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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THOMAS T. STORER,
 Complainant,
 vs.
 INVERNESS PARK WATER COMPANY,
 Defendant.

Case No. 7061

Thomas T. Storer, complainant.
Kruger & McMahan, by Alexander J. McMahan,
 for defendant.
John D. Reader, for the Commission staff.

O P I N I O N

Thomas T. Storer filed the above-entitled complaint against J. J. Downey, doing business as Inverness Park Water Company,^{1/} on February 14, 1961. Defendant filed his answer on March 17, 1961. Hearing on the matter was held before Examiner James F. Haley at Point Reyes Station on May 26, 1961. The matter was taken under submission upon receipt of late-filed Exhibits Nos. 1, 2 and 3 which were filed with the Commission on June 6, 1961.

Allegations of the Complaint.

Complainant alleges, in substance, that defendant's water system is so negligently and carelessly maintained and operated that:

1. The Sanitation Division of the Marin County Department of Health declared the water unsafe for drinking on or about December 19, 1960.
2. Complainant's four children have suffered regularly from intestinal disturbances which a physician has attributed to the water.

^{1/} Inverness Park Water Company serves 56 domestic water customers in an unincorporated area in Marin County known as Inverness Park.

3. Periodically, the water is cloudy and contains a muddy sediment.

4. On many occasions over the past eight years, users have been entirely without water for periods of one hour to one week.

Relief Sought

In substance, complainant seeks an order of this Commission requiring defendant to cease and desist from the foregoing alleged acts or omissions.

Answer of Defendant

Defendant denies each and every allegation of the complaint and requests that it be dismissed. As a separate and affirmative defense defendant alleges substantially as follows:

1. That defendant's water system has an automatic chlorinator in full operation and that the regular monthly water examinations made by the Marin County Health Department in January and February of 1961 show "satisfactory bacteriological analysis."

2. That complainant has never applied for water service, has never paid for water service, and that he receives service through an unauthorized connection.

3. That defendant's system has a limited water supply, the chief sources of which are natural springs, and that during the winter rainy season a natural turbidity is sometimes found in the water.

Summary of Evidence

The Director of Sanitation of the Marin County Health Department, a witness produced by the complainant, testified that each of the regular monthly samples of water taken by that agency from the system during the year 1960 were "positive," i.e., contained a count of over 2.2 coliform bacteria per cubic centimeter. As a result of these continued unsatisfactory samples, the Health Department, on November 10, 1960, ordered defendant to chlorinate the water. No

reply was received to this letter, and defendant did not comply with the chlorination order. As a result, on December 14, 1960, the Health Department addressed a further letter to defendant advising him of the revocation of the temporary water supply permit under which his system had been operating. The Health Department then posted the service area with notices advising users that the water was unfit for human consumption. On December 16, 1960, after the posting, defendant finally responded to the pressures of the Health Department and commenced chlorination of the water. Chlorination has since been provided continuously, and all of the monthly water samples taken subsequently by the Health Department have been "negative," indicating an acceptable coliform bacteria count. The witness testified that, at the present time with chlorination, the water is potable and does not constitute a health problem.

At no time during the year 1960 did defendant notify the Commission through a written report, as required by General Order No. 103, that the quality of the water was under review by the Health Department as a result of not meeting the United States Public Health Service Drinking Water Standards of 1946.

Defendant has not yet applied for reinstatement of his water supply permit. According to the Health Department witness, defendant has augmented his supply from unapproved sources not contemplated under the revoked permit. The witness stated that, before his agency reinstates the permit or issues a new permit to defendant, it must be satisfied as to the suitability of the additional supply. Defendant replied that it has been necessary for him to supplement his original sources of water as approved by the now-revoked permit. These original sources are two high-level springs which, according to defendant, formerly provided an adequate supply but which have lately fallen off in production. For supplemental supply, water is taken from a low-level spring and, during the dry season, from a stream

known locally as "Fish Hatchery Creek." It is defendant's position that the two additional sources produce good, potable water, entirely satisfactory for domestic use.

As to the cloudiness and sediment which sometimes appear in the water, the Health Department witness testified that these characteristics do not, in themselves, constitute a health problem. They do, however, detract from the quality of the water and reduce its over-all desirability for domestic purposes. The record indicates that these displeasing features are manifest during and following rainy weather and that they occur as a result of the roiling of the low-level spring waters. Since the demand on the system is lowest and the output of the high-level springs greatest in the wet season, an expedient solution to the turbidity problem would be for defendant to operate in such a manner as to not draw the waters of the low-level spring into his system during and following heavy rains. This approach would require no capital expenditure by defendant but only the exercise of the normal level of supervision and care which may reasonably be expected in the operation of a public utility water system.

Defendant does not regularly clean and flush the system's collection tank and its dead-end mains. It is reasonable to assume that if defendant pursued a regular program in this regard, the quality of water would be improved thereby. In this connection, the record shows that the dead-end mains, of which the system has a number, are not equipped with flushing valves as required by this Commission's General Order No. 103.

The evidence does not confirm complainant's allegations that there have been service outages lasting as long as one week. The record indicates that such outages have generally been short in duration and have been caused principally by failure of the commercial electric supply which powers the system's pump and by

occasional exhaustion of the water stored in the system's collection tank as a result of prolonged drawdown by customer water wastage. The latter circumstance readily lends itself to correction. By closer supervision and control, defendant could prevent the emptying of the tank through proper utilization of his sources of water supply and through timely detection and correction of flagrant water wastage.

Defendant presented no evidence to support his allegation that complainant has never applied for or paid for water service. Defendant, in fact, testified that all his users are being billed for the water they receive and that there are, to his knowledge, no unauthorized connections.

Findings and Conclusions

Based upon the evidence of record, the Commission finds and concludes that:

1. Prior to the installation of a chlorinator, on or about December 16, 1960, defendant was purveying water which the Marin County Health Department had declared to be unsafe for human consumption as a result of excessive coliform bacteria counts consistently found in samples thereof.
2. Subsequent to the installation of said chlorinator, defendant has been purveying water which the Marin County Health Department has determined to be fit for human consumption.
3. Defendant is, and has been, drawing water from sources of supply which have never been approved by the appropriate public health agency, as required by Section 4011.5 of the California Health and Safety Code.
4. Since its revocation on December 14, 1960, defendant has been providing water service without a valid water supply permit from the appropriate public health authority.
5. Defendant should continue to chlorinate all water supplied from his system.

6. During and after heavy rains, defendant should arrange his operations so as to divert the output of the low-level spring and thereby not introduce roily and turbid waters into his system.

7. Defendant should exercise closer supervision over his system to the end that service outages will be minimized through proper utilization of available sources of supply and through control of customer water wastage.

O R D E R

The above-entitled complaint having been filed with this Commission, a public hearing having been held thereon, the matter having been submitted and now being ready for decision,

IT IS ORDERED that:

1. Defendant shall apply forthwith to the Marin County Health Department for a water supply permit covering all of the sources of supply of the system and shall, at the same time, submit a copy of the application to this Commission. Applicant shall advise the Commission in writing as to the disposition made by the Marin County Health Department of said application, within ten days after receipt of notification from said Health Department.

2. Defendant shall continue to chlorinate all water supplied from his system and shall monthly hereafter have a representative sample of the water tested by the appropriate public health authority or by an approved water laboratory as defined in Title 17 of the California Administrative Code. He shall promptly notify the Commission in writing of the results of each of the first twelve monthly tests, within ten days after receipt of the results of each such test.

3. Defendant shall increase the level of supervision and control over his system so that:

a. During and after heavy rainfall, roily waters from his low-level spring supply will not be introduced into the system.

b. Service outages will be minimized through proper utilization of available sources of supply and through prevention of customer water wastage.

4. Defendant shall regularly clean the collection tank of the system and shall regularly flush all dead-end mains. On each dead-end main not now so equipped, defendant shall install a flushing valve within thirty days after the effective date of this order.

5. Within ten days after the effective date hereof, defendant shall advise the Commission in writing of the details of his programs for complying, to the satisfaction of this Commission, with paragraphs Nos. 3 and 4 of this order.

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

Dated at San Francisco, California, this 25th day of July, 1961.

 President

Robert E. Mitchell

 Commissioner

George B. Tower

 Commissioner

Richard B. Hubbs

Everett C. McKeage
Commissioner....., being
necessarily absent, did not participate
in the disposition of this proceeding.