

ORIGINAL

Decision No. 44800

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Investigation into the operations of GORDON BELL et al., in connection with a public utility water system serving Los Serranos Village, near Chino, San Bernardino County.

Case No. 5196.

Gordon and Knapp, by Sanford A. Waugh, for Gordon Bell; Wilson, Selig and Cotter, by Frank T. Cotter, for Harold V. Saffell.

OPINION AND ORDER ON FURTHER HEARING

The Commission reopened Case No. 5196 on the petition of Gordon Bell and his associates, who were among the respondents therein, for the limited purpose of receiving further evidence concerning the ownership or control of the Home Well. By Decision No. 44500, issued June 30, 1950, in a consolidated proceeding,^{1/} the Home Well had been included among the public utility assets of the Pomona Valley Water Company^{2/} on the basis of the then available evidence of record. The evidence adduced at the further hearing, held at Chino August 4, 1950, before Examiner Gregory, established facts not heretofore known concerning the use to which the Home Well had been put and also with respect to the transaction in January, 1947, whereby Bell and his associates sold certain property, including the Home Well, to Roland C. and Alice O. Pierce for \$29,000 cash.

^{1/} Application No. 29767, Cases Nos. 5167, 5188, 5196.
^{2/} Formerly known as the Pomona Valley Resort Water Company.

The evidence shows that in 1937 or 1938, when the country club and water system were controlled by Smith, Longridge and associates, an unsuccessful attempt was made to pump water from the Home Well into the main transmission line of the water system. Thereafter, from about 1940 to 1943, the well was used by lessees of the owners of the country club for the purpose of irrigating tomatoes in a field in which the well was situated. The supply of water from the well was insufficient for such irrigation and had to be supplemented by water obtained from the nearby Los Serranos Lake. During all this time the pipe line formerly connecting the Home Well with the 90,000-gallon reservoir on the water system was broken, and it has not since been repaired. At no time during the period from approximately 1937 to the present time has the Home Well been used to supply water for domestic use.

After the Bell group purchased Los Serranos Country Club and the water system from Don Lugo Corporation in 1946, Bell arranged to have a test made of the Home Well to determine whether it would produce enough water to justify the installation of a new pump. The test, conducted in November, 1946, developed 25 miner's inches of water using a test pump and steel weir. The old pump attached to the well would not function and it was discarded after the test.

In January, 1947, Bell and his associates sold approximately 35 acres of land, including the Home Well, to Roland C. and Alice O. Pierce for \$29,000 cash. Pierce testified that when he purchased the property the Home Well "was nothing but an open pipe in the ground, which I later had capped for fear a child or a cat or something would fall in." Pierce subdivided the acreage for residential lots at a cost of \$18,000, put in a water pipe distribution system connected to the water utility, and has an agreement with the utility to serve water to the lots. One residence has

been built and is receiving service. He planned to construct a residence and swimming pool for himself on two acres of the land and to use water from the Home Well for his own domestic and irrigation needs. The deed by which he acquired the property from the Bell group contains a condition reading as follows:

"This conveyance is made and title to the premises herein described vests in the grantees herein subject to the following condition, to-wit: The said grantees hereby agree for themselves, their successors, or assigns, that their right to use the existing well and the water therefrom situated in approximately the southeast corner of the herein described premises, shall be limited to irrigation purposes and their sole domestic purposes."

Pierce further testified that he had no knowledge, either before or after purchasing the property from the Bell group, that the Home Well had ever been used as a source of supply by the Pomona Valley Water Company; moreover, he stated that at no time had he ever seen any physical evidence of a connection between the well and the utility's system.

We find from the evidence that the Home Well was non-operative property of the Pomona Valley Water Company both before and at the time of its sale and purchase in January, 1947, and that said well was purchased by the Pierces in good faith for value. Based upon said finding of fact, we conclude that Decision No. 44500 should be modified so as to exclude from the public utility assets of the Pomona Valley Water Company, described therein, the Home Well, its site and its existing structures, and

it is so ordered. In all other respects, said Decision No. 44500 is hereby reaffirmed. ✓

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

Dated at San Francisco, California, this 19th day of September, 1950.

A. Z. [Signature]
Justin F. Casper
Robert Lowell

Commissioners.