ALJ/jc

Decision 83 11 061 NOV 22 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lacie A. Foshie, Complainant, vs. East Side Canal & Irrigation Co., Defendant.	Case 83-08-01 (Filed August 2, 1983)

ORDER OF DISMISSAL

This complaint names Stevinson Water District, a public corporation, and Merquin County Water District, also a public corporation, as additional defendants. It alleges that East Side Canal and Irrigation Company (Company) owns a ditch traversing complainant's property, that Company had been delivering irrigation water to complainant until the Fall of 1979, after which time delivery was refused. The complaint alleges that complainant has a right to continue to receive the water, and requests "an order determining the responsibility of the Defendants for the furnishing of water to the property of the Plaintiff [sic] and the manner in which said water should be furnished."

On August 10, 1983, the Administrative Law Judge assigned to this proceeding wrote to the attorney for the complainant pointing out that the complaint contained no allegation that any defendant is a public utility, and no allegation explaining what legal duty company has to deliver water to complainant (such as an allegation of dedication of the ditch to public use, or that complainant's property is located within the dedicated service territory).

The letter invited complainant to file an amended complaint within 30 days, and stated that if no such amendment was received, dismissal would be recommended. No amended complaint has been filed.

Discussion

This complaint should be dismissed without prejudice to the filing of a properly framed complaint against public utility defendants under our jurisdiction. We have no jurisdiction to adjudicate water rights among several defendants, at least some of which are not public utilities. (Public Utilities Code § 1702.)

Conclusion of Law

The complaint fails to state a cause of action under our jurisdiction against any named defendant.

IT IS ORDERED that the complaint is dismissed, without prejudice to the filing of a properly framed complaint against one or more defendants under the Commission's jurisdiction.

This order becomes effective 30 days from today.

Dated NOV 22 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY.

Joseph E. Bodovitz, Executive Director