

ORIGINAL

Decision No. 34199

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

James G. Cross,  
Complainant,  
  
-vs-  
R. R. Vermillion, and  
Sadie Vermillion,  
Defendants.

Case No. 4534

In the Matter of the Investigation  
on the Commission's own motion into  
the charges, classifications, con-  
tracts, operations, practices, etc.,  
or any of them, of RICHARD R.  
VERMILLION and SADIE VERMILLION, his  
wife; KLAMATH REALTY COMPANY, a cor-  
poration; and GEORGE G. CLONEY and  
IRWIN T. QUINN, in the distribution  
and sale of water for domestic and  
other purposes in the vicinity of  
Klamath Glen subdivision, near the  
Town of Klamath, in Del Norte County,  
California.

Case No. 4559

James G. Cross, for Complainant.  
Sadie Vermillion, for Defendants.  
Irwin T. Quinn, for Klamath Realty Company.

RILEY, COMMISSIONER:

O P I N I O N

James G. Cross, a resident of Klamath Glen, Del Norte  
County, California, alleges in this complaint that for the past  
six years the defendants, R. R. Vermillion and Sadie Vermillion,  
his wife, have been supplying water to all property owners of the  
Klamath Glen subdivision for household, lawn and garden irrigation

purposes but that during three years last past said defendants have threatened to discontinue the furnishing of water for the irrigation of flowers, plants, lawns and trees on his premises. Mr. Gross further sets forth in this complaint that during the latter part of May, 1940, a letter was sent to him and to all other property owners in Klamath Glen informing them that the use of water for irrigation purposes in the subdivision must stop and that thereafter water would be supplied for household uses only. Complainant Gross therefore requests that the Commission order the defendants, R. R. Vermillion and Sadie Vermillion, his wife, to continue the service of water to his premises not only for household uses but also for the irrigation and sprinkling of his lawn, garden, trees and shrubs.

No formal answer was filed in this proceeding. Communications received from defendants and from officials of the Klamath Realty Company, a corporation, which sold the resort properties known as Klamath Glen to said Vermillions, indicated that there would be a dispute over the responsibility of providing water service to the residents of the above mentioned property. Both the seller and the purchasers of Klamath Glen Resort denied any and all responsibility of providing water service in the subdivision either under private contractual obligations, or as a public utility, or otherwise. The Klamath Realty Company has its principal place of business in the City of Eureka and in 1934, under contract, sold the resort, including buildings, fixtures and other appurtenances, to R. R. Vermillion and Sadie Vermillion; said real estate firm being still the holder of the record title thereof. Under such circumstances and for the purpose of broadening the scope of the issues raised in

the complaint of James G. Gross, the Commission issued its order instituting an investigation upon its own motion into the charges, classifications, contracts, operations, practices, etc., or any of them of Richard R. Vermillion and Sadie Vermillion, his wife; Klamath Realty Company, a corporation; and George G. Cloney and Irwin T. Quinn, in the distribution and sale of water for domestic and other purposes in the vicinity of Klamath Glen subdivision, near the Town of Klamath, Del Norte County, California.

A public hearing in these two proceedings was held in Klamath Glen, Del Norte County, at which time it was agreed by all interested parties that both matters be combined for hearing and decision.

Klamath Glen is a sportsmens' resort, world-famous for its salmon and steelhead fishing and is located on the northerly bank of the lower Klamath River, approximately four miles upstream from the Town of Klamath. In 1925, the Klamath Realty Company subdivided a 77-acre parcel of land, riparian to the Klamath River, 29 acres thereof were reserved for resort buildings and grounds, the remainder being plotted into 110 lots for home-site purposes.

The evidence clearly shows that the Klamath Realty Company and its agents agreed to supply all lot purchasers and owners in the subdivision with water not only for strictly household purposes but had specifically agreed to and promised water adequate and sufficient for the proper irrigation of lawns, flowers and shrubs. The Realty Company put in a well, pumping plant and a small storage tank near the main lodge hall and installed distribution pipes throughout the entire subdivision. Thereafter water was delivered from this system to the resort

properties and to all residents and lot owners in the subdivision requesting service, not only by Klamath Realty Company but also by every lessee or purchaser of the Klamath Glen resort property as well, without restriction as to use until May, 1940. Water has been furnished to residents in the subdivision for compensation since the year 1931. Commencing with 1934, R. R. Vermillion and Sadie Vermillion have served water in the subdivision at rates ranging from \$10 to \$20 per year. There can be no doubt whatsoever that this water supply and service has been dedicated to the public use and as such is under the control and jurisdiction of the Railroad Commission.

During the progress of the hearing, Irwin T. Quinn, in behalf of the Klamath Realty Company, conceded the public utility status of the water service to the subdivision but contended, however, that all the duties and obligations of providing such water service had been assumed by the Vermillions under the terms of their contract for the purchase of Klamath Glen. The record shows that this sale was never submitted to the Commission for its approval.

From the evidence and testimony presented, it became apparent early in the hearing that considerable uncertainty existed as to the intent of the Realty Company to transfer title and ownership in the pipe lines and water distribution facilities lying within the subdivision boundaries. It was equally clear that the system must have a new well and pumping plant before the beginning of the 1941 season if any water at all is to be provided, the existing equipment and facilities being woefully insufficient even to meet the demands of the resort itself. As a result of these tangled affairs and several serious complications arising there-

from, the presiding Commissioner suggested that the officials of the Klamath Realty Company and R. R. Vermillion and Sadie Vermillion enter into negotiations to determine among themselves, if possible, the responsibility of installing the necessary improvements to the water system and of continuing the service. The Commission has now been advised that Klamath Realty Company has granted to R. R. Vermillion and Sadie Vermillion full title to all the distribution pipe lines used to supply water to the subdivision; that said Vermillions have agreed to assume the obligations of supplying water to all residents within the said subdivision both for household and garden irrigation purposes; and, have furthermore agreed to drill a new well capable of producing an adequate and satisfactory supply of water and to install the new pumping equipment and storage facilities necessary to assure the standard of water service the residents of Klamath Glen are entitled to receive under the terms of their purchase contracts and as consumers of a public utility water system under the control and jurisdiction of the Railroad Commission. It was furthermore understood that at an early date the Vermillions will file an application with the Railroad Commission to have established a fair and just rate for water service to be supplied through their system upon the completion of the improvements. Under the circumstances, it appears that the complaint of James G. Cross and other residents of the subdivision thereupon will be satisfied.

The following form of Order is recommended:

O R D E R

Complaint as above entitled having been filed with the Railroad Commission and an investigation upon the Commission's own motion having been instituted into the operation of the water system serving Klamath Glen Unit One, also known as Klamath Glen Subdivision, a public hearing having been held thereon, the matters having been duly submitted, and the Commission being now fully advised in the premises,

It is hereby found as a fact that the water system serving Klamath Glen Unit One, situate approximately four miles up-stream from the Town of Klamath in Del Norte County, be and it is hereby found to be dedicated to public use and subject to the jurisdiction and control of the Railroad Commission of the State of California, and therefore,

IT IS HEREBY ORDERED that R. R. Vermillion and Sadie Vermillion, his wife, be and they are hereby ordered to install, or cause to be installed, such improvements to their water production and distribution facilities as may be reasonably necessary to provide at all proper times an adequate supply of water for household uses and for the sprinkling and irrigation of lawns, gardens, flowers, shrubbery, etc., to all residents of Klamath Glen Unit One, sometimes also called Klamath Glen Subdivision, in Del Norte County, who request such water service, said improvements to be installed and in proper working order in a manner satisfactory to this Commission for the season of 1941, not later than the first day of July thereof.

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 13<sup>th</sup> day of May, 1941.

[Signature]  
Ray L. Rice  
Justice F. C. Cavanaugh  
Francis J. Hawkins  
Richard L. Ketchum  
Commissioners.