

Decision No. 34218

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of PALM SPRINGS WATER COMPANY, a corporation, for an Order Determining the Service Area within which water is to be served.

Application No. 23317

C. L. McFarland, for Palm Springs Water Company.

Roy W. Colgate, City Attorney, for City of Palm Springs and for the City of Palm Springs Planning Commission.

Philip L. Boyd, Mayor, City of Palm Springs.

Frank V. Shannon, Councilman, City of Palm Springs and Member of the City Planning Commission.

K. B. Kump, Deputy City Engineer, City of Palm Springs and Member of the City Planning Commission.

CRAEMER, COMMISSIONER:

O P I N I O N

Palm Springs Water Company, a corporation, engaged in the business of selling water in and adjacent to the City of Palm Springs, County of Riverside, asks the Railroad Commission to fix and determine its service area boundaries as delineated upon that certain map attached to the application herein, marked Exhibit B, or to establish such other boundaries as may be deemed just and proper upon the record.

In its application, the Company alleges that at present it serves water obtained almost entirely by diversion from flowing mountain streams where delivery thereof may be made

by gravity and that it has now acquired all available, potable water obtainable from such sources. It further alleges that if the Company is required to furnish water to all parties who may demand extensions to new subdivisions and other projects placed upon the market, the utility will be compelled to resort to pumped water at higher costs, resulting in the necessity of a general increase in rates, unless the area of service is restricted or unless other limitations are placed upon such extensions. An unusual operating problem seriously affecting this utility is alleged to arise from the fact that the City of Palm Springs, which was incorporated on the 12th day of April, 1938, has embraced within its corporate limits several sections of Indian lands, held by the Agua Caliente Mission Indian Band No. 1. It is averred that the City of Palm Springs in all probability has little or no jurisdiction over said Indian lands and that the Water Company possesses no right of entry in or upon any of such reservation properties. As a matter of fact, the Company concedes that at no time has it been able to obtain or acquire any such power or authority through legal sanction, although at present it is actually supplying water to certain portions of these said Indian lands. It is set forth in the application that the western half of Section 14, Township 4 South, Range 4 East, S.B.B. & M., is Indian land, practically all of which has been leased by the reservation tribal owners to parties other than Indians, and should be included within the Company's service area primarily for the protection of public health and safety from the standpoint of proper sanitation.

A public hearing in this proceeding was held in Palm Springs.

The Company's main sources of water supply are Chino Creek and Snow Creek which rise on the easterly slopes of San Jacinto Mountain. Chino Creek flows through Chino Canyon, opening into the valley floor near the northwesterly corner of the city limits of Palm Springs. Snow Creek is located some eight miles beyond to the northwest. The Company also has rights by appropriation and through riparian ownership to divert water from Falls Creek, a tributary of Snow Creek, but has not yet developed this supply. All Chino and Snow Creek deliveries are by gravity. Falls Creek water similarly also will be so served when used. A supplemental or stand-by water supply is available by pumping from two wells now used only during emergencies when the use of the waters from the Creeks is interrupted temporarily as a result of storm or flood conditions. Chino, Snow and Falls Creeks all produce a fine quality of water remarkable for its softness, far superior to that obtained from the wells. The water from Chino Creek is conveyed through three miles of transmission main to a storage reservoir above the town. Snow Creek water is carried through eight miles of pipe line, three miles of which is owned by the Southern Pacific Company and the Southern Pacific Railroad Company but jointly used under a written operating agreement heretofore approved by the Railroad Commission. There are now in use four reservoirs having a combined storage capacity of 2,450,000 gallons. Additional storage soon will be provided. The distribution system contains close to fifty miles of mains ranging in size from one to fourteen inches in diameter. In 1940, 1,347 consumers were served, all upon a metered basis.

The testimony in this proceeding shows that this utility in 1924 served but 94 patrons, while in 1940 the number had increased to 1,347. The sudden world-wide popularity of Palm Springs as a winter resort has resulted in this phenomenal growth but has, at the same time, placed an unusual demand upon the Company to keep pace with this surprising development. The characteristic wealth of the community has produced an exceptionally large number of palatial and artistic homes with many extensive gardens, lawns and swimming pools, together with several extraordinarily luxurious hotels and grounds and golf courses, public buildings and parks. The sandy, desert soil and dry climate have created an abnormally heavy demand for water during the entire year. According to its president, Mr. Alvah F. Hicks, the Palm Springs Water Company already has been forced to expend considerable sums of money for all phases of water development and has now acquired every available source of potable water which can be obtained from mountain streams and springs, except waters belonging to the Agua Caliente Mission Indians which waters are not open to appropriation nor to use by the general public. It is this limitation on the water supply, coupled with the ever-increasing exploitation of newly subdivided tracts for residential, commercial and other purposes reaching far out into the desert, that has led this utility to request the establishment and limitation of its area of service.

The City of Palm Springs recently was incorporated and now embraces within its corporate limits very nearly twenty square miles of territory of which eight and three-quarter square miles are known as Indian sections or Indian lands, being solely owned by the said Agua Caliente Mission Indians Band No. 1. A large

part of the lands within the city limits is made up of barren and unoccupied desert wastes and a considerable portion takes in the steep, rocky slopes of Mt. San Jacinto, wholly unsuitable in the main for residential use and offering at this time no likelihood of water demand. Practically all of the above barren lands, mountain slopes and all of the Indian lands except those now served in the westerly half of Section 14, have been excluded by the Company in its proposed service area which nevertheless embraces an irregular strip of land five miles long with an average width of about one mile. There are now 57 subdivisions comprising 1,100 acres of land within this district as well as 1,194 acres of privately-owned lands and 340 acres of Indian Reservation, all unsubdivided.

The testimony presented by John P. Holditch, Secretary of the Palm Springs Water Company, shows that the minimum quantities of water available during the period of low stream flow in the fall months from all sources of supply owned and controlled by applicant are as follows:

Chino Creek	25 miner's inches
Snow Creek	75 miner's inches
Falls Creek	35 miner's inches
Riparian Snow Creek (1)	<u>40</u> miner's inches
Total	175 miner's inches
Surplus from Southern Pacific Company	40 miner's inches
Pumped supply from wells	<u>120</u> miner's inches
Total	335 miner's inches (2)

(1) Based on ownership of 3,400 acres of land riparian to Snow Creek.
 (2) Miner's inch for the purposes of this proceeding is equivalent to 1/50th of a cubic foot of water per second.

The records of water actually delivered during the past seven years to the consumers show that the average daily consumption per service during November, the month of maximum draft and normal minimum flow, is 130 cubic feet. The total number of consumers that could be supplied from the above sources upon the basis of this consumption is estimated to be as follows:

	<u>Miner's Inches</u>	<u>Consumers</u>
Gravity supply	175	2,326
Surplus from Southern Pacific Company	40	531
Pumped supply from wells . .	120	<u>1,595</u>
Total		4,452 (3)

The record indicates that about 6,700 lots could be carved from the unoccupied properties, both subdivided and in acreage, within the proposed area of service with a present water supply sufficient only, however, for an estimated total of 4,452 users. In actual practice a large portion of the consumers occupy more than a single lot and it appears doubtful to expect full and complete development of every potential lot for many years to come. Nevertheless, the evidence shows that Palm Springs is continuing to enjoy a steady and substantial growth and the witnesses were unanimous in the expressed belief that in the very near future the demand for water service will surpass the limited available gravity water supply. Because of the high quality of the mountain water from the creeks and by reason of the fact that its production and distribution costs are much lower than for water

(3) Estimate based on actual net quantity of water delivered with no allowance included for unaccounted-for water which may increase gross deliveries from 15 per cent to 30 per cent.

pumped from underground sources, the Company has attempted to comply with the desires of its patrons and the City that this gravity supply be allocated and confined to the proposed service area. It is of course obvious that this latter phase of the problem is not an issue in this proceeding and, therefore, requires no further discussion at this time.

The testimony has not fully established the ability of the present wells to yield under sustained draught a continuous and dependable supply of water in the quantities estimated above. The two Company wells are located fairly close to the base of San Jacinto Mountain and, although one is near Tahquitz Creek and the other in Palm Canyon, practical operating production is as yet problematical. However, Mr. W. D. Rowe, a consulting civil engineer, having had years of experience in desert water supply problems and who is considered an expert on the water resources of this section of the State, testified that quite a considerable number of dependable wells have been developed for irrigation purposes in the main Coachella Basin, the closest one to Palm Springs being about three miles from the city limits and producing a sustained flow of 100 miner's inches. The quality of such water is not as good as the Company's gravity supply but apparently is of necessity usable for domestic purposes. Some speculation arose from the possibility of injunction proceedings being instituted to prevent any new large-scale extractions of underground waters from the Coachella Valley Basin by reason of its present falling water table claimed to be caused mainly by excessive withdrawals for agricultural irrigation purposes. However, this particular feature of the water supply difficulties very properly may be left until the situation actually presents

itself in the future. Should all local supplies eventually prove inadequate or become depleted to a serious extent, there remains the possibility of making whatever arrangements may then be necessary and required to obtain water from the Metropolitan Water District's Colorado River Aqueduct which is located on the opposite side of the Coachella Valley from Palm Springs and crosses the Valley several miles to the north thereof. This water would require a treatment and softening plant as well as a considerable number of miles of transmission pipe line to traverse the Basin and the Whitewater River Wash.

City officials present at the hearing held in this proceeding were Philip L. Boyd, Mayor; Roy W. Colgate, City Attorney for the City of Palm Springs and for the Palm Springs Planning Commission; Frank V. Shannon, Councilman and Member of the Palm Springs Planning Commission; and K. B. Kump, Deputy City Engineer and also Member of the said Planning Commission. It appeared to be the consensus of opinion of the city officials that with a few minor exceptions which they presented, the service area as proposed by the Company would be considered by the City as acceptable and reasonable at this time. It was felt that the present very evident unbridled expansion of the service area of this utility through extensions into large scattered sections of unprotected lands would become a serious detriment and handicap to an orderly and responsibly controlled community growth and municipal development. The city officials were satisfied that with the exceptions, as hereinafter noted, the proposed service area embraces practically all of the desirable lands capable of being developed into residential and commercial properties requiring water service.

On behalf of the City, it was suggested that the proposed boundaries be modified and amended to include therein Lots 7, 8, 9, 10, 23 and 24 in Section 13, and the south half of Lot 25 and all of Lot 40, in Section 23, all in Township 4 South, Range 4 East, S.B.B. & M. These parcels of land, some of which adjoin the new high school and grammar school properties and the recently developed recreation center, it is claimed will soon be in demand for residential and subdivision properties. It appeared to the Company that the inclusion of the second, or inside tier of three 20-acre lots, No. 7, 10 and 23, in Section 13, would be adding a considerable burden in extra acreage not warranted at this time. It did agree, however, to amend its proposed service area boundaries to include the westerly, or first tier of these 20-acre lots, No. 8, 9 and 24, in said Section 13 and which adjoin the Palm Springs Recreational Field Club on the north thereof, together with an agreement to include the 10-acre south half of Lot 25 and all of the 20-acre Lot 40 in Section 23. The Company further is willing to extend its service area into the center of the northwest quarter of Section 3 in a small triangular parcel of land which would permit the addition of two extra rows of lots together with a roadway giving ingress and egress thereto for the extension and realignment of a part of the Palm Springs Village Tract, a subdivision now being handled by and through Mr. J. D. Mumholland. Under the circumstances, it appears that the modifications set forth above and as agreed to by the utility should be approved. However, while this agreement excludes the second tier of 20-acre lots, being Lots 7, 10 and 23 of Section 13, in the event there appears to be a reasonable and necessary demand for water service therein in the near future,

upon proper showing, the Commission undoubtedly will then entertain a petition for the inclusion of this acreage within the service area of this utility.

Some controversy arose over the exclusion of a parcel of land which said J. D. Munholland claims that he intends to place on the market in the immediate future for the owners thereof, said parcel being described as located in the northwest quarter of the southwest quarter of Section 3 and being the easterly 25 acres of the northwest 45 acres thereof. While the inclusion of this 25-acre parcel within the service area of the utility was objected to by Company officials upon the ground that the elevation of the property may result in unsatisfactory pressures, nevertheless this tract of land appears to be very similar in character and terrain as well as in elevation to certain of the lands adjoining and lying immediately to the south thereof and which already have been included in the proposed service area. It therefore appears fair and reasonable to approve the inclusion of this easterly 25 acres of the said northwesterly 45-acre parcel located in the southwest quarter of Section 3, and it shall be so ordered.

It should be pointed out at this time that the entire service area proposed by the utility, embracing all suggested and requested modifications and extensions thereof, with the exception of the exact location of the above mentioned 25-acre parcel, is set forth and delineated upon the map filed by the Company in this proceeding and marked Exhibit No. 1.

In conclusion, it should be stated that the facts submitted in general indicate the present advisability of establishing definite boundaries for the service area of this utility. With

the modifications and amendments as indicated above, it would seem that justice has been done to all parties concerned as nearly as can be determined under existing circumstances and conditions. However, there is no doubt that the rapid progress and expansion of Palm Springs as a desert resort and winter playground area unquestionably will result in a continually increased demand for extensions of water facilities. While it is impossible definitely to determine the direction of this development, the Commission will reserve the right and power to make in the future such changes and modifications in the service area herein established in the following Order as may be considered reasonable, necessary and proper upon duly filed petition therefor.

The following form of Order is recommended:

O R D E R

Application having been filed with the Railroad Commission, as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that Palm Springs Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission within sixty (60) days from the date of this Order, four (4) copies of a map, drawn to a scale of not less than 400 feet to the inch, setting forth its service area boundaries, as more particularly delineated and outlined in red upon the map filed by said company in this proceeding and marked Exhibit No. 1, but as modified, however, by inclusion therein of the areas outlined in blue on said Exhibit No. 1, and more particularly described as those 20-acre Lots No. 8, 9 and 24

situate in Section 13, together with the south half of 20-acre Lot 25, being 10 acres, and all of 20-acre Lot 40 in Section 23, and as further modified to include that certain small triangular parcel of land outlined in black, situate in the center of the northwest quarter of Section 3, having a length of 480 feet, more or less, along its northerly boundary, and as further modified to embrace the easterly 25 acres of the northwest 45 acres of the southwest quarter of Section 3, all in Township 4 South, Range 4 East, S.B.B. & N., said map and modifications being made part of the Order herein.

IT IS HEREBY FURTHER ORDERED that Palm Springs Water Company, a corporation, be and it is hereby directed to file with this Commission within sixty (60) days from the date of this Order four copies of a suitable map or sketch, drawn to an indicated scale, upon a sheet approximately 8-1/2 x 11 inches in size, delineating thereon in distinctive markings the boundaries of the service area as established herein.

For all other purposes, the effective date of this Order shall be twenty (20) days from and after the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Rail-
mission of the State of California.

Dated at San Francisco, California, this
day of May, 1941.

CORRECTION

CORRECTION

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The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of May, 1941.

[Signature]
[Signature]
Justus J. Coe
Francis C. Havens
[Signature]
 Commissioners.