

Decision No. 52707

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DOROTHY DUREAM, GENEVIEVE G. MOTT, )  
 HELEN MOTT and GROVER C. SQUIER, )  
 )  
 Complainants, )

vs. )

CALIFORNIA WATER SERVICE COMPANY, )  
 )  
 Defendant. )

Case No. 5697

John A. Nejedly, attorney, for complainants;  
McCutchen, Thomas, Matthew, Griffiths & Greene,  
 attorneys, by Robert Minge Brown, for  
 defendant;  
George F. Tinkler, for the Commission staff.

OPINION AND ORDER

Nature of Proceeding

In this complaint, filed November 19, 1955, complainants seek an order of this Commission directing defendant to extend water mains into an area about 1.3 miles east of Alamo, in the San Ramon Valley of Contra Costa County, comprising lands which complainants seek to subdivide into homesites.

Complainants' Allegations

Complainants allege that defendant has established a service area the easterly limits of which abut upon and do not include the property of complainants; that complainants have applied to defendant for water service and that such service has been refused; that the area has no source of water except that which may be obtained from defendant's system; that complainants cannot develop their properties without a constant source of domestic water; that defendant has facilities nearby which are adequate to supply the area and that defendant can supply the area with economy and profit to itself and without

detriment to its other customers; and that complainants are able and willing to comply with any and all requirements of defendant as to main extensions and the costs thereof.

Defendant's Answer

Defendant admits that its service area does not include the lands of complainants and that complainants have applied to it for service and have been refused service and that it still refuses to serve the lands of complainants. It also admits that complainants cannot develop their properties without a constant source of domestic water. It denies all other allegations of complainants.

Defendant alleges that the lands of complainants lie outside the boundaries of the area in which it has dedicated its service to the public and that its closest water main is some 2,800 feet from the westerly boundary of such lands. Further, defendant's water supply is limited to a pro rata portion of water obtained from the Sacramento River and water pumped from wells, cannot be increased and is only sufficient to take care of the water requirements of the territory now served by defendant. Defendant also alleges that it has explained to complainants and to others desiring water service from defendant that serious transmission and storage problems will be encountered by any person undertaking to supply the areas outside of defendant's service area and that any investment in facilities to serve such outside areas would be greatly in excess of any investment which would be justified by revenues derived from the service of water therein.

Public Hearing

Public hearing in the matter was held before Commissioner Matthew J. Dooley and Examiner F. Everett Emerson on January 6, 1956 at San Francisco.

Nature of Evidence

The lands of complainants lie to the north and south of Stone Valley Road, about  $1\frac{1}{4}$  miles east of Alamo, and substantially at

elevations of between 400 and 800 feet. Complainants' principal witness, a real estate salesman and subdivision promoter, testified that of the total of approximately 600 acres of land, 150 acres north of the road and 30 acres south of the road were suitable for subdivision development. An engineering consultant, in the employ of complainants, assumed that 1,000 homes, housing 3,500 persons, would occupy the tract when fully developed. After gauging certain fire hydrant flow on the lines of defendant, which terminate about 2,800 feet from the proposed tract, this witness concluded that defendant had sufficient water available to serve complainants' lands.

Witnesses for defendant testified that the existing water system is designed to serve only within the boundaries of the service area to which it has dedicated its service to the public. It has three sources of supply; namely, the Sacramento River, well fields and purchases from the Contra Costa Canal. Such supplies are limited. In particular, the purchased water is subject to certain legal restrictions which require that it be served only within the portion of defendant's service area which is within the boundaries of the canal district. This precludes the serving of any of this water to any persons, including complainants, whose lands are outside of the district, according to defendant's witnesses. In addition, certain restrictions relative to maximum amounts of deliveries and the periods of time for which interruptions of deliveries are provided, place a practical limitation on the assured quantities of water available to defendant.

Defendant has estimated that it has a potential of 13,100 customers in that portion of its service area lying outside of the boundaries of the district. Its engineers have calculated that if all of these potential customers were to demand service, its supply would

be deficient by 66 million gallons annually. In the face of such probable deficiency within its present service area boundaries, defendant has refused to take on any areas beyond the present boundaries. The record indicates that it has refused service to all tracts of land lying outside its area and that chronologically complainants' proposed subdivision is the eighth so refused. Defendant's chief engineer testified that neither its sources of supply, its storage nor its transmission facilities will permit it to serve any of these outside areas and still enable it to meet its obligations within its dedicated area.

#### Conclusions

We take official notice of our Decision No. 23838 in Application No. 17407, issued June 29, 1931, wherein defendant was issued a certificate of public convenience and necessity to construct, maintain and operate the water system in the San Ramon Valley. The map filed on June 24, 1931, in that proceeding clearly sets forth the boundaries of the area in which the utility dedicated its service to the public and the certificate issued was for the area delineated on that map. It is clear that defendant has not served outside of the boundaries of its dedicated service area and we so find. We find that the lands of complainants are in fact outside of defendant's dedicated service area. While defendant has the right to extend into contiguous areas, it will not be ordered to dedicate itself or to extend its services to complainants or to any others outside of its dedicated area under the circumstances disclosed by this record.

Based upon the evidence and in view of the foregoing discussion and findings relative thereto, it is our opinion and we find that the relief sought by complainants should be denied. Accordingly, this complaint will be dismissed.

Good cause appearing, therefore,

IT IS HEREBY ORDERED that the relief sought by complainants is denied and the complaint herein is dismissed.

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

Dated at San Francisco, California, this 6<sup>th</sup> day of March, 1956.

John E. Mitchell  
President

Justice J. Casanova

Ralph Lutzgraber

Matthew J. Kelly

B. H. Harty  
Commissioners