

Decision No. 37124

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Santa Clara Valley Water Company, a California Corporation, for an Order Authorizing and Permitting said Company to Discontinue and Abandon its Public Service of Water to all its Customers, and to sell its Water Rights, Rights-of-Way and Holdings.

**ORIGINAL**  
Application No. 24843

Robert E. Cassin, City Attorney, for the City of San Jose.

Oliver Blanchard and W. J. Fenimore, for the Santa Clara Valley Water Company.

George W. Hunt, General Manager and Chief Engineer, Santa Clara Valley Water Conservation District.

Herbert C. Jones, Attorney, for the Santa Clara Valley Water Conservation District.

Andrew Scorsur, for certain property owners.

BY THE COMMISSION:

O P I N I O N

In this proceeding, Santa Clara Valley Water Company, formerly a corporation, engaged in the business of diverting and selling water for irrigation purposes in Santa Clara County, asks the Railroad Commission for authority to discontinue and abandon its public utility irrigation water service and for permission to sell or otherwise dispose of its properties.

Applicant alleges that owing to the installation of privately owned wells and pumps within the company's service area, and the reduction in the flow of flood waters in Los Gatos Creek because of droughts, the company has been unable to sell sufficient water to provide operating expenses. It is further contended that if discontinuance is permitted, the consumers can secure ample water from other sources of supply.

Public hearings in this matter were held before Examiner MacKall in San Jose.

The evidence shows that this company was formed in the early nineties for the purpose of diverting, distributing and selling water for irrigation as a public utility in Santa Clara County. A ditch system was constructed and water

delivered from Los Gatos Creek to supply approximately 5,000 acres of farm and orchard lands, located westerly from the town of Campbell. As the creek water is available only during flood periods, it became necessary for the users to supplement the stream supply with well water in order to obtain proper irrigation of the lands. The uncertainty of the water supply and the gradual subdivision of the land, resulted in the landowners installing their own wells and pumps and thereby reducing gradually the irrigation demand from year to year, until in 1943 there were no sales of water reported.

The company's earnings also suffered from the fact that a large number of right-of-way agreements with landowners provided either for the free delivery of water or service at reduced rates. Many of the agreements had a fifty-year life, now expired, and the renewal of most of the rights-of-way and easements for the canal system cannot now be obtained upon a reasonable basis. The record shows that the company's corporate franchise expired in 1942 and has not been renewed.

The results of operation for the two years 1941 and 1942 follow:

<u>Year</u>	<u>Operating Revenue</u>	<u>Operating Expenses</u>	<u>Results of Operation</u>
1941	\$177.37	\$1,214.20	(\$1,036.83)
1942	179.12	348.35	(\$ 169.23)

(Red Figures)

The evidence shows that the company owes Mr. Oliver Blanchard \$4,378.83 for services rendered and for expenditures made in its behalf, and that the stockholders are willing to dissolve the corporation and sell the company's holdings to satisfy Mr. Blanchard's claims. The company owns certain rights to divert water from Los Gatos Creek and some lands near the Creek now used as a gravel pit. The maximum investment in physical properties reported by the company was \$43,792 in 1938. This sum has been reduced to \$10,559 as of December 31, 1942, by reason of the company's inability to renew the rights-of-way for its ditch system.

The area served by the company is located within the boundaries of the Santa Clara Valley Water Conservation District. The operations of the District have resulted in a replenishment of the underground water and a corresponding rise in the water table. This re-charging of the water bearing gravels has made it possible for each landowner to have an independent source of water, and almost every company consumer has a well to supplement the creek supply. The record shows that any former consumer of the company, not having a well supply, can obtain water from a neighbor or from other sources if the utility is permitted to discontinue service.

The Conservation District was given an option to purchase the company's water rights and remaining properties for a nominal sum, as it could have utilized the system in connection with its own operations. The District, however, failed to exercise the option because it was unable to obtain rights-of-way through certain properties along the main canals without resorting to condemnation proceedings. Ample opportunity has been given the landowners under the company's ditch system to acquire the property, but they have not succeeded in forming any organization which would insure the continued operation of the system and the use of the creek water on their lands.

Under the circumstances, there appears to be no way to maintain the system without continued financial loss. No course remains open to the Commission other than to grant the authority requested.

ORDER

Application as entitled above having been filed with the Railroad Commission, public hearings having been held thereon, the matter having been duly submitted, and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED as follows:

1. That Santa Clara Valley Water Company be and it is hereby authorized to discontinue on and after the first day of July, 1944, all water service rendered to its consumers in and in the vicinity of the City of Campbell, in the County of Santa Clara;

2. That upon compliance with the following conditions, said Santa Clara Valley Water Company shall thereon and thereby stand relieved of all public utility obligations and liabilities heretofore incurred in connection with said water service:
- (a) Within twenty (20) days from and after the date of this Order, said Santa Clara Valley Water Company shall notify in writing each and every consumer who received water service from its system during the irrigation season of 1942 and 1943 of its intention to abandon and discontinue service of water on and after the first day of July, 1944;
  - (b) Within thirty (30) days from and after the date of this Order, said Santa Clara Valley Water Company shall file with this Commission a certified statement to the effect that it has duly given such notice to the consumer as directed to be done in the immediately preceding paragraph;
  - (c) Within thirty (30) days from and after the date of this Order, said Santa Clara Valley Water Company shall refund to such consumers as may be entitled thereto under the company's filed rates, rules and regulations, all amounts, if any, due such consumers, arising from deposits to guarantee payment of water bills, or for main extensions or any other purpose, and shall file with this Commission a sworn statement showing the disposition of any such amounts;
3. That upon due compliance with the above conditions, said Santa Clara Valley Water Company, or its duly authorized agent or successor in interest, may sell and dispose of its properties and assets without the necessity of any further permission or order of this Commission.

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

Dated at San Francisco, California, this 13<sup>th</sup> day of June, 1944.

Richard L. Lach  
Justus J. Coe  
Francis D. Havenner  
Harward  
Geo. A. Duell  
Commissioners.