

ORIGINAL

Decision No. 58500

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
DYKE WATER COMPANY, a corporation,  
for authority to extend its water  
service to additional territory in  
unincorporated territory, County of  
Orange, under Section 1001, Public  
Utilities Code of the State of  
California.

Application No. 40766

Glenn A. Lane and Henry H. Angell, for applicant.  
Milford W. Dahl for Orange County Water District;  
and Charles R. Handy for the City of Garden Grove;  
interested parties.  
H. Roger Howell, for the Yorba Linda County Water  
District, protestant.  
William C. Bricca and Donald B. Steger for the  
Commission staff.

O P I N I O N

Public hearings in this matter were held on March 31,  
April 1 and 8, 1959, in Los Angeles, before Examiner Grant E. Syphers.  
On these dates evidence was adduced and on the last-named date the  
matter was submitted subject to the filing of a late-filed exhibit.  
This now has been filed and the matter is ready for decision.

Applicant is a water corporation operating a public utility  
water system in the areas of Garden Grove, Anaheim, Buena Park,  
Stanton, Midway City, Westminster, Santa Ana, and Orange, all in  
Orange County, California. In the instant application authority is  
requested to extend service into an area in Orange County immediately  
to the east of Yorba Linda consisting of approximately 400 acres, and  
to a second area in this same vicinity consisting of 15 acres. The

400 acres is comprised of a golf course having an area of 149.016 acres, an additional area of 149.5 acres which is intended to be subdivided in the future, recorded Tract No. 3182 consisting of 18.689 acres, and tentative Tract No. 3182 which will include present recorded Tract No. 3182, and an additional 81.911 acres. Recorded Tract No. 3182 presently is subdivided and consists of 47 lots. If the tract is expanded, as proposed, it will have an additional 235 lots, or 282 lots in all, and the over-all area of the tract will comprise 100.6 acres. The 15-acre tract has not as yet been subdivided, and is located immediately southwesterly of the 400 acres above described.

At the time of the hearing, all the streets and curbs in existing Tract No. 3182, consisting of 47 lots, were installed. Twelve houses were constructed, of which two were occupied. These twelve houses all had water connections with meters.

The source of water is a well located 6000 feet south of Yorba Linda Boulevard and 3500 feet east of Orchard Drive. This well was drilled in May of 1957 to a depth of 435 feet. In a test which was made on June 7, 1957, the well had a standing water level of 65 feet and produced a yield of 1300 gallons per minute with a 60-foot drawdown after seven hours of constant pumping. The well and well site are presently owned by one Joseph Drown who testified through his attorney that he would deed this well and well site to the applicant company if a certificate is granted, subject to a provision that the ownership of the well revert to the grantor should the water company discontinue service.

The applicant water company has installed certain facilities in this Tract No. 3182 consisting of 2245 feet of 10-inch main, 970 feet of 8-inch main, 160 feet of 6-inch main, and 620 feet of 4-inch main. In addition, there have been installed 47 1-inch services, one to each of the lots, and 47 1-inch meters, together with 4 fire hydrants and other necessary valves and connections. The cost of these installations is as follows:

Drilling of Well

Well drilled May, 1957	\$18,652
Dry hole	<u>4,800*</u>
Total	\$23,452
Mains, Service Connections, Fire Hydrants, etc.	<u>42,660</u>
Total	\$66,112

\* Prior to drilling a successful well in May of 1957, an attempt was made to drill a well in another location which resulted in a dry hole.

Of the \$66,112, the following amounts have been contributed by the parties indicated:

Dyke Water Company	\$34,902
<u>Subdivider</u>	
Advance to water company	11,000
Other investment	<u>20,210</u>
Total	\$66,112

It should be noted that the land in the 400 acres previously described, which is contemplated to be subdivided, is owned by Joseph Drown. Recorded Tract No. 3182, consisting of the 47 lots above indicated, has been purchased by the Palisade Builders and that company, at the present time, is constructing houses on these lots. As previously indicated, twelve of these houses have been completed.

It is also the intention of this company to purchase another 81.911 acres, delineating thereon 235 homesites, and add this area to Tract No. 3182.

A representative of the subdivider testified as to the construction of the houses and the plans of the company, and stated that there was a need for water at the present time. The applicant company presented testimony to the effect that it was willing and desirous of serving the area. Exhibit No. 1 is an agreement between the applicant company and the owner of the land, under the terms of which the owner agrees to deed the well site and the well to the applicant company subject to a standard refund agreement. During the course of the hearings it developed that there were certain defects in this particular contract and both parties, the applicant and the subdivider, agreed to execute a similar contract on the form which the applicant company has filed with the Public Utilities Commission relative to standard refund agreements.

It should also be noted that there is presently a well on the golf course. A physical connection with this well and the system installed by applicant has been made. The connection has approved backflow prevention devices and it is the intention of applicant to use this connection in case of an emergency. However, the applicant company does not own the well on the golf course and has no present plans for acquiring it.

A water supply permit for this proposed system has been issued by the Department of Public Health under date of March 27, 1958.

There are no other water utility services in this area. The rates proposed to be charged are the same as applicant's

existing meter rates in other areas. It was the expressed intention of applicant that all services in the area requested herein would be metered. A financial statement of applicant, as of December 31, 1957, was filed in this proceeding, as well as a statement of income for the calendar year 1957. This shows that applicant made a net profit for that year of \$19,501.32; its total utility plant was valued at \$3,904,091, of which \$2,619,638 was shown as deferred credits in advances for construction; and \$77,777 was shown as contributions in aid of construction.

In opposition to this application, the Yorba Linda County Water District presented evidence to show that a county water district has been formed, and is in the process of setting up to provide water service in the area. Exhibit No. 10 is a copy of the Resolution of the Board of Supervisors of Orange County, California, dated December 8, 1958, declaring the district formed. Furthermore, it was pointed out that the golf course has its own water supply and that the only development now in need of water is Tract No. 3182 which consists of 47 lots with twelve houses constructed thereon. This tract is eighteen miles from the home office of the applicant water company and is not physically connected with any other part of applicant's system. As such it appears that the proposal is economically unsound.

There has been no showing on this record as to any need for service to any part of the requested area except Tract No. 3182 and, in view of the physical situation relative to this tract and to the formation of the Yorba Linda County Water District, we now find that the application should be denied.

The fact that applicant has installed part of a water system is no ground for granting this application. In Decision No. 56005, dated December 17, 1957, in Application No. 39115, (56 Cal. P.U.C. 109) this same applicant was denied authority to serve this same Tract No. 3182. In that decision this Commission said:

"Applicant has, in this matter, ignored and violated the provisions of the first paragraph of Section 1001 of the Public Utilities Code in that it had begun the construction of a water system in said Tract 3182 'without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.' Applicant has no justification for presenting the accomplished fact as the basis for its application for the issuance of a certificate of public convenience and necessity by this Commission. Applicant has heretofore been alerted against this practice, and it is here again put on notice of the provisions of the law, violations of which will not be tolerated by this Commission."

O R D E R

Application as above entitled having been filed, public hearings having been held thereon, the Commission being fully advised in the premises, and hereby finding that a denial of the authority sought to be not adverse to the public interest,

IT IS ORDERED that the application of Dyke Water Company, a corporation, for authority to extend its water service to the territory herein described, be and it hereby is denied.

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

Dated at San Francisco, California,  
this 29th day of May, 1959.

[Signature]  
President

[Signature]

[Signature]

Theodore Deussen

[Signature]  
Commissioners