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**ORIGINAL**

Decision No. 46548

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on )  
the Commission's own motion into the )  
operations, practices, contracts, main )  
extensions, service area, water supply )  
and water service, and related matters, )  
or any of them, of DEL ROSA HEIGHTS )  
WATER COMPANY, a corporation, operating )  
a public utility water system in the )  
general area known as Del Rosa, in the )  
County of San Bernardino. )

Case No. 5325

James F. Wilson and Theo Stein for the Commission staff; L. R. Myers, president, for Del Rosa Heights Water Company; James E. Cunningham, attorney, for a group of consumers; Quincy Brown, Glen A. Anderson, and Glen B. Frazee, consumers, in propria personae.

O P I N I O N

The above-entitled investigation filed September 16, 1951, was instituted by the Commission into the reasonableness and propriety of the operations, practices, contracts, main extensions, service area, and the adequacy and dependability of the water supply and water service, and related matters, or any of them, of Del Rosa Heights Water Company, a corporation operating a public utility water system in, and in the vicinity of the area known as Del Rosa, San Bernardino County.

A public hearing in this matter was held before Examiner Warner on November 7, 1951, in San Bernardino, California.

Del Rosa Heights Water Company, a California corporation, was granted a certificate of public convenience and necessity to operate a domestic and irrigation water system by the Commission's Decision No. 42704, dated April 12, 1949, in Application No. 29766. Its Articles of Incorporation were filed with the Secretary of State

on June 25, 1948. It has authorized capital stock of 100,000 shares with par value of \$1 per share. Although authorized by Decision No. 42704 to issue 45,000 shares of stock, no stock has as yet been issued by the corporation. L. R. Myers, president, claims ownership of the corporation through grant deeds from prior subdividers of Del Rosa Estates and through investment of his own capital in water production and distribution facilities, meters, and other water system assets. The water system assets include the ownership of at least 138/281.66 shares or, at least, a 49% interest in 3 acres of land located outside the certificated area beyond the extreme northeast corner thereof known as the "Reservoir Lot" on which are located the two wells which comprise the company's present source of water supply.

The Commission's investigation was instituted upon the receipt of numerous written complaints of consumers, supported, in general, by informal staff investigations thereinto, which alleged that due to controversies and court litigation over the title and rights to use the water supply, the water service of Del Rosa Heights Water Company was unsatisfactory and uncertain. These complaints and investigations further disclosed that the utility had extended its water service to new consumers located in territory outside the boundaries of the service area established by the Commission in its Decision No. 42704, thereby jeopardizing the amount of water supply and quality of water service available to consumers within the certificated area.

A map filed at the hearing as Exhibit No. 2 shows that the boundaries of the certificated service area include Tract No. 2901, Del Rosa Estates, and Tract No. 3359, San Bernardino County, and certain other areas. Water service is furnished to approximately 238 consumers, of whom all but 14 are located

inside the certificated area. Water service is also furnished to Del Rosa Elementary School, which is located south of the certificated area immediately below Eureka Street. Beyond that point to the south, through the Del Rosa Elementary School meter, a single temporary emergency service connection has been effected to serve a water system furnishing water service to approximately 75 families, an 8- to 10-unit apartment house under construction, and an olive factory. The latter water system failed during the summer of 1951 and Del Rosa Heights Water Company commenced furnishing emergency water to the system's storage tank in August, 1951. The witness, Myers, testified that this water system is expected to be self-operating again within the next two months. The record shows that Del Rosa Heights Water Company has rendered no billing for, and has received no revenue from the emergency deliveries of a total of 210,000 gallons of water to date.

The complaints of those consumers which were entered in the record show that often and at irregular periods over the past three years and more frequently over the past three months, the water supply within the Del Rosa Estates has been interrupted for periods of a few minutes to several hours without notice to the consumers. These interruptions apparently were caused by a lack of water supply in the company's 247,000-gallon storage tank. This tank, the company's only storage facility, is located at a lower elevation than, but in the vicinity of the "Reservoir Lot", just inside the northeast corner of the service area, as shown on the map filed at the hearing as Exhibit No. 4. Air in the pipes after interruptions to service which produced explosions in faucets of sufficient intensity to blow a drinking glass out of the hands of its user, hair in the strainers, rusty water, very low pressures for the operation of sprinkling systems, water hoses, automatic

washing machines and fire hydrants were also complained of. Personal records of the deficiencies in water service were placed in evidence by witnesses for the Commission, and the company's witness, Myers, admitted that he had been for some time and was presently aware of the matters complained of.

Myers placed the blame for the erratic water supply on Elias Shahen, owner of the 51% balance of interest in the "Reservoir Lot" by stating that the pumps in the wells located thereon had been turned on and off promiscuously by a workman under Shahen's orders.

At the "Reservoir Lot", there is a 7½ hp electric motor attached to a pump installed in a 200-ft. well in 1948, which produces about 225 gallons per minute, and a 10 hp electric motor attached to a pump in another 200-ft. well installed in August, 1949, which produces approximately 500 gallons per minute. The ownership of the interests in the "Reservoir Lot" is not clear to the Commission and the Commission makes no attempt to determine the times and length of periods when water may be taken either by Shahen or Del Rosa Heights Water Company. But it is evident that these water system operational difficulties are the source of the consumer complaints.

Del Rosa Heights Water Company was placed in receivership in September, 1949, and was operated by a trustee appointed by the Bank of America through April 2, 1951. During that time the receiver made an agreement with Shahen that each should use the pumps 48 hours on and 48 hours off, and that the water company should pay the other party \$1 per hour for any additional use of the small well and \$2 per hour for any additional use of the large well. This agreement has not been carried forward into the operations subsequent to April 2, 1951, under Myers, although

Shahen stipulated at the hearing that he would be willing to negotiate an agreement with Del Rosa Heights Water Company on that basis or any other reasonable basis. Shahen uses his water for irrigation.

The record shows that the difficulties with respect to the maintenance of an adequate water supply for the Del Rosa Estates and the balance of the certificated service area should and can be eliminated at once by some reasonable agreement between Shahen and Del Rosa Heights Water Company. The company should immediately effect a working agreement for the use of the water production wells and pumps, or, in the event of its not being successful in effecting such an agreement, it should provide additional water supply for the area from some other source.

The witness, Myers, testified that he, personally, owned one-third interest in a flow of water of 130 gallons per minute in Harrison Canyon and that he intended to transfer his ownership therein to Del Rosa Heights Water Company. He further testified that to make this additional source of water supply available to the company would require the construction by the company of between 4,500 and 5,000 feet of main northerly from the north boundaries of the certificated area, at an estimated expenditure of between \$7,000 and \$8,000. He testified that at the present time the company is not financially able to make such an extension.

With respect to applicant's financial condition, the record shows that the accounting and bookkeeping practices of Del Rosa Heights Water Company, and particularly during the period of receivership, were and have been deficient. For example, no reliable segregation of interests between Shahen and the company either with respect to capital investment in water production facilities on the "Reservoir Lot" or of the expenses relating to

the operation of such facilities, has ever been maintained. This appears to be at least one of the basic causes of friction between Shahan and Myers. The record further shows that no annual report to the Commission has ever been filed by Del Rosa Heights Water Company. Immediate steps should be taken to correct those deficiencies, to bring the company's books into accord with the Uniform Classification of Accounts for Water Corporations prescribed by the Commission, and to file annual reports for the years 1949 and 1950 as required by Section 584 of the Public Utilities Code, and the order herein will so provide. Until those steps are taken, neither the Commission nor the company can determine accurately the financial condition of the company and its financial ability, or lack of it, to effect the improvements in water service otherwise ordered herein.

The Commission realizes that Del Rosa Heights Water Company has experienced severe receivership, litigation with respect to ownership of water supply, and other financial and operating difficulties since its original certification in 1949, but considers that these difficulties do not in any way relieve the owners and operators of said company from their responsibility to furnish adequate and satisfactory water service to the consumers within the certificated service area.

It is not considered to have been prudent management on the part of the company to commence furnishing water service outside its certificated area, as outlined hereinbefore, when the water supply to its own consumers was uncertain. In view of the humanitarian aspects of the action by the company in furnishing the emergency water service hereinbefore mentioned, however, such temporary emergency service will be authorized to be continued for a period not to exceed ninety (90) days from the date of the order

herein by which time, the record shows, the community south of Eureka Street and the Del Rosa Elementary School will be receiving water service from its own sources and through an independent water system installed within that community.

With regard to the deficient fire hydrant pressures complained of, Del Rosa Heights Water Company should test its operating pressures at hydrants and inform the authorities who are responsible for fire protection of the certificated area of the results thereof, and take immediate steps to eliminate any low fire hydrant pressure conditions; such steps to be carried out in conjunction with the steps to correct the general operating pressure, and water supply conditions included in the order which follows.

#### O R D E R

A public hearing having been held on the Commission's investigation on its own motion into the service and water supply of, and other matters relating to Del Rosa Heights Water Company based on numerous complaints and other information received by the Commission, the matter having been submitted and now being ready for decision; therefore,

IT IS HEREBY FOUND AS A FACT that there has been considerable disagreement and there is no working agreement between the joint owners of the source of water supply and Del Rosa Heights Water Company in the "Reservoir Lot", and that as a result, there have been radical fluctuations in the amounts of water available for distribution to the consumers of Del Rosa Heights Water Company, which have, in turn, resulted in low pressures, lack of water over extended periods of time, dirty water, and entrapped air in the pipe lines; and

IT IS HEREBY FURTHER FOUND AS A FACT that the books of accounts and bookkeeping practices of Del Rosa Heights Water Company have been and are deficient; therefore,

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IT IS HEREBY ORDERED that Del Rosa Heights Water Company take immediate steps to effect a firm working agreement with Elias Shahn, co-owner of the "Reservoir Lot", or take immediate steps to procure another source of water supply within or in the vicinity of the certificated service area, to assure a steady and adequate source of water supply,

II

IT IS HEREBY FURTHER ORDERED that Del Rosa Heights Water Company shall after the effective date of this order, on or before the tenth day of each month, and until the water supply problem is solved, file a written statement setting forth in detail the progress made in providing an adequate water supply to its consumers, and

III

Del Rosa Heights Water Company shall immediately complete and file annual reports for the years 1949 and 1950 to the Commission in accordance with Section 584 of the Public Utilities Code, and shall take the necessary steps to bring its books of accounts into accord with the Uniform Classification of Accounts for Water Corporations as prescribed by the Commission.

IT IS HEREBY FURTHER FOUND AS A FACT that Del Rosa Heights Water Company has effected a temporary emergency service through the meter located on the premises of the Del Rosa Elementary School for the service of a community of approximately 75 consumers, an 8- to 10-unit apartment house under construction, and an olive factory, and that the rendering of such service has

depleted the water supplies available to its regular consumers; therefore,

IT IS HEREBY ORDERED that Del Rosa Heights Water Company shall cease and desist from furnishing the temporary emergency service hereinbefore referred to within ninety (90) days of the effective date of this order and shall inform the Commission in writing of the cessation of such water service.

IT IS HEREBY FURTHER FOUND AS A FACT that the source of water supply now available to Del Rosa Heights Water Company is adequate to serve the present and prospective consumers located within its presently certificated area, only, together with the present consumers being served outside its certificated area; therefore,

IT IS HEREBY FURTHER ORDERED that Del Rosa Heights Water Company be and it is restricted to the furnishing of water service to the area certificated by Decision No. 42704 only, except for such water service now being rendered outside the boundaries of its certificated area, and shall not extend its lines or render any water service outside the boundaries

delineated on the map filed in this proceeding as Exhibit No. 2 without further order of the Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup> day of December, 1951.

[Signature]  
President.

Justin J. Cooney

Harold H. Kuhl

Harold H. Kuhl

John E. McNeill  
Commissioners.