

Decision No. 60326

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SOUTHERN CALIFORNIA WATER COMPANY)
a corporation,)

Complainant,)

vs.)

DYKE WATER COMPANY, a corporation,)

Defendant.)

Case No. 6525

O'Melveny & Meyers by Donn B. Miller, for Southern
California Water Company, complainant.
Cyril M. Saroyan, for the Commission staff.

O P I N I O N

On June 8, 1960, complainant Southern California Water Company filed the complaint herein against the defendant Dyke Water Company. The allegations of the complaint are stated in the Commission's Interim Order herein, Decision No. 60252, issued June 14, 1960, and will not be repeated in this order. Said Interim Order ordered that Dyke Water Company, a corporation, and its officers, agents, and employees, pending further Commission order herein, shall immediately cease and desist and shall refrain from constructing any new water supply, transmission, or distribution facilities, or from constructing any additions to or extensions of any such existing facilities, within or for service in Tract No. 3726, as described in the complaint herein and in Exhibit A thereto. Said Interim Order also provided Case No. 6525 be assigned to Commissioner Fox and Examiner Cline and hearing was set at ten o'clock a.m. on Thursday, June 23, 1960, in the Commission Court Room, Mirror Building, Los Angeles, California, it being found that public necessity required a hearing on less than ten days' notice. In its

complaint the complainant also requested that the defendant be ordered to cease and desist from rendering any service in Tract No. 3726 and that the complainant receive such further relief as may be proper.

Public hearing was held before Commissioner C. Lyn Fox and Examiner Wilson E. Cline in Los Angeles on June 23, 1960. Upon the receipt of the late-filed exhibits on June 27, 1960, the matter was taken under submission.

The record herein shows and the Commission hereby finds and concludes as follows:

1. A certified copy of Decision No. 60252, issued June 14, 1960, and a copy of the complaint herein were duly served by registered mail upon Dyke Water Company, as directed by the Commission.

2. The Commission had jurisdiction to proceed to hear this matter and has jurisdiction to issue this decision herein.

3. This Commission in its Decision No. 53856, dated October 1, 1956, granted to complainant Southern California Water Company a certificate of public convenience and necessity permitting complainant to construct, extend and operate its water system and to exercise the rights and privileges granted to it by Ordinance No. 767 of Orange County, and the area covered by the said certificate of public convenience and necessity includes a portion of the City of Stanton designated as Tract No. 3726 in the records of Orange County and shown on Exhibit A of this complaint, and neither defendant Dyke Water Company nor any other water corporation, other than complainant, has been granted such a certificate of public convenience and necessity with respect to said Tract No. 3726.

4. The order of this Commission in its Decision No. 53858 prohibits defendant Dyke Water Company from extending its water system outside a certain designated area in Orange County, without prior approval of this Commission. Said Tract No. 3726 is outside the designated area to which the said defendant was confined by the said Order No. 53858. The terms and conditions of said Order No. 53858 are known by said defendant.

5. On May 17, 1960, Kaven-Roe Company, the subdivider of said Tract No. 3726, granted the defendant Dyke Water Company an exclusive and perpetual right of way to construct, maintain and operate pipelines, service connections and other equipment for the conveyance of water in, over, under, through, along, across and upon any part or parts of the streets, ways, roads, lanes, drives, vias, circles, places, courts, avenues and alleys, as shown on the map of Tract No. 3726, together with the right to lay, maintain, repair, operate and remove one or more service connections and/or pipelines from such pipelines, through any part of the above described property.

6. On or about May 29, 1960, Santa Ana Valley Contractors, Inc., constructed a water system in said Tract No. 3726 for Kaven-Roe Company, the subdividers of said Tract No. 3726 pursuant to a water layout prepared by C. D. Rezac, superintendent of Dyke Water Company.

7. Subsequent to the installation of said water system in said Tract No. 3726, the defendant Dyke Water Company unlawfully has connected, or permitted to be connected, said water system in said Tract No. 3726 to its own public utility water system, has taken over the operation of the said water system in said Tract No. 3726 and is serving water from said water system in said Tract No. 3726.

FINAL ORDER

A public hearing having been held, and based upon the evidence therein adduced,

IT IS HEREBY ORDERED that:

1. The Interim Order, Decision No. 60252, issued June 14, 1960, herein, is hereby made permanent.

2. Dyke Water Company, a corporation, and its officers, agents, and employees shall forthwith cease and desist and shall refrain from rendering any water service, directly or indirectly, in Tract No. 3726, as described in the complaint herein and in Exhibit A thereto.

3. Dyke Water Company, a corporation, shall, within 48 hours after the effective date of this order, physically disconnect its lawfully operated public utility water system from the water system which has been installed in said Tract No. 3726, as described in the complaint herein and in Exhibit A thereto, and shall notify the Commission in writing of said disconnection within two days after said disconnection has been made.

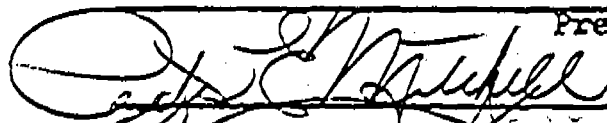
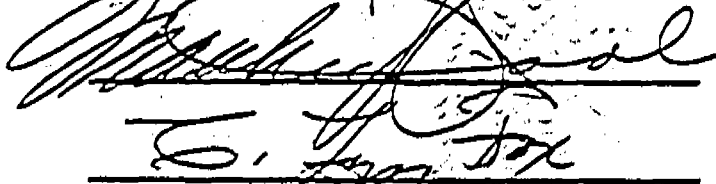
4. Dyke Water Company, a corporation, shall not reconnect or permit reconnection of its lawfully operated public utility water system to the water system which has been installed in said Tract No. 3726 as described in the complaint herein and in Exhibit A thereto.

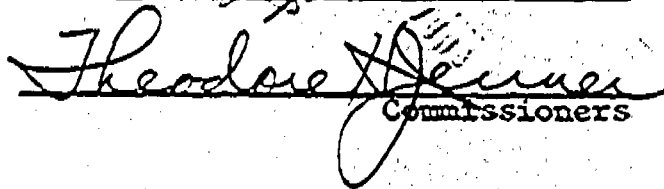
The Secretary is directed to cause a certified copy of this order to be served forthwith by registered mail upon Dyke Water Company, a corporation. The Secretary is also directed to cause certified copies of this order to be served by registered mail upon Southern California Water Company, a corporation, and upon Kaven-Roe Company, a partnership, having the address 1023 W. Commonwealth Avenue, Fullerton, California. The Secretary is also directed to

cause certified copies of this order to be served personally upon Dyke Lansdale, Arlene Lansdale, and William Lansdale, officers of Dyke Water Company, upon Carl Duke Rezac, Superintendent of the Dyke Water Company, and upon Robert J. Kavanaugh, partner of Kaven-Roe Company.

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

Dated at San Francisco, California, this 26th day of June, 1960.


 _____ President



 _____ Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.