

**ORIGINAL**

Decision No. 69746

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Amended Application of )  
 SAM KERNS, an Individual Proprietorship, )  
 doing business as COLD SPRINGS WATER CO., )  
 requests the extension of his service )  
 area to include "Units 3B, 3C and 4 at )  
 cold springs subdivision" and the nearby )  
 unincorporated area known as "PETER PAM )  
 SUBDIVISION," and to establish rates for )  
 water services to these areas, approxi- )  
 mately 25 miles East of the City of )  
 Sonora, County of Tuolumne, State of )  
 California. )

Application No. 47172  
 Filed December 7, 1964;  
 amended April 22, 1965;  
 amended June 17, 1965.

O P I N I O N

Sam Kerns, an individual doing business as Cold Springs Water Co., seeks a certificate of public convenience and necessity authorizing him to construct extensions of his original water system. A Commission staff report, hereby received in the record as Exhibit No. 1, presents the results of a study of the application as amended and of a field investigation of the proposed service area and existing facilities.

Present and Proposed Areas

The area which applicant is presently authorized to serve consists of Cold Springs Subdivision, Units 1, 1A, 1B, 2 and 3A, located about 25 miles east of Sonora, Tuolumne County. A former copartnership consisting of applicant and another individual, was granted a certificate by Decision No. 58076, dated March 2, 1959, in Application No. 39979 to construct a water system to serve the 136 lots in the initial units. About 47 of those lots have active service connections.

The additional area which applicant seeks authority to serve consists of Units 3B, 3C and 4 of Cold Springs Subdivision, the Peter Pam Subdivision, and a Boy Scout camp. The Cold Springs units are contiguous to applicant's original certificated area and include 197 lots. The Peter Pam area is about 3,200 feet southwest of the Cold Springs area and includes 130 lots. The Boy Scout camp is about one-half mile southeast of the original certificated area and is an 80-acre parcel.

Exhibit No. 1 confirms applicant's allegation that there are no public utilities with which the proposed service is likely to compete. The closest known water system is approximately 3½ miles to the northeast.

Unauthorized Construction

The order in Decision No. 58076 prohibits the extension of service beyond Units 1, 1A, 1B, 2 and 3A of Cold Springs Subdivision without further appropriate orders of the Commission. Despite this restriction, applicant has extended some facilities into the contiguous Units 3B and 3C and is serving some 37 customers therein.

Section 1001 of the Public Utilities Code provides, among other things, that a utility shall not begin construction of a line, plant or system, or any extension thereof into noncontiguous territory, without having first obtained a certificate of public convenience and necessity for such construction. Despite this provision and the restriction in Decision No. 58076, applicant has constructed some facilities in Peter Pam Subdivision and is serving about six customers therein.

Applicant has offered no explanation of his actions in installing facilities without authorization. The order herein will

require applicant to present his explanation for review by the Commission. We will defer at this time any action to invoke the penalties prescribed by the Public Utilities Code.

#### Construction for Proposed Additional Areas

The facilities installed and to be installed to serve Cold Springs Units 3B, 3C and 4 and Peter Pam consist primarily of a diversion dam, 6,200 feet of transmission mains, water treatment facilities, four storage tanks, a well, a well pump, a booster pump, about one mile of interconnecting mains, about five miles of distribution mains, and service pipes to supply 328 lots and the Boy Scout camp.

A considerable proportion of the construction is completed. Applicant's amendment filed June 17, 1965, includes a section entitled "Distribution Main Deviations" in which are set forth several deficiencies in the construction relative to General Order No. 103. Applicant's proposed corrections of those deficiencies are also shown. In Exhibit No. 1, the Commission staff points out that applicant overlooked listing a deficiency relative to an excessive length of undersized pipe in the Peter Pam system.

#### Water Supply and Requirements

The present water supply for the Cold Springs area consists of a spring and two wells, with a combined production of about 30 g.p.m. The Peter Pam supply is from a single well with a yield reported to be 18 g.p.m., but equipped with a pump of 5 g.p.m. capacity.

Applicant proposes to divert 112 g.p.m. from a stream tributary to the North Fork of the Tuolumne River. The State Water Rights Board has issued Permit No. 14633 for such diversion. Water from this source would serve the Boy Scout camp and the Cold Springs area.

Applicant proposes to replace the Peter Pam well pump with one rated at 18 g.p.m. When applicant's proposed interconnecting main is completed, the Peter Pam area can be supplied also with surplus water from the Cold Springs area.

The Commission staff concludes in Exhibit No. 1 that applicant will have adequate sources of water supply for the immediate future with the installations proposed by applicant, and that present and proposed production facilities conform to the requirements of General Order No. 103.

#### Franchises and Permits

Applicant states that Tuolumne County does not require that he obtain a franchise. Applicant has applied for a water supply permit covering his proposed creek source. Excessive iron and manganese formerly precluded the issuance of a permanent water supply permit for the Peter Pam well but, with continued use, the percentages of iron and manganese have diminished to acceptable limits. Applicant has obtained a special use permit covering the National Forest land upon which the proposed dam and transmission main will be located. He has also obtained an easement from Santa Clara County Council, Boy Scouts of America and from Boy Scout Memorial Foundation permitting ingress and egress for installation and maintenance of certain water facilities to be installed on the Boy Scout camp properties.

#### Financing

Applicant and his wife are the developers and subdividers of the Cold Springs and Peter Pam areas, apart from applicant's utility operations. With this close affiliation between subdivider and utility, it is important that the financial obligations of each entity for installation of the water system and extensions thereof be clearly identified.

Exhibit No. 1 indicates that none of the costs of present water facilities were recorded by applicant as advances from his affiliated subdivision operation. Applicant alleges that future additions to the distribution system will generally be in accordance with his main extension rule.

In Exhibit No. 1, the Commission staff recommends that Units 1, 1A, 1B, 2, 3A, 3B and 3C of Cold Springs Subdivision be considered the initial development to which applicant's main extension rule will not apply. The extensions into Unit 4 and into the Peter Pam area would then be covered by advances from the subdivider in accordance with applicant's tariffs.

The staff recommendation as to applicability of the main extension rule will be adopted. Applicant is placed on notice, however that in future rate proceedings consideration may be given to the customer density in the initial development. This will protect the customers from the effect of uneconomic or speculative installations in those areas where such protection is not provided by the provisions of the main extension rule.

The record does not show how much of the \$52,585 of utility plant as of December 31, 1964, will be considered advances for construction under the staff's recommendations. Exhibit No. 1 shows, however, that only \$17,265 of the \$93,665 in plant additions proposed by applicant will represent main extensions covered by advances. This is due to the sizable investment required in production, transmission, pressure and storage facilities.

Applicant's financial position is indicated by his financial statement, Exhibit G to the amended pleading filed April 22, 1965.

Findings and Conclusions

1. Public convenience and necessity require the extension of applicant's original water system to serve the areas set forth in the order which follows.

2. Applicant has constructed water systems, or extensions thereof, to serve Cold Springs Subdivision, Units 3B and 3C, and Peter Pam Subdivision, without first having obtained this Commission's authorization.

3.a. Applicant has already extended service to some individuals within portions of the areas certificated herein.

b. It is fair and reasonable for applicant to charge the same rates in the areas certificated herein as in his original certificated area.

4. Applicant cannot provide adequate service to more than 10 customers in the Peter Pam area until he provides storage facilities which are of greater capacity, and at a higher elevation, than the present Peter Pam tank.

5. Applicant cannot provide adequate service to more than 60 customers in the Peter Pam area until he provides an additional source of supply for that area.

6. The additions authorized herein will require revision of applicant's system maps to bring them up to date.

7. Some of the facilities installed by applicant do not comply with General Order No. 103, as shown in detail under the heading "Distribution Main Deviations" in the amendment filed by applicant on June 17, 1965.

8. Applicant's previous unauthorized extensions and deviations from General Order No. 103 make it advisable for this Commission to be informed by applicant of the progress of future construction.

9. Additional data are needed to evaluate the quantities of water available at applicant's spring and river sources of supply.

10. Applicant has not yet entered into the main extension contracts prescribed by his tariffs with respect to Peter Pam Subdivision and Unit 4 of Cold Springs Subdivision.

11. A public hearing is not necessary.

The Commission concludes that the application should be granted to the extent, and under the conditions set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant, Sam Kerns, doing business as Cold Springs Water Co., for the construction of extensions of his public utility water system to serve Cold Springs Subdivision, Units 3B, 3C and 4, the Peter Pam Subdivision, and the 80-acre premises of Santa Clara County Council Boy Scout Camp in Tuolumne County, as shown on Exhibit B-1 to the amendment filed herein on June 17, 1965.

2.a. Applicant shall not extend service outside of his certificated areas, nor file any revised tariff service area map indicating his willingness to so extend service, without first having obtained authorization therefor by further order of this Commission.

b. Within ten days after the effective date of this order, applicant shall file in this proceeding a detailed explanation of the circumstances which prompted him to construct water systems, or extensions thereof, to serve portions of the areas certificated herein, without first obtaining authorization therefor as required by paragraph 3 of the order in Decision No. 58076, dated March 2, 1959, in Application No. 39979.

3. Within thirty days after the effective date of this order, applicant shall file revised tariff sheets, including tariff service area maps, to provide for the application of his present tariff schedules to the areas certificated herein. Such filing shall comply with General Order No. 96-A. The effective date of the revised tariff sheets shall be four days after the date of filing.

4.a. Prior to the date applicant serves 10 customers within the Peter Pam Subdivision, applicant shall move the Peter Pam 14,000-gallon tank to the west side of Highway 108 at elevation 5,650 and install at least 50,000 gallons of additional storage at the new tank site.

b. Within ten days after compliance with the foregoing paragraph 4.a., applicant shall file in this proceeding a written report showing the number of customers then served in the Peter Pam Subdivision and the details of the additional storage facilities.

5.a. Prior to the date applicant serves sixty customers within the Peter Pam Subdivision, applicant shall connect an additional source of water supply sufficient to serve all of the residential sites in the subdivision.

b. Within ten days after compliance with the foregoing paragraph 5.a., applicant shall file in this proceeding a written report showing the number of customers then served in the Peter Pam Subdivision and the details of the additional source of supply.

6. Applicant shall prepare and keep current the map or maps of all utility facilities required by paragraph I.10.a. of General Order No. 103 and shall certify thereon that the type, kind, size and/or capacities of the facilities shown have been verified by uncontroverted records or by field inspection. The map shall be to a scale of not more than 200 feet to the inch. Within sixty days



after the effective date of this decision, applicant shall file with the Commission two copies of such map.

7.a. On or before June 30, 1966, applicant shall complete such changes in, and additions to, his distribution facilities as are necessary to eliminate any and all violations of paragraphs III.1. and 2.a. of General Order No. 103.

b. Within thirty days after compliance with the foregoing paragraph 7.a., applicant shall file in this proceeding a written report showing the manner in which the requirements of this paragraph were effected.

8.a. As of September 30 and March 31 for the years 1966 through 1969, applicant shall prepare a report of construction progress for the preceding six-month period, showing all changes and additions in distribution and production facilities.

b. Within thirty days after the end of each six-month period prescribed in the foregoing paragraph 8.a., applicant shall file in this proceeding a copy of such report.

9.a. Commencing with the week this decision is issued in 1965 and for the years 1966 through 1969, applicant shall, during the months of August through October at one-week intervals, make measurements of the stream source of supply at the diversion structure and measurements of the yield of the spring source of supply located in the Cold Springs area.

b. Within ten days after the date of the last measurement in each year made in compliance with the foregoing paragraph 9.a., applicant shall file in this proceeding a written report showing the results of all measurements taken during the year.

10. Within thirty days after the effective date of this order, applicant shall execute main extension contracts with his affiliated subdividers, in accordance with applicant's tariffs, covering

distribution facilities installed or to be installed in the Peter Pam Subdivision and the Cold Springs Subdivision, Unit 4, and shall file in this proceeding a copy of each such contract.

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

Dated at San Francisco, California, this 5<sup>th</sup> day of OCTOBER, 1965.

Frederick B. Holhoff  
President

George T. Hoover

Angela

William L. Brennan

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Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.