinue service. Applicant alleges that the consumers have other sources of water supply; that the system is being operated at a loss; and that the main distribution pipe line requires replacement but that the revenues obtained from the service rendered do not warrant the installation of a new main.

A public hearing in this proceeding was held at French Gulch.

Heretofore, on the eighteenth day of June, 1936, Mrs. McDonald filed an application (Application No. 20616) asking for authority to discontinue service which was denied in Decision No. 29386, issued December 21, 1936. No substantial change has

occurred in the community affecting this water system since the date of this decision to which reference is made for additional information and a more complete description and history of the water works and its operations.

The plant consists of one and a quarter miles of ditch and approximately 1,700 feet of 4-inch, 3-inch and 1½-inch pipe. Water is obtained by diversion from French Gulch Creek. In years of normal rainfall there is sufficient water flowing in the stream to provide service during the entire year; however, there are years of subnormal rainfall during which the stream is unable to provide a water supply for the community and it is necessary for the consumers to obtain water from shallow wells and an open ditch owned by Edward Laboudique, diverting from a point on Clear Creek just above and at the outskirts of French Gulch. These sources, however, are subject to surface contamination. The canal is called the Town Ditch and supplies water for irrigation purposes only. The ditch is not located at an elevation high enough to supply many of the users in French Gulch but applicant's premises is among the few so served. Originally the water supply from French Gulch Creek was acquired by Bernard Gartland, father of applicant, for mining purposes on Mineral Lot No. 39, then known as the Gartland Placer Mine and later known as the Gartland Home Place. Mrs. McDonald now maintains her residence on the premises and rents another home on the same property. According to the testimony, Thomas McDonald, the deceased husband of applicant, about forty-five years ago installed a pipe line in the main street of French Gulch for the purpose of supplying the community with water for fire protection purposes and for sprinkling the roadway. Subse-

quently this line was extended 500 feet, more or less, to serve the schoolhouse. The various residents in the community were permitted to connect service pipes to the main and domestic service was furnished and charged for at rates varying from ten to thirty dollars per year, depending upon the size of the premises.

The testimony shows that the actual collections from nine consumers in 1936 were sixty-five dollars (\$65.00) and the operating expenses one hundred thirty-four dollars (\$134.00), resulting in an annual loss of sixty-nine dollars (\$69.00). However, it was admitted that some of the consumers had failed to pay for service and that no serious attempt has in the past or is now being made to collect from them. It was admitted by applicant that there were three other consumers in addition to the nine who were not billed for service as they were her personal friends. While such generosity in providing water service without cost to certain consumers in straitened financial circumstances is highly commendable, yet from a legal standpoint, in a case where there are so few consumers and total collectible revenues play so vital a part in the ultimate findings, the Commission must recognize such users as actual sources of revenue. Had collections been made from all of the users served during 1936, the revenues would have amounted to at least one hundred thirty-one dollars (\$131.00), disregarding entirely the credit to revenues that properly should be chargeable to applicant for the water used for irrigation and sprinkling upon the several acres comprising the McDonald home and her adjoining property occupied by tenants.

Under the present method of accounting followed by applicant, no revenues are credited to her service but all cost of operation, including depreciation, is charged against the consumers,

resulting in free water service for the entire Gartland Home Place at the expense of all other and paying water users. Obviously this is improper. The record shows that the largest item of expense is that for the ditch-tender which totals one hundred twenty dollars (\$120.00) per year. The premises of applicant consists of approximately seven acres of garden, lawn and orchard upon which are located two residences. No allowance in revenue or expense is made for the water delivered to either of these two residences which cover an acreage about equal to that of the lawns and gardens of all other users combined.

In giving proper consideration to the allocation of a reasonable portion of the operation expenses to the costs of supplying water to the McDonald holdings, the above basis of area and use indicate that one-half thereof should be so distributed. Disregarding revenues representing a fair charge for water used on applicant's premises and confining operations to the other consumers only, this service produces not an out-of-pocket loss, as alleged, but, on the contrary, yields a substantial net return upon the entire investment which is reported to be fifteen hundred dollars (\$1,500). Should this profit not amount to the full net return upon fixed capital to which the utility owner may be entitled by law, she has her legal remedy, as pointed out in our former decision (Decision No. 29386), to apply to this Commission for an increase in rates. Under this view of the case, it will be unnecessary to pass upon the extent of the dedication to the public use of the waters of French Gulch Creek, especially in view of the fact that counsel for Mrs. McDonald freely concedes that the water served to the town consumers has been so dedicated for a period of

at least forty-five continuous years last past.

Nothing has been presented in this proceeding that was not before the Commission in the former application for discontinuance which was decided only eight months prior to the filing of the instant case.

Referring to the allegations of applicant to the effect that all consumers have individual wells or are able to obtain water for domestic use from other sources and also that the French Gulch supply is no longer necessary for fire protection purposes, the evidence presented by each and every consumer testifying was to the effect that the consumers are all dependent upon the McDonald system for water not only for irrigation purposes but for household uses as well and that the mains of applicant's system being under pressure provide the sole reliable source of protection against the ravages of fire. The only pumping apparatus owned by the Fire District consists of a small locally constructed pumping outfit mounted on a 1920 model Dodge automobile which is used only to cover sections of the community not served by the mains of the McDonald system. It is clear from the past performance of this piece of home-made equipment that reliance for fire protection must be placed upon the facilities provided by applicant's pressure system.

Testimony concerning the present condition of the mains and pipe lines used for the distribution of water is somewhat contradictory. The pipe lines which have been in place for approximately forty-five years are claimed to be in need of immediate replacement by the owner; however, several witnesses testified

that remaining life of these pipe lines should be between five and ten years and that the mains at present are capable of giving reasonably good service without extensive repairs.

Under the circumstances and according to the facts as set forth above, the evidence presented is insufficient to warrant the Commission in authorizing the discontinuance of further public utility service to the consumers on this system; however, as was suggested at the hearing, it appears certain that Mrs. McDonald can make arrangements to turn over the responsibility of operating this water system to the local Fire District in the event she no longer cares to be burdened with its continued operation. Members of the Board of Directors of the Fire District present indicated their willingness to enter into such an arrangement and agreed to deliver to the premises owned by Mrs. McDonald water free of charge in the quantities to which she is entitled as long as water is available in the ditch system. This letter proposal commends itself to this Commission as being a happy solution to the difficulties involving the service rendered to the community of French Gulch by applicant herein.

In conclusion it should be stated that Mrs. McDonald is most deserving of full credit for maintaining this water service throughout the many years of distressed and uncertain financial conditions which have so severely stricken this once populous and thriving, pioneer mining town, without, in a single instance, insisting upon full payment for water from those consumers unable to obtain work and pay their bills and also in so magnanimously refraining from pursuing her full legal rights and demanding long since the establishment of higher water rates.

The following form of Order is submitted.

O R D E R

Application having been made to this Commission as entitled above, 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 application herein be and it is hereby denied.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

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 3<sup>rd</sup> day of January, 1938.

*Walter J. Moore*  
*Leon A. Whelan*  
*Francis R. Sullivan*  
*Ralph W. Lyford*  
*Paul H. Reed*  
Commissioners