

Decision No. 39511

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

BERKELEY COMPANY, A Corporation,
Complainant,

-vs-

SIMON LACASSIE, DEWEY CASOURANG, and
LACASSIE WATER WORKS,
Defendants.

ORIGINAL

Case No. 4807

In the Matter of the Application of
LACASSIE WATER WORKS, a partnership,
and SIMON LACASSIE and DEWEY CASOURANG,
individually and as partners, associated
in business under the common name and
style of LACASSIE WATER WORKS, for
authorization to abandon their water
service, system, and property.

Application No. 27594

Leroy B. Thomas, for Berkeley Company, Complainant.

Thomas F. McBride, for Simeon Lacassie and
Dewey Casaurang, Defendants and Applicants.

O P I N I O N

Berkeley Company is a corporation engaged in real estate business and as such alleges that in Action No. 18115, a judgment was rendered in the Superior Court in and for the County of Contra Costa granting to Mary E. Lacassie and Simeon Lacassie, operators of the Lacassie Water Works, an award granting the use of certain real property in Contra Costa County for the production, sale and distribution of water to certain residents in and adjacent to the City of Walnut Creek. It is further alleged that said award and use extended and existed only as long as said Mary E. Lacassie and Simeon Lacassie conducted a water company. It is also alleged that said real property has now been acquired by the Berkeley Company.

that for several years last past no water service has been rendered to any consumers by the Lacassie Water Works, and that by reason of said award and use there now exists a cloud upon the title of the real property held by complainant company. The Berkeley Company therefore asks the Commission for an order decreeing that Lacassie Water Works, now jointly owned by Simeon Lacassie and Dewey Casaurang, has been discontinued and that public utility water service has been abandoned, and for certain other relief.

An answer was filed by Simeon Lacassie wherein he admitted that certain of the allegations in the complaint are true concerning the use and occupation of certain real property granted to Mary E. Lacassie and Simeon Lacassie by said Action No. 18115 in the Superior Court in and for the County of Contra Costa, and furthermore admits that the Lacassie Water Works does not supply any customers with water at this time and has not supplied any customers for several years last past. It is alleged that on or about June 12, 1942, complainant, Berkeley Company, without any right or privilege whatsoever, and in violation of law, trespassed upon the property of defendants by grading and subdividing the property which defendants had been awarded the use of for the purpose of operating a waterworks, to the end that the damage was so great as to render it impossible for defendants to continue the operation of said waterworks. Request is therefore made that the complaint be dismissed.

Subsequent to the filing of the complaint and answer in the above entitled proceeding, the Lacassie Water Works, a co-partnership, and Simeon Lacassie and Dewey Casaurang, individually and as partners, filed an application with this Commission for authority to abandon public utility water service, system and property. In this application, among other things, it is alleged that Lacassie Water Works is owned in equal shares by Simeon Lacassie and Dewey Casaurang and that for a number of years last past no water service has been rendered to any customers whatsoever by and through the Lacassie Water Works system, that no consumers are being served at present nor are contemplated to be served hereafter.

It is further alleged that the properties of the water system through former use by applicants herein and through the provisions of the award granted in the above mentioned Action No. 18115 have constituted a cloud on said property and have adversely affected the sale thereof. For this and other reasons, the applicants herein request the Commission to authorize the discontinuance of public utility water service by the Lacassie Water Works and abandonment of said properties and to be relieved of all public utility obligations in connection therewith.

A public hearing was held in these two proceedings in Martinez, Contra Costa County, before Examiner MacKall, at which time it was agreed by all parties concerned that the two matters be combined for hearing and decision.

By reason of variance which has arisen in connection with the name of Simeon Lacassie in the complaint as filed, the application, as well as in certain other official documents and papers, it was stipulated that the various names used in referring to Mr. Lacassie, such as Samuel, Simon and Simeon, be considered to refer to Mr. Simeon Lacassie, his true name, which name hereinafter will be used.

By stipulation it was agreed by and between Mr. Leroy B. Thomas and Mr. Thomas F. McBride that in the event the Commission authorized the abandonment and discontinuance of public utility service in Application No. 27594, that thereupon the complaint of Berkeley Company may be considered dismissed by request of counsel for Berkeley Company.

According to the testimony, upon the death of Mary E. Lacassie the Lacassie Water Works became the property in undivided half-interests of Simeon Lacassie and Dewey Casaurang. Subsequent to the filing of both of these proceedings an agreement was entered into by and between Berkeley Company and Simeon Lacassie and Dewey Casaurang in which it was agreed that Berkeley Company will pay a total of \$625 to the owners of the Lacassie Water Works in consideration of the granting of a quit-claim deed by said owners to Berkeley Company covering the properties and rights involved herein and the signing of a bill of sale to said Berkeley Company for such properties and rights. The above mentioned quit-claim deed and

bill of sale have been properly executed and placed in escrow in the Contra Costa County Title Company offices and the \$625 has been deposited likewise with said company. The transaction will be completed if and when the California Railroad Commission authorizes the discontinuance of public utility water service as prayed herein.

In view of the fact that no water service has been rendered to any customers for several years last past and of the further fact that no public utility water service now is possible through the former water system of the Lacassie Water Works, and it appearing that it is in the best interests of the public that authorization to discontinue public utility water service be granted in order to remove the cloud covering the title to the said properties involved herein, the request for authority to discontinue public utility water service by the Lacassie Water Works will be approved in the following Order. In accordance with the stipulation referred to above, the complaint herein will be dismissed.

O R D E R

Application and complaint as above entitled having been filed with the Railroad Commission, a public hearing having been held thereon, the matters having been duly submitted and the Commission now being fully advised in the premises;

IT IS HEREBY ORDERED that Simeon Lacassie and Dewey Casaurang, co-partners, operating under the fictitious firm name and style of Lacassie Water Works, in and in the vicinity of the City of Walnut Creek, County of Contra Costa, be and they are hereby authorized to discontinue all public utility water service by and through said Lacassie Water Works and stand relieved of all public utility obligations and liabilities in connection therewith as of the date of this Order.

IT IS HEREBY FURTHER ORDERED that Simeon Lacassie and Dewey Casaurang shall file with this Commission, within thirty (30) days from and after the date

of this Order, a copy of the quit-claim deed and of the bill of sale of the properties and interests herein involved.

IT IS HEREBY FURTHER ORDERED that the above entitled Complaint, Case No. 4807, for the reasons stated above, be and it is hereby dismissed.

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 15th day of October, 1946.

Harold P. Kulo
Justice J. Calver
Sen. H. Powell
A. Z. [Signature]
Commissioners.