

Decision No. 42198

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Commission's investigation into the propriety, adequacy, and lawfulness of the practices, operations, service, contracts, and facilities of MATTIE E. HANEY (Topanga Canyon Public Utility Water System).

ORIGINAL

Case No. 4966

Ben Van Tress for Mattie E. Haney; Luke Smith for Water Users in Tracts Nos. 7806, 8910, and 6915, Los Angeles County; Roderick B. Cassidy, of the Commission's staff.

O P I N I O N

The Commission having instituted this investigation on its own motion, a public hearing was held thereon in Los Angeles on the 31st day of October, 1948. Oral and documentary evidence having been adduced, the matter was submitted for decision.

The record shows that this Commission, by its Decision No. 39291, dated July 30, 1946, in Case No. 4822, as amended by Decision No. 29747, dated December 16, 1946, ordered Mattie E. Haney, doing business as Topanga Canyon Public Utility Water System, among other things, to discontinue all public utility water service to consumers located outside the boundaries of Tracts Nos. 7806, 8910, and 6915, Los Angeles County, on and after December 31, 1946, unless and until a certificate of public convenience and necessity be obtained authorizing such service; that an order was issued on January 7, 1947, extending time for discontinuance of service outside said tracts to March 31, 1947; that on March 31, 1947, Mattie E. Haney filed Application No. 28325, requesting, among other things, that the time for discontinuance of service outside said tracts be further extended to

May 31, 1948, and also that a certificate of public convenience and necessity be issued authorizing the continuance of service in certain territory outside the specific tracts hereinbefore mentioned; that by Decision No. 40636, dated August 26, 1947, on said Application No. 28325, the request for a certificate authorizing service outside Tracts Nos. 7806, 8910, and 6915 was denied; that the request for further extension of time within which to discontinue service to territory outside said tracts was not granted.

The certificates of public convenience and necessity granted to Mattie E. Haney and her predecessors authorized the operation of a public utility water system for the distribution and sale of water only within Tracts Nos. 7806, 8910, and 6915. The certificated area is located in a narrow canyon known as Topanga Canyon and consists of 160 acres subdivided into residential lots upon which many homes and cabins have been erected. There are 119 consumers, some being supplied water through meters and the remainder at flat rates.

Mattie E. Haney is now operating five water wells, all of which are located immediately southerly and westerly of the boundary line of Tract No. 7806. Said wells are designated Nos. 5, 7, 8, 9, and 10. The evidence is clear that, between March 31, 1947, and July 19, 1948, the water produced from all of said wells was collected in a common basin and from there distributed throughout the public utility "water system" operated by Mrs. Haney. The record also shows and we find, that, during said period, Mattie E. Haney diverted and distributed water from said wells and collecting basin to consumers outside the boundaries of Tracts Nos. 7806, 8910, and 6915, Los Angeles County; to wit, to consumers in Tracts Nos. 6131 and 7320, also known as the Old Canyon Tract, situated approximately two miles north-westerly of said wells, contrary to the order of this Commission, in Decision No. 39291, as amended by the supplemental "Order Extending

Time" dated January 7, 1947. We find, also, that on or about the 19th day of July, 1948, Mattie E. Nancy disconnected Wells Nos. 7 and 8 from the "water system" which was then in operation, and thereafter distributed water from said Wells Nos. 7 and 8 only to consumers outside the boundaries of Tracts Nos. 7806, 8910, and 6915.

We also find, upon this record, that all of the water produced from Wells Nos. 5, 7, 8, 9, and 10 is insufficient to supply the needs of the consumers in the certificated area; that the daily requirement of the water users in the authorized service area is approximately 34,000 gallons per day; that the total production of the five wells is approximately 22,000 gallons daily; that Wells Nos. 7 and 8 produce approximately 9,500 gallons per day; and that the diversion of this quantity results in increasing the deficiency in water requirement for the public utility system to 21,500 gallons daily. We further find that all water available for use in the authorized service area of Mattie E. Nancy is necessary and required for the use of the consumers residing therein.

Mattie E. Nancy, although present at the hearing with her counsel, did not testify.

There is some testimony in the record indicating that water users in Tracts Nos. 6131 and 7320 (the Old Canyon Tract which is not part of the public utility system) or their representatives may have advanced money to Mrs. Nancy to enable her to supply them with water; nevertheless, the record is clear that Wells Nos. 7 and 8 at all times were, and still are, part of the water system which supplied the consumers in the certificated area. This Commission has not authorized the sale and transfer of any portion of said public utility system.

The record further discloses that lot owners in Tracts Nos. 6131 and 7320 have recently reactivated the Topanga Tract Mutual Water Company, a mutual water corporation, which was organized for the purpose of producing and distributing water to the consumers in said

tracts. The mutual water company does not now have any producing water wells although it has drilled a well which failed to produce any appreciable quantity of water. There are 55 consumers in the Old Canyon Tract. The president of the mutual water company testified that the company proposes to drill at least two additional wells from which it expects to obtain an adequate quantity of water for its consumers. At present, however, the only water available to them is that which Mrs. Haney is diverting from Wells Nos. 7 and 8.

The past record of well production in this area has been poor, a water shortage during the summer months being the rule rather than the exception. During the past two summers the situation was unusually bad. Even under normal conditions there is an inadequate water supply due to the underlying granite pocket formations which fill by drainage through fissures or faults.

Having carefully considered the entire record in this proceeding, and being cognizant of the unusual situation with which non-utility consumers are confronted, this Commission is nonetheless constrained to order a discontinuance of any and all public utility service to consumers outside the boundaries of the authorized service area, in accordance with the following order.

O R D E R

The Commission, on its own motion, having instituted an investigation into the various phases of the operation and practices of Mrs. Mattie E. Haney, doing business as Topanga Canyon Public Utility Water System, a public hearing having been held thereon, the matter having been submitted and the Commission being fully advised in the premises,

IT IS ORDERED:

1. That on and after January 15, 1949, Mattie E. Haney shall discontinue all public utility water service to consumers

outside the boundaries of Tracts Nos. 7806, 8910, and 6915, Los Angeles County.

2. Within ten (10) days from and after the effective date of this order, Mattie E. Nancy shall notify, in writing, all consumers served by her outside said Tracts Nos. 7806, 8910, and 6915, of the terms of Paragraph 1 above, and, within twenty (20) days from and after the effective date of this order, shall file a written statement with this Commission showing the action taken by her in giving the notice required herein.
3. That Mattie E. Nancy shall on January 15, 1949, reconnect Wells Nos. 7 and 8 to her public utility water system and after said date shall operate continuously said wells in connection with Wells Nos. 5, 9, and 10 in supplying water to consumers residing in Tracts Nos. 7806, 8910, and 6915, and to no others without receiving prior authority from this Commission.

The Secretary is directed to cause personal service of a certified copy of this order to be made upon Mattie E. Nancy, and this order shall become effective ten (10) days after such service.

Dated at San Francisco, California, this 3rd day of November, 1948.

A. J. Indurman
Justus F. Calver
W. J. Linnell
Harold P. Kils
Kenneth L. Potter
Commissioners