

ORIGINALDecision No. 62829

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 V. D. M. WATER CO. for a certificate
 of public convenience and necessity
 to operate a public utility water
 service in an unincorporated area
 located on Summit Road, in the County
 of Santa Cruz, and known as Villa Del
 Monte, as set forth in Section 1001
 of the Public Utilities Code, to
 establish rates, and the authority to
 issue common stock (\$10.00 Par) to
 John R. Bellush (1700 shares) and
 Joseph E. Bellush (1700 shares) for
 monies expended by them in the
 construction of said water system.

Application No. 43319

Bohnett, Hill and Bohnett by L. D. Bohnett, for
 applicant.
James H. Belcher, protestant.
Earl A. La Porte, for Aldercroft Heights Co.;
Mrs. Julian Kaplan, Ruth McFadden, and
Patrick J. Ryan, interested parties.
Sheldon Rosenthal, for the Commission staff.

O P I N I O N

This application for a certificate of public convenience and necessity and to issue securities was heard before Examiner Power on August 14, 1961 at Los Gatos. The matter was then submitted subject to receipt of certain late-filed exhibits. These have been received. Notice was given as required by the procedural rules and special instructions of the Commission.

The area proposed to be served with water is in Santa Cruz County about 2 miles from Los Gatos on Summit Road. It is called Villa Del Monte Estates and the whole area consists of 168 lots of approximately one acre each. Applicant is not at present a public utility. Authority is sought to issue 3,400 shares of \$10 par value of common capital stock, total par value \$34,000.

An officer of applicant, a protestant, an operator of a nearby water utility, a hydraulic engineer and a financial examiner testified at the hearing, the last two being members of the Commission staff. Seven exhibits were offered at and after the hearing. From this evidence the facts hereinafter set forth were made to appear.

Prior to 1933 one Schmitt was the owner of 341 acres including the property here involved. In that year he secured a license from the State Department of Public Works, Division of Water Rights to appropriate water from Laurel or Burrell Creek, a tributary of Soquel Creek. The net yield of this right is thirty gallons per minute.

In recent years Schmitt disposed of his ranch, or a large part of it, and the water right to three persons named Bellush who are officers or directors of applicant. They have organized applicant and another corporation called V. D. M. Development Co., Inc., which corporation has promoted the Villa Del Monte Estates subdivision.

The lots in the Estates were originally offered to the public without promise of water service. The exact number of lots sold on this basis does not clearly appear but may have been approximately fifty or a few more. Some twenty or a few more homes have been constructed, about half of which have water available from wells and half of which are buying water from applicant on a surplus water basis.

Applicant proposes to serve 114 lots. The promoters have drilled two producing wells to supplement a 250,000-gallon steel tank. The tank is a used one obtained apparently from the City of Santa Cruz.

The lots applicant proposes to exclude do not form a solid block in any part of the development. Excluded lots are in some cases isolated between included ones. In a few areas included lots are scattered through predominantly excluded territory. The whole effect of this inclusion and exclusion would be contrary to the public interest.

A second unfavorable aspect of this proposal is that important backup facilities are not to be owned by applicant. The staff financial examiner's report (Exhibit No. 7) reveals that, if these backup facilities were acquired by applicant its presently authorized capitalization ^{1/} would be exceeded.

The Commission staff hydraulic engineer testified with reference to a field inspection made by him. He pointed to certain physical difficulties that will be encountered. The variation in elevation for example is 650 feet. There are portions of the proposal that do not comply with General Order No. 103. This witness also gave a rate comparison which indicated that the proposed rates are substantially higher than those of comparable systems in the area.

A representative of a nearby public utility system testified that his company was willing to serve the Estates and had taken certain steps to prepare for such service.

A number of property owners in the area testified briefly. They were all, or almost all, users of V. D. M. water served on a surplus water basis. All wished to keep this source of water and opposed being excluded.

1/ 7,500 shares, \$10 par value, total \$75,000.

Findings and Conclusions

Upon consideration of the evidence the Commission finds and concludes that applicant has failed to establish that public convenience and necessity require the proposed service or that the proposed system would be capable of furnishing adequate service and that the application should be denied.

ORDER

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

IT IS ORDERED that Application No. 43319 be denied.

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

Dated at San Francisco, California, this

21st day of NOVEMBER, 1961.

Carroll W. Rogers
President

W. P. Mitchell

C. J. Fox

George G. Hoover

Fredrick B. Holhoff
Commissioners