

ORIGINALDecision No. 69299

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the matter of a
proposed sale and transfer by
DYKE WATER COMPANY, a corporation,
of a portion of its property to
the City of Anaheim.

Case No. 7586

THIRD SUPPLEMENTAL ORDER AUTHORIZING
DISBURSEMENT OF FUNDS FROM ADVANCES TRUST

Dyke Water Company (Dyke), by a written request filed March 23, 1965, seeks authority to make refund disbursements to seven construction advance contract holders in the Anaheim area from a trust established with Farmers and Merchants Bank of Long Beach, Trustee, pursuant to Decision No. 65860 herein, dated August 6, 1963, and orders supplemental thereto.^{1/}

Dyke alleges that it has agreed for the discount purchase of the contracts shown below for the sum of \$36,500 cash; that, with expiration dates taken into consideration, there is a total of \$49,860.88 on deposit in trust for tracts to which the discounted contract purchases relate; and that Dyke desires that the trustee, upon surrender to it of the contracts and payment of \$36,500 to the contract holders' representative, Shannon Van Druff, thereafter issue its check to Dyke Water Company for \$13,360.88 from the trust fund, which sum is alleged to be the difference between the \$49,860.88 placed in the trust fund by Dyke Water Company for these contracts and the discounted purchase price.

^{1/} Decisions Nos. 65929, 66041, 66431, 66425 and 68378.

<u>Tract Nos.</u>	<u>Contract Expiration Dates</u>	<u>Contract Holders</u>	<u>Contract Balances Applicant</u>	<u>Related Trust Funds- Applicant</u>	<u>Adjusted Contract Balances- Staff</u>
2228	1/24/65 (Expired)	Van Druff Homes, Inc.	\$ 1,201.34	\$ 1,201.34	\$ 6,200.34
2841	6/ 4/76	Van Druff Builders, Inc.	7,931.88	6,200.53	7,931.88
2833	6/ 4/76	Van Druff Builders, Inc.	12,021.04	9,360.76	12,021.04
2839	6/ 4/76	Van Druff Builders, Inc.	18,786.17	14,637.70	18,786.17
2876	4/12/76	Van Druff Developments, Inc.	5,478.42	4,282.60	5,478.42
2875	4/12/76	Van Druff Developments, Inc.	6,983.83	5,443.85	6,983.83
2874	4/12/76	Van Druff Developments, Inc.	11,262.32	8,734.10	11,262.32
Totals			\$63,655.00	\$49,860.88	\$68,664.00

The staff, as it has done with previous similar requests for disbursement authority, has reviewed applicant's current proposals in order to verify the present balances of the contracts and the amounts provided for and available for their payment in the Anaheim Advances Trust (which is noninterest-bearing), and to determine the reasonableness of the request that the difference of \$13,360.88 between the discount purchase price and the trust provision for the contracts be paid to Dyke Water Company. The review also has included consideration of the adequacy of the remaining balance in the trust, after the payments proposed herein, to provide for payment of any remaining refund contracts in the Anaheim area.

The staff's review indicates that the correct balance on Tract 2228, as of July 1, 1964 was \$6,200.34 instead of \$1,200.34, as alleged by applicant (see Dyke Water Co.'s Petition for Modification of Decision No. 68272 in Application No. 46889, Exhibit 1, p.2, and the staff's Memorandum Financial Report in that matter). Accordingly, the staff has concluded that, as of July 1, 1964, the

correct sum of the balances of the seven contracts under consideration was \$68,664 and that the estimated future refunds on those contracts total \$63,719.

The Commission, in a recent decision (of which we take official notice and which resulted from Dyke Water Company's Petition for Modification of Decision No. 68272, supra, involving the transfer of the major remaining portion of the utility's properties to the City of Garden Grove), found that the balance remaining in the Anaheim Advances Trust, as of July 1, 1964, was the sum of \$64,824.53 (Decision No. 69075, May 18, 1965, Application No. 46889). On that premise, if the disbursements of \$49,861 herein requested were authorized, the Anaheim Advances Trust would be reduced to \$14,963.53.

The staff has also concluded, from its review of the utility's current request, that the sum of \$49,860.88 alleged by Dyke to have been placed in the trust fund for refunds on the seven contracts herein actually represents the present reserve requirement for the contracts assuming 4½ percent interest, and that inasmuch as Dyke was required to place only \$200,000 into the Anaheim Advances Trust to pay an estimated total refund liability of \$435,451 in the Anaheim area, it follows that only 45.9 percent of \$63,719 (the estimated future refund liability on the seven contracts as of July 1, 1964) was actually placed into that trust for the seven contracts, or \$29,247.

The staff has recommended that if the Commission should not further modify Decision No. 68272 in Application No. 46889, the discounted payment of \$36,500 should be made, as requested, from the Anaheim Advances Trust, but that the \$13,361 discount should remain in trust to guarantee further any future refunds. The

staff's Memorandum Financial Report herein, dated March 31, 1965, is hereby included in this record as Exhibit No. 44.

The Commission, in Decision No. 69075, denied the utility's request to transfer the Anaheim trust funds into the Garden Grove trust, in large part for the reason that the balance remaining in the Anaheim trust was expected to be relatively small by the time the refunds for the current year (to be calculated as of July 1, 1965) are made. However, Dyke has recently petitioned for rehearing of Decision No. 69075 (in effect, for further modification of Decision No. 68272), so that the net amounts necessary to be carried in both the Anaheim trust and the Garden Grove trust to provide for payment of refunds relating to Anaheim area construction advances are before the Commission once again in Application No. 46889. Under these circumstances we see no reason to delay our approval of the payment of \$36,500 to the holder of the seven contracts herein involved pending the necessarily detailed consideration of the amount, if any, which should be disbursed from the Anaheim trust to Dyke by reason of the discount purchase of these contracts. The decision herein is expressly without prejudice to our consideration, in connection with said pending Petition for Rehearing of Decision No. 69075, of the right of Dyke Water Company to a disbursement of trust funds on account of the difference between said discount payment of \$36,500 and the amounts provided in trust for refunds on said contracts.

Good cause appearing,

IT IS ORDERED that:

1. This Commission consents to the disbursement from the Anaheim Advances Trust of \$36,500 to Shannon Van Druff, as follows:

Farmers and Merchants Bank of Long Beach, as trustee, is hereby authorized and instructed to withdraw from the Anaheim Advances Trust the amount of \$36,500 and to place said amount in a separate commercial account, so that said payment may be paid from said account by check drawn to said payee; provided, however, that no payment of any part of said \$36,500 may be made to said payee unless and until the contracts for which said payments are to be made, as listed above, shall first have been surrendered to Dyke Water Company or to said trustee. Without further order of this Commission, no payments from said separate commercial account may be made except by check drawn in the amount and in favor of the person above mentioned.

2. Except as herein granted, applicant's request is denied, without prejudice to its further consideration in connection with applicant's pending Petition for Rehearing of Decision No. 69075 in Application No. 46889.

The Secretary of the Commission is directed to mail to Farmers and Merchants Bank of Long Beach a certified copy of this order.

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

Dated at San Francisco, California, this 22nd day of JUNE, 1965.

Frederick B. Holshoff
President
George E. Hoover
Augusta
Commissioners

*I do not have many
papers over at
and in other proceedings
herein.
William L. Dwyer*