

ORIGINAL

Decision No. 40925

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the Commission's own motion into the service, contracts, rates, rules, regulations, operations, classifications and practices, or any of them, of Albert Thomas and David J. Bayne, owners and operators of a public utility water system otherwise known as the Thomas and Bayne Ditch Company, in the collection, distribution and sale of water for irrigation and other purposes in the vicinity of Alturas, Modoc County, California.

Case No. 4901

David J. Bayne, for Thomas and Bayne  
Ditch Company.

O P I N I O N

This proceeding was instituted by the Commission on its own motion into the operations of Albert Thomas and David J. Bayne, doing business as Thomas and Bayne Ditch Company, supplying public utility irrigation service in the vicinity of Alturas, Modoc County, for the purpose of inquiring into and determining the adequacy of the water supply; the extent and dedication of the service; the reasonableness and fairness of the distribution of water among the customers; and for the purpose of determining the reasonableness of the service, rates, contracts, rules, regulations, and operating practices, or any of them.

A public hearing in this proceeding was held in Alturas before Examiner M. R. MacKall.

The construction of this ditch system was commenced about 1903 by James Thomas and John E. Raker for the purpose of collecting, storing and distributing water for irrigation purposes to their own properties, and to other landowners who could obtain service from the ditch system.

Albert Thomas inherited a one-half interest in the property from his father, James Thomas. David J. Bayne purchased a one-half interest from C. A. and Iva S. Raker, respectively, brother and widow of John E. Raker, deceased. This

latter transaction was authorized by the Commission in its Decision No. 34754, dated November 12, 1941, and by its supplemental Decision No. 37230, on July 26, 1944, in Application No. 24444.

For its water supply this system depends on winter rains, spring thaws and the runoff from various drainage areas, collected in five impounding reservoirs reported to have a total capacity of 11,640 acre feet, as follows:

Big Dobie North (Raker) Reservoir.....	6,530	Acre Feet
Big Dobie South (Thomas) Reservoir.....	3,860	Acre Feet
Emigrant Flat Reservoir.....	563	Acre Feet
Woods Flat Reservoir.....	378	Acre Feet
Mud Lake Reservoir.....	309	Acre Feet

Total.....11,640 Acre Feet

These reservoirs are located at such relative elevations that the water from the uppermost reservoirs is conveyed to and collected at the lowest basin and thence discharged into the main ditch. The dams forming the reservoirs are constructed of lava rock and earth fill. The canal system consists of a single ditch approximately 20 miles in length, having a capacity of three to four second feet, equivalent to 120 to 160 miner's inches. The maximum possible area which could be irrigated from the ditch is about 2,000 acres; but, because of insufficient water supply and storage and the lack of carrying capacity in many sections of the canal, an average of only about 600 acres is irrigated each season. There are 12 customers being served at the present time.

The rate at present in effect is 7½ cents per miner's inch day. The water is "measured through a 2-inch slot with a 3-inch pressure over top." While this method of measurement is in accordance with the statement filed with the Commission as part of the rules and regulations, the resulting volume of flow is less than that provided by statute, and should be rectified to comply with the standard miner's inch, being the equivalent of a flow of one-fortieth of a cubic foot of water per second.

Mr. David J. Bayne, owner of a one-half interest in the system, testified that the total fixed capital installed as of December 31, 1946, was \$35,213. He also testified that revenues for the 1947 season would total only \$158.13 due to the reduction of the available water supply during the past abnormally dry season. He stated that the season's operations would result in considerable out-of-pocket loss.

The following table shows the capital and the annual revenues and expenses for the period 1942 to 1946, inclusive, on operations for the past five years as filed by the company in its annual reports to the Commission:

<u>Year</u>	<u>Capital</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Net Revenues</u>	<u>Rate of Return</u>
1942	\$ 34,000	\$478.32	\$ 164.77*	\$ 313.55	.92%
1943	34,000	598.77	288.78*	309.99	.91
1944	34,000	451.95	223.27*	228.68	.67
1945	34,213	541.59	411.94*	129.65	.38
1946	35,213	754.32	2,231.54*	(1,477.22)	-

(Red Figures)

Note:\*No allowance for depreciation included.

Mr. Bayne stated that the system has suffered from long deferred maintenance, and that it will be necessary to expend approximately \$2,100 a year, for the next five years, in relocating ditches and removing the bottlenecks in the present ditches, caused by rock outcrops, in order to increase water deliveries into the lower reservoir and thereby provide the customers with an adequate water supply. He also stated that he is planning to convey the water through natural water channels and new ditches from Big Dobie North, the highest storage reservoir, directly into the lower distributing reservoir. This proposed route will release water from the upper reservoir at a lower level than the present outlet and make the total storage of this large meadow lake available for irrigation purposes.

The customers testified that there had been an unfair distribution of the available water this past season and that Mr. Bayne had used most of the available reservoir supply to irrigate his own land. Unfortunately this appeared to be largely true but was the direct result of the lack of systematic scheduled deliveries in a very dry year when grain growers suddenly demanded irrigation water, not normally required to save their crops.

However, the consumers testified that they were ready and willing to pay any reasonably increased rate for water that the Commission deems fair and reasonable, provided they can rely on a fair apportionment of the available supply of water.

The most serious difficulties experienced on this system are caused by lack of rules and regulations for the filing of applications for service, for indicating the acreage for which water is desired, and the crops to be irrigated. No schedule of delivery dates has ever been established by the operators of this utility and no notice has ever been given to the water users when irrigation deliveries would be made to their properties. The lack of such requirements has resulted in the irrigators delaying applications for service until seasonal weather conditions became certain. In wet years, little or no water was taken by grain growers, with insufficient revenue being received by the utility for necessary maintenance. In dry years such as last season, all grain farmers demanded water when the supply was hardly sufficient for permanent crops and stock water. Hereafter all water users will be required to file application for water at the beginning of the irrigation season, and required at that time to pay a deposit of one-third of the estimated bill for the amount of water applied for. Two other payments will be provided for, one during mid-season, the final payment at the end of deliveries, subject to any necessary adjustments.

If both utility owners and the consumers cooperate to follow these simple principles and operating practices, better and more reliable service will be assured and at the same time, revenues will be stabilized to the extent that funds will be available, both in dry seasons as well as wet, to provide proper maintenance.

It is apparent that the company is hardly making expenses under present conditions. The present rate admittedly is too low. However, additional ditch capacity will make additional water available for irrigation, the sale of which should produce greater revenue. A rate will be established more comparable to the rates in effect in other localities for similar service. In conclusion it should be pointed out that the rate established in the following order should provide sufficient funds to enable the owners to place and maintain this system in good

operating condition. If the acreage is increased, and more water is made available and used, the rates established herein may, with propriety, be reduced.

O R D E R

The Commission on its own motion having instituted an investigation into the various phases of operations and practices of Albert Thomas and David J. Bayne doing business as Thomas and Bayne Ditch Company; a public hearing having been held thereon, the matter having been duly submitted, and the Commission now being fully advised in the premises,

IT IS HEREBY FOUND AS A FACT that the rates now charged by Albert Thomas and David J. Bayne doing business as Thomas and Bayne Ditch Company for water delivered to their customers in the vicinity of Alturas, Modoc County, are unjust and unreasonable in so far as they differ from the rates herein established; that the rates herein established are just and reasonable rates to be charged for the service rendered; that the increase in rates authorized by this decision is hereby found to be justified; and, basing its Order upon the foregoing findings of fact and upon further statements of fact contained in the Opinion which precedes this Order,

IT IS HEREBY ORDERED that Albert Thomas and David J. Bayne, doing business as Thomas and Bayne Ditch Company, be and they are hereby authorized and directed to file in quadruplicate, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all irrigation water service rendered their consumers in the vicinity of Alturas, Modoc County, on and after the first day of March, 1948:

Schedule No. 1METER RATESApplicability:

For all water service delivered for agricultural purposes.

Territory:

In the area supplied by Thomas and Bayne Ditch System in Modoc County, in the general vicinity of the town of Alturas.

Rates:

Per Miner's Inch\*  
Day of 24 Hours

For all water delivered..... \$0.25

Note: (\*) A miner's inch shall mean a continuous flow of water equivalent to 1.5 cubic feet per minute, or 1/40th of a cubic foot per second. For practical purposes the flow will be measured by means of a standard orifice of suitable dimensions, with a head of 6 inches on the center of the orifice.

Payments:

One-third of the estimated bill for water applied for shall be paid at the time of application.

One-third of said bill is due and payable on July 1st.

Final payment of said bill is subject to adjustment and is due and payable on October 31st.

Conditions:

Consumers requesting irrigation service shall apply to the owner and/or manager of this utility for service on or before the fifteenth day of March of each season, stating the acreage desired to be irrigated, the location thereof, the kind of crops to be irrigated, or the use for which the water is required, indicating as nearly as practicable the times and dates when water deliveries are desired.

IT IS HEREBY FURTHER ORDERED as follows:

1. That Albert Thomas and David J. Bayne be and they are hereby authorized and directed to file with this Commission, within thirty (30) days after the effective date of this Order, four sets of the rules and regulations set forth in Exhibit "A" attached hereto, said rules and regulations to become effective on and after January 1, 1948.
2. That Albert Thomas and David J. Bayne, within sixty (60) days from the date of this Order, shall file with this Commission four copies of a comprehensive map, drawn to an indicated scale of not less than 600 feet to the inch, upon which shall be

delineated by appropriate markings the territory presently to be served. This map should be reasonably accurate, show the source and date thereof, and include sufficient data to determine clearly and definitely the location of the property comprising the entire utility area of service; provided, however, that such map shall not thereby be considered by this Commission or any other public body as a final or conclusive determination or establishment of the dedicated area of service or any portion thereof.

3. That any rules and regulations of the Thomas and Bayne Ditch Company which interfere with or are contrary to the rules and regulations hereinabove established, be and they are hereby cancelled and superseded.

The effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day of November

1947.

Harold P. Kule  
Justus F. Gallesco  
Geo. H. Russell  
R. F. [unclear]

Commissioners.

EXHIBIT "A"

RULES AND REGULATIONS

THOMAS AND BAYNE DITCH COMPANY

Case No. 4901



EXHIBIT "A"

RULE AND REGULATION

No. 1 - PRIMARY APPLICATIONS FOR WATER

The irrigation season shall run from May 1st to October 31st, both inclusive. The consumer each year shall make written application for water, preferably on forms to be furnished by the ditch company, and filed not later than the fifteenth day of March of each year at the headquarters or office of the ditch manager. Such applications shall be called "primary applications."

At the time of filing application for water, or prior thereto, the consumer also shall file at the headquarters or office of the ditch manager, a written schedule of water deliveries which the consumer desires during the irrigating season. Such schedule shall give the following information:

- a. Name and address of land owner, and tenant, if any.
- b. Location and number of acres of each crop to be irrigated.
- c. The number of irrigations for each such crop, the approximate dates and heads of water for each such irrigation.

RULE AND REGULATION

No. 2 - SECONDARY APPLICATIONS FOR WATER

Secondary application may be made at any time for water which may be available in excess of the requirements or demands under primary applications filed as provided in Rule 1. Service under secondary applications may not be delivered in less than five days after the date of application. Secondary applications shall be made in writing as provided for in Rule 1. Secondary water will be delivered in such manner as not to interfere with regularly scheduled deliveries under primary applications or result in undue loss of water.

In case the total demand under secondary applications exceeds in amount the water available therefor, the supply shall be prorated equitably so far as is reasonably possible, and only to the extent that the water can be put to a beneficial use.

RULE AND REGULATION

No. 3 - METHOD OF DELIVERY

Water will be delivered in rotation, beginning at the head or end of the ditch as conditions warrant. Deliveries under schedules will begin May 1st of each year and the number and times of each delivery to each user shall be determined by the company from applications filed and the water supply considered by the company to be reasonably available. Schedules will be so arranged that deliveries to all parts of the system shall be at convenient intervals. Any consumer not able to use water during his regular rotation period on any run should immediately notify the ditch manager and may later receive water upon completion of deliveries to other consumers, provided no undue loss of water is involved and no interference with deliveries to other irrigators.

EXHIBIT "A"

RULE AND REGULATION

No. 3 - METHOD OF DELIVERY - Continued:

The minimum "irrigation head" applicable to service of each applicant will be ten miner's\* inches.

Consumers will be required to use water without unnecessary waste continuously day and night until the irrigation is completed.

Note (\*) - A miner's inch shall be a continuous flow of water equivalent to 1.5 cubic feet per minute, or 1/40th of a cubic foot per second.

RULE AND REGULATION

No. 4 - SHORTAGE OF WATER

When a general shortage of water supply occurs, preventing full deliveries of the estimated requirements of the consumers entitled to primary service, the company may revise the schedule of rotation deliveries as to either time or duration of each irrigation or both, and shall prorate among the consumers as equitably as possible the amount of water each is entitled to receive. Ordinarily reduction in quantity deliveries shall be in the same proportion for all acreage applied for and irrigated. Proration upon the acreage basis will not be carried out to the point that the water so prorated cannot be put to beneficial use.

In cases of emergency and only by consent of the Public Utilities Commission of the State of California, preference may be given to perishable crops or to avoid severe financial loss or hardship.

At all times during period of severe water shortage, due and proper consideration will be given to stock water.

Due notice will be given to each consumer by the ditch manager when deviation from the regularly established schedule of rotation deliveries is to be made during period of water shortage.

RULE AND REGULATION

No. 5 - POINT OF DELIVERY

All deliveries of water shall be made by the company at a point as convenient as possible to serve the consumer's land, at which point the company shall install and operate a measuring outlet box, gate or other device.

Where the consumer's lands cannot properly be served through a single measuring outlet box or gate, the location of such additional boxes or gates as are reasonably necessary may be determined by mutual agreement between the consumer and the company. Where more than one outlet box or gate is required, each such additional box or gate may be installed at the expense of the consumer unless installed for the convenience of the company.

EXHIBIT "A"

RULE AND REGULATION

No. 6 - EXCHANGE OF WATER

Exchange of water between irrigators during the same rotation period will be permitted with approval of the company upon reasonable notice, provided that such exchange will not unreasonably interfere with other deliveries or cause undue loss of water.

RULE AND REGULATION

No. 7 - DISPUTED BILLS

In case a dispute should arise over the correctness of any bill rendered for water service, the company will notify the consumer in writing to deposit for adjustment with the Public Utilities Commission of the State of California, at San Francisco, the full amount of the presented bill. Such deposit made with the Public Utilities Commission will preclude the company from shutting off service for the nonpayment of the disputed account pending the settlement thereof by the Public Utilities Commission. Failure on the part of the consumer to make such deposit with the Public Utilities Commission, within 15 days after receipt of written notice thereof, will warrant the company in discontinuing the service without further notice until the bill has been paid.

RULE AND REGULATION

No. 8 - CONTROL OF GATES

Measuring devices, gates or outlet boxes for measurement of water shall be regulated by the ditch tender or other authorized employee or agent of the company only. The company may discontinue service at once to any consumer who himself or his agent or employce interferes or tempers with any of the regulating or measuring devices belonging to the company.