

Decision No. 36698

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

Western Yolo Water Users Association,  
Complainant

vs

Clear Lake Water Company, a corporation,  
Defendant.

Case No. 4684

Elmer W. Armfield and Arthur B. Eddy,  
by Arthur B. Eddy for Complainant.

Neal Chalmers for Defendant.

George Clark for Hershey Interests.

CRAEGER, COMMISSIONER:

O P I N I O N

Western Yolo Water Users Association, an unincorporated group of consumers of the Clear Lake Water Company, a corporation, asks the Commission to make its Order restraining said Company from extending its distribution facilities and selling water for irrigation purposes to lands in the vicinity of the town of Zamora, Yolo County, or any area not susceptible to irrigation service from its existing distribution system without the construction of new canals. The Commission is also asked to require said Company to limit its irrigation service to such acreage as it may adequately supply under normal conditions. It is alleged that the available water supply is not sufficient to meet normal irrigation demands of rice and other crops grown within the Company's service area and that an extension of service to new lands will deprive the consumers of water to which they are entitled.

A public hearing in this matter was held at Woodland.

Clear Lake Water Company is engaged in the business of diverting, distributing and selling water for irrigation uses within a service area of

approximately 95,000 acres of irrigable land, in Yolo County. The source of water supply is Clear Lake, Lake County. The lake has a surface area of about 40,000 acres. Withdrawals are controlled to some extent by a dam on Cache Creek, near its outlet from the lake, but are definitely limited in use by two court injunctions. This stream is used to convey the water from the lake to Capay Dam near the town of Capay, Yolo County, and Moore's Dams, about eight miles downstream. The water is diverted from Cache Creek by these two structures and distributed through 189 miles of canals and ditches to approximately 20,000 acres of land each season. In normal or wet years about one-half of this acreage is planted to rice and the balance is general crops.

Storage of water in Clear Lake is limited by a court decree, dated October 27, 1920, commonly known as the "Gopsevic Decree." The Company is enjoined from maintaining a higher water level, except for a limited period, than 7.56 feet or a lower level than zero, as measured on the Rumsey gauge at Lakeport. The purpose of this decree was to prevent excessively high or low stages of water in the lake from damaging the rim lands. In order to comply with the terms of the decree and avoid exceeding the 7.56 foot level, only small quantities of water can be carried over from one season to another, and during wet years it is necessary to waste large quantities of water. The Company's operations on the lake are further handicapped by another injunction, dated December 18, 1940, locally known as the "Bemmerly Decree." This Order enjoins the Company from enlarging the opening of Cache Creek channel at the rim of the lake and was brought for the purposes of preventing the release of excessive quantities of water during flood periods and overflowing lands along Cache Creek in Yolo County.

The record shows that since 1915, when rice was first grown under this canal system, there has been eight years when there was insufficient water available to grow this crop and during three of these years it was necessary to prorate water for general crops. Rice is not planted unless an adequate supply of water is available for the entire growing season. The record also shows that there are some

two hundred pumping plants within the service area that supply approximately 24,000 acres of lands from wells. These lands were probably irrigated at one time from the Company's canal system, but because of the uncertainty of the canal supply, the landowners were compelled to install pumps in order to be assured of water. The complainants contend that the past record of water shortages and service furnished clearly shows that the Company's supply has not been adequate to meet the needs of its consumers and therefore it should be restrained from enlarging its service area and extending its canal system to serve new lands. However, no objection was made to the sale of surplus water, if and when available, to any lands that could use the water.

Mr. Ward, Vice President and General Manager of Defendant Company, testified that, if Clear Lake had been operated under the Gopsevic Decree for the period 1874 to 1920, inclusive, the average yearly surplus water available for the 47-year period would have been 93,345 acre feet, and that serious water shortages would have occurred only during two years of this interval. For the period 1921 to 1942, inclusive, actual operations of the system show an average yearly surplus of 50,182 acre feet in the lake at the end of the season for the 22-year period, and six years of water shortages.

The proposed extension into the Zamora District, called the Oat Creek project, is designed for growing rice. It will require constructing a canal approximately ten miles long and it would be physically possible to irrigate a maximum of 9,000 acres from the ditch. The practice of the growers is to produce rice one year and rotate to other crops for three years in order to kill tules and water grasses. On this basis the Company expects annually to irrigate from 2,500 to 3,000 acres in this district.

While the consumers and complainants had no objections to the proposed project or to the sale of surplus water, they felt, however, that lands entitled to service should be protected and be given a preferential right to waters over new lands not heretofore irrigated by the Company. This was unanimously agreed upon

by all interested parties. It was felt that this service right could be adequately protected by an addition to the Company's existing Rules and Regulations.

Representatives of the complainants filed the following suggested rule designed for that purpose:

Rule No. 3a. Notwithstanding anything contained in these rules and regulations, those lands entitled to be served with water from the system of the Clear Lake Water Company as it existed on December 31, 1942, and which apply for water on or before March 15 of any year, shall have a prior right to be served with water by the Company to the full extent of their requirements before any other lands shall be served.

The above suggested addition to the Company's rules and regulations appears to protect the rights of the lands entitled to water service, and permits the Company to sell the available surplus supply to any lands that will use it. However, the date of entitlement to service should be extended to cover irrigation furnished during 1943. This rule will allow a full utilization of the Company's water supply for much needed food crops during the war period and also produce additional revenues as compensation for its efforts in conserving its water supply and improving its distribution facilities.

The following form of Order is suggested:

O R D E R

Complaint having been filed with the Railroad Commission as entitled above, a public hearing having been held thereon, and the Commission now being fully informed in the premises,

IT IS HEREBY ORDERED that Clear Lake Water Company, a corporation, be and it is hereby directed to file with this Commission within thirty (30) days from the date of this Order the following additional rule to its existing Rules and Regulations:

Rule No. 3a. Notwithstanding anything contained in these rules and regulations, those lands entitled to be served with water from the system of the Clear Lake Water Company as it existed on December 31, 1943, and which apply for water on or before March 15 of any year, shall have a prior right to be served with water by the Company to the full extent of their requirements before any other lands shall be served.

IT IS HEREBY FURTHER ORDERED that Clear Lake Water Company, a corporation, be and it is hereby directed to mail a printed copy of the above mentioned rule to all of its consumers.

The effective date of this Order shall be twenty (20) days from 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 9<sup>th</sup> day of November, 1943.

Francis R. Havens  
J. D. Baker  
Justus F. Currier  
Richard L. Kachre  
Emma O. Clay  
 COMMISSIONERS.