

Decision No. 60065**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ALDERCROFT HEIGHTS)
 COMPANY a public utility operating)
 the water system in the area known)
 as Aldercroft Heights Subdivision)
 in Santa Clara County, for a cer-)
 tificate of public convenience and)
 necessity.)

Application No. 41583
 (Amended)

Earle A. La Porte, president, for applicant.
E. J. Platt, for Chemeketa Park Mutual Water Co.;
Jacob B. Miller, for Idylwild Subdivision; and
F. W. Crosby, for Oakmont Club Water; pro-
 testants.
W. B. Stradley, for the Commission staff.

O P I N I O N

By the above-entitled application filed with this Commission on October 19, 1959 and amended by filing of January 27, 1960, Aldercroft Heights Company, a corporation, seeks a certificate of public convenience and necessity to operate a public utility water system in unincorporated territory located approximately four miles south of the Town of Los Gatos in Santa Clara County. The area requested to be certificated, consisting of about 150 acres, embraces part of a subdivision known as Idylwild and also certain adjacent territory, and is described as being bounded on the west by State Highway No. 17, on the north by the north line of Idylwild, on the east by the Old Santa Cruz Highway, and on the south by a stream known as Moody Gulch and a section of the Old Santa Cruz Highway.

In the amendment to the application, the Commission is also requested to grant a certificate authorizing applicant to exercise in the area hereinbefore described the rights and privileges of a franchise granted to it by Ordinance No. 585^{1/} passed and

Throughout the ordinance, applicant is erroneously called Aldercroft Heights Water Company, Incorporated.

adopted by the Board of Supervisors of the County of Santa Clara on January 21, 1952. The said franchise, a copy of which is attached to the amendment to the application as Exhibit 2, does not refer to applicant's operations in any specific area but appears to apply to such operations anywhere within the said county.

Applicant proposes to charge for water service at the same rates and to apply the same rules in connection therewith as those now on file for its operations being conducted by applicant in its Aldercroft Heights service area.

Public Hearing

After due notice to all known interested parties, a public hearing in this matter was held before Examiner E. Ronald Foster at Los Gatos on February 25, 1960, at the conclusion of which the matter was submitted subject to the receipt from applicant of a late-filed exhibit which has since been filed, and the matter is now ready for decision. About forty persons attended the hearing, some of whom testified concerning their interest in the proceeding.

General Information

Applicant was incorporated some time prior to 1932 and by Decision No. 24453 dated February 8, 1932, in Application No. 17768 was granted a certificate of public convenience and necessity to operate a public utility water system in an area known as Aldercroft Heights, located along Los Gatos Creek some distance southeast of the Idylwild area. Since then applicant has operated under several ownerships until the water system was acquired about October 1954 through stock purchase by the present owners, Earle A. La Porte and his wife, who now own all of the outstanding stock of the company. Exhibit No. 3 attached to the amendment to the application consists of a balance sheet of Aldercroft Heights Company as of December 31, 1958. The annual report for the year 1958, filed with the Commission by applicant, shows an operating loss.

Claiming that financial statements for the year ended December 31, 1959 would show considerable improvement in the condition of the corporation, applicant offered to file such statements, which were received on April 6, 1960, as late-filed Exhibit No. 3. The following tabulation is a comparative balance sheet as of December 31, 1958 and 1959, together with a comparison of the utility's results of operation as shown in the annual report for the year 1958 and as indicated in the late-filed Exhibit No. 3 for the year 1959:

Comparative Balance Sheet

| <u>Assets</u> | <u>As of Dec. 31, 1958</u> | <u>As of Dec. 31, 1959</u> |
|---------------------------------|--------------------------------|--------------------------------|
| Utility Plant | \$28,292 | \$30,984 |
| Reserve for Depreciation | <u>11,353</u> | <u>11,878</u> |
| Utility Plant Less Reserve | 16,939 | 19,106 |
| Other Assets | <u>222</u> | <u>185</u> |
| Total Assets | \$17,161 | \$19,291 |
| <u>Liabilities</u> | | |
| Capital Stock | \$15,000 | \$15,000 |
| Current and Accrued Liabilities | 6,586 | 2,526 |
| Paid in Advance | 443 | 476 |
| Earned Surplus | <u>(4,873)</u> | <u>1,289</u> |
| Total Liabilities | \$17,161 | \$19,291 |

(Red Figure)

Profit and Loss Statement

| <u>Item</u> | <u>Year 1958</u> | <u>Year 1959</u> |
|-------------------------------|------------------|------------------|
| Operating Revenues | \$ 5,371 | \$ 5,781 |
| Operating Revenue Deductions: | | |
| Operating Expenses | 5,078 | 2,667 |
| Depreciation | 665 | 525 |
| Taxes | <u>749</u> | <u>196</u> |
| Total Deductions | <u>6,492</u> | 3,388 |
| Net Utility Operating Income | \$ (1,121) | \$ 2,393 |

(Red Figure)

It may be noted that the foregoing tabulation indicates a reduction of \$4,061 in the amount of current and accrued liabilities and also the conversion from a negative to a positive amount of earned surplus, a net change of \$6,162. It is understood that the funds to accomplish these changes amounting to \$10,223 came principally from the sale of some nonoperative lands owned by the stockholders.

According to witness La Porte, the reduction of some \$2,400 in operating expenses as shown for the two years is mostly due to less salary taken by himself for the year 1959. There is no explanation for the indicated reduction of \$140 for depreciation expense, in spite of the increase of \$2,692 in utility plant during the year 1959, nor for the fact that taxes for the year 1959 are \$553 less than they were for the year 1958. Even with the somewhat greater operating revenues received in 1959, if the total deductions for that year were assumed to be the same as shown in more detail in the annual report for 1958, the net results would indicate an operating loss of over \$700.

Service Area

The Idylwild tract was subdivided many years ago into about 140 lots varying in size from several acres each to a minimum of about 3,000 square feet. At present there is no recognized public utility water service available within the area for which a certificate is requested by applicant herein; however, some thirty residents in Idylwild are presently being furnished water service through a single small diameter pipeline which is owned by Mrs. Helen W. Hawkins, who also owns several of the unsold lots within Idylwild subdivision.

There is a connecting road from State Highway No. 17 to a portion of the Old Santa Cruz Highway which borders the requested area on the east and which has been terminated near the northern boundary of Idylwild because of the more recently constructed Lexington Reservoir. Narrow roads branch from the two highways to provide accessibility to the lots situated on the steep, wooded hillsides.

Description of the Proposed
Water System

The Idylwild area is separated from applicant's present service area in Aldercroft Heights by watershed lands of the San Jose Water Works and the Santa Clara Valley Water Conservation District. Applicant's president, Earl A. La Porte, testified that it is not intended to supply the Idylwild area with water from the Aldercroft system,^{2/} nor even to make any physical connection between the two areas, but to manage the two operations from the present headquarters. The witness explained two alternative plans for rendering service in the Idylwild area.

Plan I - The Hawkins System

For the first plan, witness has negotiated with Mrs. Hawkins relative to the purchase of her water system at a price of \$7,000. Water for this system is obtained by diversion from Moody Gulch at a point about one quarter mile upstream from its crossing under State Highway No. 17. The amount of her entitlement to water is unknown and indefinite, there being no filing on record with the

^{2/} Paragraph (7) of the order in Decision No. 55561, dated September 10, 1957, in Case No. 5494 and Application No. 38538, reads as follows:

"(7) Aldercroft Heights Company, Inc. shall not serve any new or additional individual consumers or extend service to any tract or subdivision unless and until it has available an adequate supply of water and adequate facilities to serve existing consumers as well as such new or additional individual consumers, tracts, or subdivisions, and the Commission, upon a satisfactory showing having been made, shall first have modified this service restriction by subsequent order or orders."

State Water Rights Board, as indicated in Exhibit No. 2 filed at the hearing, which consists of a copy of a letter dated November 16, 1951, from the office of the State Engineer. Consummation of the purchase is contingent upon establishment of rights, appropriative or other, to divert some certain quantity of water.

At the request of La Porte, a letter addressed to the Commission from the County of Santa Clara Health Department, dated January 11, 1960, was introduced as Exhibit No. 1. This letter states that the Idylwild Water System does not meet minimum standards as a public water supply and recommends that as a condition for certification certain important repairs and improvements, set forth in the letter, be completed within a specific period of time. The letter adds that due to the nature of the stream, the water system is annually subjected to periods of highly turbid water during storms so that it is doubtful that the said system could ever be considered as a permanently approved public water supply without filtration and large storage facilities. La Porte estimated the cost of the necessary improvements at about \$3,000.

From the diversion dam, a 2-inch pipeline about 3,000 feet long transmits the water by gravity to a 12,000-gallon storage tank equipped with an electrically operated chlorine feeder. The water then flows by gravity through a 2-inch pipeline a distance of some 1,000 feet to four storage tanks having a combined capacity of 25,000 gallons. The distribution system consists of about 600 feet of 2-inch and 2,000 feet of 1-inch piping to approximately 31 services. There are no pumps nor meters on this system.

Plan II - Proposed Installation

As a possible alternative, applicant proposes to construct diversion works on Moody Gulch a short distance below its crossing under State Highway No. 17, on land which La Porte claims to own. He testified that on May 5, 1959, he filed Application No. 18693 with the State Water Rights Board to divert 0.09 cubic feet of water per second, which is roughly equivalent to 40 gallons per minute. The said board has informed applicant that it will not consider the issuance of any permit until the Commission has granted a certificate of public convenience and necessity to applicant. In the meantime, protests against the requested diversion from Moody Gulch have been filed with the Water Rights Board by Chemeketa Park Mutual Water Company, by attorneys for one Vasona, by Santa Clara Valley Water Conservation District and by San Jose Water Works.

If granted a permit for such diversion, La Porte testified he plans to install a three-horsepower, 40 g.p.m. electrically driven pump unit to elevate the water through some existing 1½-inch pipe to a new 12,000-gallon tank or tanks to be placed on land which can be obtained without cost to applicant. From this location service is proposed to be supplied to the entire area either by gravity or by means of a hydropneumatic tank and booster pump to be installed there. Distribution lines of 3-inch and 2-inch pipe will be constructed as shown on the map attached to the amendment to the application as Exhibit 1. The record is not clear whether the location and length of the said pipelines would serve all of the homes presently being supplied through the pipeline owned by Mrs. Hawkins.

The estimated cost of the proposed installation is shown in the amendment to the application to be as follows:

| | |
|--------------------------------|----------|
| Necessary Land | \$ 3,000 |
| Diversion Works at Moody Gulch | 2,000 |
| Pump and Transmission Pipeline | 1,500 |
| Storage Tanks (2) | 2,400 |
| Pressure Tank and Pump | 1,200 |
| Chlorination Plant | 450 |
| Distribution Mains | 4,000 |
| Meters | 750 |
| Incidentals | 500 |
| | <hr/> |
| Total | \$15,800 |

When asked how it was proposed to finance the construction, La Porte replied that about one third of the amount would be funds supplied by himself and wife, without the issuance of any more stock, and the balance would come from advances for construction under the rules pertaining to main extensions. He did not satisfactorily explain the fact that there is no system from which to extend nor the further fact that the estimated cost of facilities other than distribution mains represents more than two thirds of the total.

Other Testimony

One resident of the area, called as a witness by applicant, testified to his willingness to donate a certain 1½-inch pipeline installed about 1948 or 1949 and to become a customer of applicant, in order to be relieved of the necessity of pumping from his 200-foot well.

Another witness called by applicant testified that he owns several lots within the Idylwild area, that a house on one of them had been destroyed by fire due to lack of sufficient water, that he is dissatisfied with service presently being rendered from the pipeline owned by Mrs. Hawkins, that he had spent a considerable sum of money to drill a well to supplement the Hawkins' water supply, and that he had discussed with La Porte, both in a letter and in a

subsequent conversation, his desire to obtain water from applicant. Exhibit No. 4 is a statement dated July 1, 1959, on stationery of Helen W. Hawkins, to this witness for "Water pipe rental at Idylwild from January 1, 1958 to and including December 31, 1958, 12 months at \$2.00 per month - \$24.00. Continuous service not guaranteed. Second notice." The witness stated that this bill was for service to the house that had burned down.

Another of applicant's witnesses, who has received similar service from the Hawkins pipeline, testified that the charge therefor had been increased about two years ago from \$18 to \$24 per year. She stated her desire to obtain adequate service and that she would ask the applicant herein for water service if her needs could be adequately satisfied.

Counsel for Mrs. Hawkins, called as a witness by applicant, testified concerning past negotiations to either lease or sell his client's water properties, in an effort to provide an adequate supply of water for the Idylwild Subdivision. It was his opinion that Mrs. Hawkins may have prescriptive rights, established prior to 1914, the amount of which may depend upon diversions of water which have been applied to beneficial use. He stated that such amount is presently unknown, there being no specific rights of record.

Called first as a witness for applicant, the secretary and a member of the board of directors of Chemeketa^{3/} Park Mutual Water Company also testified on behalf of that organization. This witness introduced as Exhibit No. 5 a letter dated February 25, 1960, addressed to the Commission and signed by himself in his official capacity, protesting the granting of the application. He testified

^{3/} Sometimes hereinafter referred to as Chemeketa.

that Chemeketa, on March 24, 1952, filed Application No. 12066 with the predecessor of the agency now known as the State Water Rights Board and that it now holds License No. 3424 and Permit No. 7102 entitling Chemeketa to divert 0.04 cubic feet of water per second from Moody Gulch. The point of diversion is on a lot in Idylwild Subdivision, which point is about 300 feet downstream from where applicant has made application to divert 0.09 c.f.s. This witness testified that there is less than the combined amount of 0.13 c.f.s. flowing in Moody Gulch during much of the summer season and that in July, August and September of 1959 there was no flow there in daylight hours. This resulted in the necessity for severe rationing of water to Chemeketa's 152 homes with a population of nearly 400 people, all entirely dependent upon the water supply from Moody Gulch. For such reasons the Commission was urged to refuse to grant applicant's request.

Two residents of Idylwild for the past five or six years, now being supplied with water through the Hawkins' pipeline, each testified on his own volition. Their testimony was to the effect that the existing, somewhat inadequate service to the present residents (practically all of whom have permanent homes, rather than summer cabins) is more satisfactory than that which would result from an attempt to spread the same supply to a greater number of homes. Until a more ample source of water can be assured, it was their feeling that such shortages as now occur can be managed.

Another witness testified on behalf of a group in an adjoining subdivision, known as Oakmont Club, which obtains part of its supply from springs located in Idylwild and another part from a nearby pipeline owned by San Jose Water Works. It appears that this witness felt that the spring supply would be jeopardized by

requirements which might be placed upon a public utility water system within the same vicinity if operated by applicant.

In response to a question asked of him, La Porte stated that he had been unsuccessful in his efforts to influence San Jose Water Works to agree to his taking water for the Idylwild area, either from Moody Gulch or from that utility's pipeline.

Findings and Conclusions

From a review of the record herein, we find and conclude that the existing source of supply and the storage, transmission and distribution facilities installed in connection therewith do not meet the minimum requirements of General Order No. 103 and that they are inadequate to meet the foreseeable demands on the water system. Moreover, applicant's plans for obtaining an adequate supply of water are too nebulous, indefinite and incomplete to warrant the issuance of the requested certificate on the present record.

The Commission further finds and concludes that applicant has failed to demonstrate its ability to finance either the purchase of and the necessary improvements to the existing supply or the procurement of a sufficient independent supply and the installation of the facilities required in connection therewith.

The application will therefore be denied.

O R D E R

Application as entitled above, with amendment thereto, having been filed, public hearing having been held, the matter having been submitted and now being ready for decision, based on the record in the proceeding and the foregoing findings and conclusions with respect thereto,

IT IS HEREBY ORDERED that the application of Aldercroft Heights Company, a corporation, for a certificate of public convenience and necessity to supply water in the Idylwild area hereinabove described and for authority to exercise franchise rights in connection therewith be, and it is, denied.

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

Dated at San Francisco, California, this 9th day of May, 1960.

[Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners