

ORIGINAL

Decision No. 41490

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE CAMPBELL WATER CO., a corporation,) Application No. 28771
for permission to abandon certain)
branch irrigation lines.)

R. W. MORTON for applicant
MARTIN S. WALSH for John Marovich
Anthony M. Pimental, Mrs. R. Mazzone and Mrs. M. J. Hargis,
protestants.

O P I N I O N

The Campbell Water Co., a corporation, seeks authority to abandon the operation of three branch irrigation pipe lines through which water is supplied to certain consumers for agricultural use. The consumers served by two of these lines voiced no opposition to this proposal, but those supplied by the third line, some four in number, appeared as protestants. The matter was submitted at a public hearing, had before Examiner Austin at Campbell. Proof was offered showing due publication of notice of hearing, and of the mailing of such notice to the interested consumers.

Applicant's showing was submitted through its operating officials, and protestants offered testimony in their own behalf. Applicant contends that because of the difficulties and inconveniences encountered, the service sought to be abandoned can be furnished only at a substantial financial loss; that the cost of providing the irrigation service is relatively higher than that incurred in supplying the domestic service, while the revenue derived from the former is disproportionately lower; and that an adequate substitutional water supply is available, should applicant's service be withdrawn,

which would fully meet the needs of the consumers affected. Protestants, on the other hand, contend that applicant has exaggerated the difficulties experienced in furnishing the irrigation service, and that the proposed substitutional water supply would be neither sufficient to satisfy the consumers' needs nor would it always be available when required.

For some thirty years applicant, operating as a public utility, has been engaged in the business of supplying water for both domestic and agricultural uses, at Campbell, in Santa Clara County. At present, the domestic consumers number 973 while those using water for agricultural purposes total 18. Water for domestic, industrial and irrigation purposes is obtained by pumping from four wells. Irrigation water is delivered to the customers through 22,736 feet of 10, 12 and 14 inch concrete pipe lines. Domestic water is distributed through 87,692 feet of mains, varying from one to 10 inches in diameter.

Among the irrigation lines maintained are the three now sought to be abandoned, which are designated in this proceeding as Lines Nos. 1, 2 and 3, serving three, two and five consumers⁽¹⁾, respectively. These lines, which are 1850, 1050 and 1900 feet in length, respectively, follow the routes described in the application. They consist of sectioned concrete pipe, of from ten to twelve inches in diameter, the joints (each of which is thirty inches long) being cemented together.

During recent years substantial changes have occurred in the characteristics of the territory traversed by these lines. When they were installed, and for many years thereafter, this land was either unimproved or set out to orchards. Recently, however, a large

(1) Of the five consumers served by Line 3, only four appeared as protestants.

part of this area has been subdivided and is now occupied by dwelling houses. For a distance of two blocks, Line-1 crosses residential territory and then enters the grammar school grounds, passing under two buildings which have been constructed over it. A branch line terminates in a residential subdivision. The area traversed by Line-2, though not improved, is potentially residential in character. For some 900 feet, Line-3 extends from its point of commencement, on North First Street, easterly to Harrison Street through an area occupied by dwelling houses. Beyond Harrison Street, for approximately 1000 feet, this line passes through orchards or lands used for agricultural purposes.

In some instances applicant has found it necessary, because of the residential development described, to relocate these lines. For example, Line-3 was rerouted, through the streets, around a block which it originally had crossed, and was diverted around a house, situated on North First Street, which had been erected over the original pipe line. For a distance of from 50 to 100 feet, various structures have been built over this line.

Along these pipe lines valves have been installed on land which is privately owned. A cut-off valve, situated at the rear of a lot on North First Street, controls the delivery of water through Line-3. East of this point, no water flows under pressure, except during the irrigation season, which usually lasts for about six weeks.

Owing to these conditions, private property owners have experienced considerable annoyance and inconvenience. Applicant's employees, whenever necessary to do so, must enter upon their lands to operate the cut-off valves or to repair the lines. Water leaking from broken pipe lines occasionally has resulted in damage to lawns

and gardens. It is inconvenient to repair breaks occurring under buildings, because of the difficulty of gaining access to the line. For the reasons mentioned, many complaints have been voiced by householders, and also by the local school district authorities, who have requested the removal of the air vent and valve box now located on the grammar school grounds which, they state, is accessible to school children.

Where the pipe line has been diverted around a building, air pockets have formed at the bends or angles in the line. In order to relieve the pressure, to guard against breaks which otherwise might occur, and to maintain a full flow in the line, air vents must be installed at those points. These, very often, are unsightly structures.

Coincidentally with the residential development described, streets have been constructed which cross the pipe lines under consideration. Line-3 crosses both North Central and Harrison Avenues. When the latter was opened in 1945 the grade was reduced so that the top of the pipe line is now only eight inches below the surface. Because of the heavy traffic over this street, including truck movements to and from canneries in the vicinity, breaks or leaks in the line frequently have occurred. At times, this has caused interruptions in the service. Although the pipe line at this crossing could be lowered, such a step would necessitate the installation of an air vent structure to relieve the air pressure at the angle points in the line. This would be true also were a steel pipe substituted for the concrete pipe, similar to the steel pipe existing at the North Central Avenue crossing, where the volume of traffic is comparable to that at Harrison Avenue. If installed such a vent should be located at the break in the grade of the pipe line, at or

near the sidewalk, to minimize the risk of breakages or leaks caused by air locks. To avoid breaks at the Harrison Avenue crossing, the pressure under which water is supplied through this line has been lowered, thus reducing the flow from 600 and 700 gallons per minute to 500 gallons per minute. Obviously, this has substantially curtailed the capacity of this facility.

To remedy this situation various alternatives were suggested by protestants, such as relocating the pipe line or connecting it with other existing lines. Relocation of the line would not obviate leakage if concrete pipe were used, since in this type of construction, it appears, leaks inevitably would occur as the result of earth vibrations, even though there were no angles in the line in which air pockets could form. Leakage could be avoided, however, if steel pipe were used. If applicant undertook to relocate Line-3, considerable difficulty would be encountered in obtaining rights of way through residential property because of objections raised by the property owners, it was said. It would not be practicable, applicant's manager stated, to connect this line with the existing irrigation line on Hamilton Avenue which serves patrons situated north of that street. This is so, it was stated, because the irrigated lands lying south of Hamilton Avenue now reached by Line-3 are situated at a higher level, consequently such an installation would increase the pressure in the Hamilton Avenue line with resulting leakage and breakage.

The replacement of Line-3, it was shown, would involve considerable expense. The original cost of this line, which was constructed partly in 1926 and the remainder in 1936, was estimated at \$1,425, and the accrued depreciation at \$427.50, leaving a net of

(1)
\$997.50. Replacement of that portion of the line traversing residential territory, approximately 900 feet in length, would necessitate an expenditure of \$2700 if steel pipe were used, and \$3150 for concrete pipe, it was shown. The present value of this section alone was estimated at \$472.50.

During recent years, it appears, the number of consumers using water for agricultural purposes has decreased while those using water for domestic purposes has increased. The number of agricultural consumers dropped from 41 in 1931, which was one of the driest years of record, to 18 in 1946; and the hours pumped decreased from 3547 to 1840. The 1946 use is almost double normal this having been a dry season. On the other hand, the number of domestic consumers increased from 527 in 1931 to 973 in 1946. The irrigation revenues decreased from \$9,832 in 1931 to \$3,319 in 1946, while the domestic revenues increased from \$14,979 in 1931 to \$39,763 in 1946.

The share of the revenue derived from agricultural water service has decreased substantially in recent years while the expenses attributable to that service have correspondingly increased. In 1939 the sale of water for agricultural uses produced \$5,414, or 23.5 per cent of applicant's gross revenues of \$23,006. In 1947, it is estimated, only 5.3 per cent of the gross revenues would be derived from this source. In 1946 the estimated revenue yielded by Lines 1 and 2 was \$200, and the revenue derived from Line-3 amount to \$536. During the preceding year, some 45 per cent of \$3,940 - the amount expended for distribution repairs throughout the system - was chargeable to the irrigation lines. Line-3 alone accounted for about

(1) The cost of installing this line in 1926 and 1936 was 75 cents a foot, it was shown. The present cost of installing a steel pipe line was estimated at \$2.25 per foot, if laid in open orchards, and at \$3.00 per foot, if laid in residential areas. The present cost of installing a concrete pipe line, whether in orchard or in residential territory, was estimated at \$3.50 per foot.

25 per cent of the total cost of such repairs, or approximately \$985.

The record dealt extensively with the alternative water supplies and facilities available to the present consumers if the existing service were withdrawn.

Since May 1946, applicant has supplied no water to any of the five consumers served by Lines 1 and 2. Throughout this period, during which there were three regular seasonal irrigations, water for this purpose was obtained from A. J. Lipari, whose well is situated on Bland Avenue near the Campbell Union High School.

The well and pumping facilities were described by Mr. Lipari. Their capacity is adequate, he testified, to meet the requirements not only of his own orchard comprising some 11 acres, but also those of the consumers reached by Lines 1 and 2, whose holdings aggregate approximately 35 acres. To supply their needs, he is willing to sell them surplus water at a charge of \$1.50 an hour for the run of the pump - a rate which he has previously observed. Since 1946, he stated, surplus water obtained from this well by these consumers has been sufficient to meet their needs. During this period no complaints had been received, he testified. The water table, he said, had been lowered from 121 feet, in 1945, to 165 feet, in 1947. As a result pump deliveries had fallen from 610 to 450 gallons per minute.

To accommodate the consumers served by Line-3 it is proposed that they obtain surplus water from the well of Mervin S. Keesling, situated east of their lands and across the Southern Pacific right-of-way. A pipe line from the well extends under the

railroad tracks to a point distant some 300 feet from the terminal of Line-3. Applicant proposes to construct a connecting line at its own expense. This well, including the pit, has reached a depth of 263 feet. The new pump, recently installed, has a guaranteed capacity of 700 gallons per minute but can produce 800 gallons per minute.

These facilities, Keesling stated, are designed primarily to furnish a water supply for the irrigation of his own land which includes some 60 acres of fruit orchards. For many years he has sold to neighboring orchardists for the purpose of irrigating their lands, surplus water in excess of that required to satisfy his own requirements.

The supply is adequate, Keesling testified, to provide amply for the needs of protestants, whose holdings aggregate approximately 29 acres of fruit trees and vegetable farms. He currently furnishes surplus water to irrigate, in addition to his own land, some 40 acres during the spring season, and 30 acres during the fall. Many years ago, it was shown, he had provided water for an additional 50 acres. During the early twenties, he supplied surplus water to protestants Hargis, Pimental and Mazzone, to irrigate their lands.

Keesling undertook to supply the protestants, during the course of the irrigation season, in conformity with their needs. Various fruits require irrigation at different times, the order being cherries, apricots, peaches and prunes. This tends to spread the periods during which water should be supplied. If protestants could not always be accommodated at the times specified in their requests for service, water nevertheless would be furnished within a reasonable

(3)
time thereafter, he stated. For this service the charges imposed would range from \$1.50 to \$2.00 per hour, depending upon the volume of water supplied.
(4)

All four protestants testified in support of their position. Their holdings, which are contiguous, lie south of Hamilton Avenue and west of the Southern Pacific right-of-way, comprising in the aggregate some 29 acres.
(5)
For many years applicant has regularly furnished water for the irrigation of their lands.
(6)
All have found the service satisfactory. On no occasion was any of them unable to obtain water for this purpose, when required. None has experienced any delay in receiving water, excepting those arising from the

(3) The irrigation of Keesling's land, he testified, ordinarily requires 591 hours, operating 24 hours daily. This is equivalent to 24 days and 15 hours. To irrigate protestants' lands, it was estimated, an additional 150 hours would be consumed. This service, he stated, could be supplied within a period of seven days.

(4) In accordance with Keesling's past practice, charges for supplying surplus water would be assessed under the following scale:

<u>Size of Stream</u>	<u>Gallons per Minute</u>	<u>Hourly Charge</u>
No. 1	700	\$2.00
" 2	*	1.80
" 3	500	1.60
" 4	*	1.50

*Not shown

Very little water has been furnished under the \$1.50 rate.

(5) The tracts owned by protestants, respectively, vary in size as indicated below:

Anthony M. Pimentel	5	acres
Mary J. Hargis	3.81	"
Rosie Mazzone	10	"
John P. Marovich	10	"
Total	28.81	"

Both Mr. Pimentel and Mrs. Mazzone are engaged in raising prunes upon their lands; and Mr. Marovich, in raising both prunes and apricots. Vegetables are raised on Mrs. Hargis' land by her tenants.

(6) The service which applicant has furnished protestants as consumers has extended, for varying periods, over many years. Thus, Mr. Pimentel has been served, without interruption, since 1926; Mrs. Hargis, for 15 years; Mrs. Mazzone, since 1923; and Mr. Marovich, for four years, or ever since he purchased the tract.

requirement that each should request service in advance and await his proper turn. These delays, however, were minor in character. Applicant's superintendent admitted that no complaints had been received from the consumers accommodated by Line 3, regarding the quality of the service.

Two of the protestants recounted the difficulties they had experienced in their dealings with Mr. Keesling. Mr. Pimental, it appears, purchased water from this source between 1922 and 1926. During this period he was unable, so he stated, to obtain water when he desired it. It was Keesling's practice, he said, to install a pipe line through a culvert under the railroad track whenever water was supplied to his land. On one occasion, he testified, Keesling advised him that he had no time to install the pipe line, and he suggested that Pimental obtain his own pipe if he desired to use the service. Mrs. Mazzone testified that during 1922 her husband had used water supplied by Keesling. Mazzone was obliged to rent approximately 400 feet of pipe which was laid along the ground from the well to the highest point on his land. There was considerable loss from leakage, she said. Throughout this period, water was furnished intermittently, it having been cut off at times to permit Keesling to irrigate his own land. Subsequent offers by Keesling to supply water, she testified, had been rejected because the difficulties described could not be obviated. Neither witness was familiar with the quality of the service which Keesling currently provides. Both referred to the circumstance that the latter had only one pump, contrasting this with the four pumps which applicant had available.

Assertedly, Keesling had circumscribed the use of surplus water, but as to this the evidence is conflicting. He testified that

he had sold surplus water, in excess of that necessary to irrigate his tract. On one occasion, probably in 1926, Pimentel said, Keesling declared he had just sufficient water for his own use, and when he had finished, anyone desiring water could have it then. Keesling denied ever having made such a statement to any of the protestants. He advised Mazzone, so Mrs. Mazzone testified, that he desired the latter to take the water at times when he did not need it.

Doubt was expressed by Mr. Pimentel whether Keesling could supply him with sufficient water during the regular irrigation season, which lasts about six weeks. This conclusion was attributed to the circumstance that during the current season Keesling had completed the irrigation of his own land only a week before the hearing, after having pumped both day and night. Keesling admitted that in this vicinity the orchards, which generally are of similar type, must be irrigated at approximately the same time.

It was suggested that, through a connection with the pipe line of the Santa Clara Conservation District, which extends along the southern boundary of the Marovich and the Mazzone tracts and across Mrs. Hargis' land, applicant could supply water to protestants. Mr. Pimentel related a conversation with Mr. Ralph Hyde, applicant's vice president to the effect that the latter had discussed this matter with an official of the district and believed that that organization would consent to such an installation. Mr. Hyde promised to report further progress, but had been prevented by illness from doing so. Applicant's general manager, Mr. Homer Hyde, testified that he had not discussed the subject with the district management, nor did he know of any such conversation in which his father,

applicant's president, may have participated.

The record is somewhat indefinite concerning the ability either of applicant or of Keesling to install a connection between the terminals of their respective lines, now separated by a distance of some 300 feet. Applicant's Line-3 terminates at the western boundary of Pimentel's tract, where it adjoins that of Mrs. Hargis; Keesling's pipe line does not extend beyond Mrs. Hargis' eastern boundary. Any connection between the two lines, must be constructed over her land or along the Southern Pacific right-of-way. She expressed neither approval nor disapproval of such a course; in fact, she was not interrogated concerning this matter.

In rebuttal, applicant's general manager described the practice observed in supplying water for irrigation. It is furnished to consumers, he said, in the order of the presentation of their requests for service. The dates for providing the service are scheduled, and water is supplied accordingly. Owing to prior commitments, applicant often has been unable to provide this service at the time indicated by a consumer who may have failed to register his requirements. The witness recalled an occasion when a late-comer was compelled to wait three weeks beyond the date he had specified. Frequently, he stated, the requests submitted by consumers, if observed, would require some of them to be served simultaneously. Since applicant is unable to accommodate them, it becomes necessary to reconcile their conflicting requirements. For these reasons, he said, it is not always possible to supply water to consumers whenever they may desire it.

None of the consumers served by Lines No. 1 and No. 2 objected to the abandonment of these facilities. The substitutional

service supplied by Mr. Lipari from surplus water, it was shown, is adequate to meet their requirements for the irrigation of the tracts which they severally hold and cultivate. Under the circumstances, applicant will be authorized to discontinue service through these lines.

A different problem, however, is presented by the proposal to abandon Line-3. Applicant, on the one hand, points to the difficulties encountered and the expense involved in providing this service. Protestants, on the other hand, question the sufficiency of the alternative water supply to which they must resort should the application be approved.

The maintenance of this line, it was shown, entails many difficulties. Breaks frequently occur, which must be remedied promptly. Access to the line, for the purpose of making repairs, generally is accompanied by annoyance to householders through whose properties it passes, and by inconvenience to applicant's employees.

Applicant's contention that this service could be provided only at a loss is not supported by the record. During a recent period, however, the revenues derived from the operation of this line comprised but 1.14 per cent of the system revenues, while the cost of distribution repairs, attributable to this facility, were approximately 10 per cent of those incurred throughout the system.

During recent years, applicant's agricultural operations have steadily diminished in importance. Both the number of consumers and the volume of revenue derived from that source have decreased to a marked degree. Contemporaneously, the domestic operations have grown substantially. As stated, the share of total gross revenue,

attributable to the agricultural water service, dropped from 23 per cent in 1939, to 5.3 per cent in 1947.

Replacement of Line-3, it was shown, would be expensive. Constructed many years ago, the line could not now be duplicated, as pointed out above, except at a much higher cost. In fact, replacement of only that part which traverses residential territory would involve an expenditure double the cost originally incurred to construct the entire line.

The alternative supply which would be afforded through Keesling's facilities ordinarily would provide water in sufficient quantity, we believe, to meet the requirements of the consumers now reached by Line-3. The record discloses that the volume of water produced from this well would satisfy their needs, along with those of Keesling himself and others to whom he currently furnishes surplus water. Moreover, the rates which Keesling would exact for this service do not appear to be excessive. None of the consumers voiced any objection to them.

It is clear, however, from a consideration of the circumstances under which this service would be accorded these consumers, that it would be an inadequate substitute for the public utility service they now enjoy. Only surplus water would be supplied them, available after Keesling had first satisfied his own requirements. The record shows that during a large part of the short irrigation season he would be engaged in irrigating his own land; not until then would water (which he did not need for that purpose) be furnished to others. In the past, some of these consumers, who had obtained surplus water from Keesling to irrigate their lands, were subjected to considerable delay and to interruptions in service. Water seldom

was furnished at the times requested..

There is no assurance that a connection could be established between the existing terminals of Line-3 and Keesling's pipe line, respectively, now separated by a distance of some 300 feet. When called as a witness, the owner of the land over which such a line would be constructed, and whose consent obviously must be obtained, expressed neither approval nor disapproval of such a project. The record is silent, in this respect.

To reach a satisfactory solution, it is necessary, we believe, to weigh carefully the conflicting claims of the parties, which have been established by the record. On the one hand, it appears, applicant's irrigation service has steadily declined for many years. Line-3 is difficult and expensive to maintain; its replacement, in view of the present high cost of materials and the small number of consumers served, would not now be justified. On the other hand, we are convinced, the proposed substitutional service would not adequately meet protestants' needs. Water would not always be available when required. Keesling undertakes to supply surplus water only; he would assume none of the obligations of a public utility. Undoubtedly, he could dictate the term of any contractual arrangement which he might consummate with protestants. The latter, we believe, should not be relegated, against their will, to this position from their present status as public utility consumers.

The record indicates that existing conditions may change substantially in the not too distant future. There is a definite trend toward the subdivision of the larger tracts in this area, and their development for residential purposes. Consequently, protestants'

use of their holdings for agricultural purposes may not long continue. As stated, the present service, through Line-3, was not shown to have been provided at a loss. In view of the diminishing importance of applicant's irrigation service, accompanied, as it has been, by a substantial growth in the domestic operations, it would seem appropriate that, for the time being, applicant absorb in its system operations the cost of providing the irrigation service in question. We believe that, at slight expense, some of the major difficulties could be alleviated.

Under the circumstances, approval of applicant's proposal to abandon irrigation service through Line-3 will be withheld, and to that extent the application will be denied.

O R D E R

Application having been filed as above entitled, a public hearing having been held thereon, the matter having been duly submitted, and the Commission being now fully advised:

IT IS ORDERED that:

(1) Applicant, The Campbell Water Company, a corporation, is hereby authorized to abandon its branch irrigation pipe lines No. 1 and No. 2, respectively (as described in the application herein), and to discontinue further irrigation service from said branch pipe lines, and each of them. Such abandonment and discontinuance of service may be made effective not less than thirty days after the effective date of this order.

(2) Applicant shall, not less than twenty days before the discontinuance of such service over said branch pipe lines, give

written notice of such abandonment and discontinuance of service to the consumers presently served with irrigation water by said branch pipe lines. Within ten days after such abandonment and discontinuance of service, applicant shall file with the Commission an affidavit showing that such service of notice has been duly made upon said consumers, as provided herein, and also showing the date upon which such abandonment and discontinuance of service became effective.

(3) In all other respects, the application herein is hereby denied.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 20th day of April, 1948.

R. F. [Signature]
Justus F. [Signature]
[Signature]
[Signature]
COMMISSIONERS.