

ORIGINAL

Decision No. 45933

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the Clear Lake Water Company for Authority to abandon water service to land owners and water users below Engineers Station 516+00 of the Willows Canal.)))))	Application No. 31023 (As Amended)
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✓ Chalmers, Cowing and Sans, by Ralph H. Cowing,
 for applicant. John U. Calkins, Jr. for The Regents
 of the University of California, protestant.
James Koeber, for himself and other water users,
Clyde F. Norris, for the Commission staff.

O P I N I O N

Clear Lake Water Company, a corporation, engaged in the business of storing, distributing, and selling water for irrigation purposes in a service area located in the vicinity of the towns of Winters, Madison, Woodland, and Davis, Yolo County, asks the Commission for authority to abandon a section of its Willow Canal and to discontinue public utility irrigation service to the consumers served therefrom. The original application alleges that the portion of the canal sought to be abandoned was constructed to serve a much larger acreage than is actually supplied; that only a comparatively small acreage is wholly dependent on applicant for water service, as the lands are partially supplied by the water users from wells; that operation of this section of the canal results in excessive transmission losses; that service rendered from it is not compensatory, and that rehabilitation of this portion of the canal is not economically feasible.

The amendment to the application alleges that irrigation service is supplied the University of California at Davis from the

end of the Willow Canal in accordance with a contract dated July 24, 1906, with said university, which provides for service until the year 1953, at a rate of \$1.50 per acre per year, which contract rate is considerably less than the established rate at present in effect. The Commission is asked to authorize applicant to abandon water service below Engineers Station 516+00 of the Willow Canal and to terminate and cancel said contract of July 24, 1906. In the event this request is not granted, applicant asks that it then be permitted to deliver water at the established rates to the University of California and to the other users at Engineers Station 516+00 on the canal and authorize applicant to sell the remaining portion of canal to the water users. Public hearings in this proceeding were held before Examiner Stava in Woodland and in Davis.

The company's principal source of water supply is Clear Lake, located in Lake County, approximately 80 miles northwesterly from Woodland. Water is controlled by a concrete dam on Cache Creek, near the outlet of the lake and is diverted from Cache Creek for irrigation in Yolo County at Capay Dam near the town of Capay, and at Moore's Dam about 10 miles down stream. Water is distributed through 189 miles of canals and ditches. The service area comprises approximately 55,000 acres of irrigable lands. Owing to cyclic water shortages, several thousand acres are irrigated from auxiliary wells.

Water is diverted at Capay Dam into the Winters Canal, and conveyed in said canal for 16.1 miles to the headworks of the Willow Canal, near the town of Winters. Willow Canal follows the north bank of Putah Creek and extends easterly for 14.4 miles to a spillway structure located on the west property line of lands of the University of California at Engineers Station 762+00.

The company seeks to abandon the last 4.66 miles of the Willow Canal from Engineers Station 516+00 to 762+00. Its witness testified that the canal was constructed to irrigate approximately 4,295 acres of land, but that the average acreage irrigated during the past five years was only 382 acres and that but 41 acres of these lands irrigated are wholly dependent on the company's system for water. Of these 382 acres using canal water, actually 341 acres were irrigated primarily from wells, using canal water only as a supplemental supply. The rest of the 4,295 acres under this canal, amounting to 3,913 acres have been irrigated either from the 26 wells installed in the area or not irrigated at all. This witness further testified that the section of the canal sought to be abandoned is 25.8 miles from Capay Dam; that during the 1949 season the company was required to divert 1,487 acre feet of water at the dam in order to deliver 510 acre feet to the consumers at the end of the Willow Canal; that the losses in transmission through the 25.8 miles of the canal were 508 acre feet; and that the losses in the 4.66 miles of the canal were 469 feet. The performance of this ditch resulted in a total loss of 977 acre feet, or 65.7% of the water diverted at Capay Dam as compared to an over-all system loss of 24.9%. The company witness also testified that during the 1949 season the company received \$457.98 in revenue from the 1,487 acre feet of water diverted at Capay Dam for the consumers below Willow Canal Station 516+00 amounting to 31 cents per acre foot compared to \$1.72 per acre foot received for water diverted for the rest of the system; that the average annual gross revenue for the past five years from this section of the canal was \$1,100, and the average operating expense to provide this service was \$2,106. The witness further testified that the canal and structures of this portion of the canal require immediately an expenditure of \$6,000 for rehabilitation to continue operation.

The record shows that under date of July 24, 1906, an agreement was entered into by and between Yolo County Consolidated Water Company, a corporation, a predecessor in interest of applicant herein, and The Regents of the University of California, providing among other things that for and in consideration of the sum of \$3,895.53, said company agreed to furnish irrigation water from its system of canals to the University Farm lands, at and in the vicinity of Davis, at a rate of \$1.50 per acre until February 18, 1953, and thereafter during the existence of said Yolo County Consolidated Water Company. The company thereafter constructed the existing Willow Canal and delivered irrigation water from it to the university in accordance with the terms and conditions of said agreement.

The present rate in effect for irrigation service on applicant's system is \$2.25 per acre foot, established by the Commission in its Decision No. 41993, issued August 24, 1948, in Application No. 29179 (48 CPUC 219). Owing to the substantial differential in charges between the above contract rate and the presently established rate for all other service, applicant asks that if it not be permitted to abandon the service from Willow Canal below Engineers Station 516+00, that the Commission permit applicant to deliver water at this station and charge therefor the regularly established rates. Upon this basis the company is willing to sell this lower portion of the Willow Canal to the consumers and land owners at a nominal consideration and requests authority so to do.

The consumers and land owners along the portion of the canal sought to be abandoned protested the company's application on the grounds that they proposed in the future to level lands not now being irrigated and use more water from the canal. They

contended that the canal supply was essential to that territory to maintain the underground water table and supply supplemental and emergency water when needed. These consumers testified that existing wells were installed to provide a dependable source of supply because applicant was not always able to provide sufficient water every season to meet demands. These consumers all considered that a supplementary supply from the canal was a valuable asset to their farming operations.

Representatives of the university testified that the canal water was desirable for irrigating certain crops, but that well water, although costing \$6.71 per acre foot for production only, was necessary for crops demanding application of water at regular and critical intervals and in exact quantities. These witnesses testified that the university plant at Davis represented an investment of \$12,560,258; that the estimated income from various sources including appropriations by the State of California and the United States Government is \$4,869,765 for the fiscal years 1950-1951, and that this sum is being allocated for expenditures to cover the various activities of the university at Davis, including agricultural irrigation operations.

At the end of the hearing of this matter, representatives of applicant, the university, and the consumers asked for sufficient time to discuss and study the problem in order to work out a solution acceptable to all parties concerned. It was the general understanding that in the event the negotiations were successful, agreement would be reduced to the form of a written contract and made a part of the record in the proceeding, and used as a basis for resolving the issues herein. As a result of several conferences among the interested parties in this proceeding, a new contract was entered into under date of the first day of June, 1951, by and between Clear Lake Water Company and The Regents

of the University of California, in general providing for the sale to and purchase by the university of the Willow Canal between Engineers Station 516+00 and Engineers Station 762+00; rescinding and terminating the aforementioned agreement of 1906 between the former Yolo County Consolidated Water Company and The Regents of the University of California; providing for the company to deliver and measure all water at Willow Canal Station 516+00 for the University of California and other consumers located between said Station 516+00 and Station 762+00; all consumers to be charged under effective rates, service to be rendered under prevailing rules and regulations of the Clear Lake Water Company, said consumers to install and maintain their own measuring devices; special provisions being made for seepage losses under varying conditions; the university to maintain the transferred portion of the Willow Canal; and the company agreeing not to seek authority to abandon any more of the Willow Canal to be effective before ✓ March 1, 1959.

This contract was circulated by the university among the consumers and land owners located along the canal below Station 516+00 but no protests were received.

The arrangements mutually agreed upon by the interested parties herein appear to have been satisfactorily reduced to the written agreement submitted. The terms and provisions thereof are reasonable and are in the best interest of the public.

✓ Applicant, therefore, will be authorized to enter into the agreement above referred to with The Regents of the University of California, and the request for abandonment of the portion of Willow Canal will be dismissed.

The action taken herein shall not be construed to be a finding of the value of the property herein authorized to be transferred.

O R D E R

The above-entitled application having been filed with the Commission, a public hearing having been held, the matter having been submitted, and now being ready for decision, and it appearing that the proposed transfer of public utility property will not be adverse to the public interest, therefore,

IT IS HEREBY ORDERED that Clear Lake Water Company, a corporation, be and it is authorized to carry out the terms and provisions of the written agreement, dated June 1, 1951, entered into with The Regents of the University of California, including the transfer of that certain portion of Willow Canal appurtenant structures and facilities as more specifically set forth in said agreement, and to render the service described therein under the terms and provisions thereof, said agreement being made a part of this order by reference, subject to the following conditions:

1. Applicant shall file with the Commission within thirty (30) days after the effective date of this order, two certified copies of the contract as executed.
2. Applicant shall notify this Commission of the date of termination of said contract within thirty (30) days from and after said date of termination.

IT IS HEREBY FURTHER ORDERED that the request for authority to abandon the Willow Canal from Engineers Station 516+00 to Engineers Station 762+00 be and is hereby dismissed.

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

Dated at San Francisco, California, this 10th day of

July, 1951.

[Signature]
Justus F. [Signature]
Harold A. [Signature]
[Signature]

Commissioners.