

ORIGINAL

Decision No. 70573

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
on the Commission's own motion into)
the operations, service, and)
practices of the HAPPY VALLEY WATER)
COMPANY, a corporation, and into the)
adequacy of its finances, water)
supply, and service.)

Case No. 6679
(Filed July 29, 1960)

In the Matter of the Application of)
HAPPY VALLEY WATER COMPANY, a)
corporation, for authority to)
increase rates.)

Application No. 43326
(Filed April 18, 1961,
Amended April 24, 1961)

(Appearances are listed in Appendix A)

INTERIM OPINION ON FURTHER HEARING

On petition of the California Farm Bureau Federation alleging non-compliance by Happy Valley Water Company with prior orders to improve its facilities and service, the Commission on July 28, 1964, reopened this consolidated case for further hearing and order (Pub. Util. Code Sec. 1708).

Further hearings were held at Olinda, Shasta County, on December 16 and 17, 1964 and February 9, 1965, before Examiner Gregory. Hearings were then adjourned to permit the new owners of the utility, who had acquired stock control from the Plotts family at the end of 1964, to assess both flood damage and the extent of general rehabilitation needed to make the system operational, and to report progress to the Commission.

The utility filed two reports during 1965, dated May 1 and August 31 (Exhibits 26 and 27). The first report detailed the repairs completed and in progress in Divisions 1 and 2 from the utility's main

storage facility, Rainbow Lake, downstream to Harbinson Reservoir, the principal reservoir for distribution of water in Division 3. The major critical project upstream from Harbinson involved replacement of Dobby Creek flume, washed out by the 1964 floods, with an inverted syphon, installation of which was estimated to cost \$15,000. The syphon was not installed and in operation until about September 1, 1965, due to delay in delivery and adverse conditions at the site. Other repairs on the canal were estimated to cost an additional \$10,000. Repairs in Division 3 to Cloverdale, Palmer and Harbinson Reservoirs and the main ditches leading to them were estimated at an additional \$10,000. Coupled with the requirement of the Division of Dam Safety, State Department of Water Resources for rehabilitation of Misselbeck Dam, at Rainbow Lake, by November 1, 1966, estimated variously to cost somewhere between \$65,000 and \$112,000, the utility reported that it would need a loan of \$100,000 to finance the projects covered in its report.

The report also requested that the Commission rescind a so-called "tie order", issued in the earlier phase of the proceeding (Decision No. 62429, dated August 18, 1961 - Second Interim Opinion and Order). That order, based on evidence that the former owners had transferred considerable acreages of land and some equipment to affiliated corporations, directed that the utility should not dispose of any of its assets, "including land now standing of record in the name of Happy Valley Water Company on the records of the County Recorder's Office of Shasta County", without prior authorization by the Commission. We will refer later to this order.

The second report, dated August 31, 1965, noted that the main canal through Divisions 1 and 2, from Rainbow Lake to Harbinson Reservoir, had been placed in good repair and was capable of carrying

considerably more water than had been possible for a number of years. The report gave details of repairs completed and in progress, identified with reference to the staff report in evidence (Exhibit 14) relating to compliance with previous orders directed to the former owners of the utility concerning 19 repair projects then estimated to cost about \$75,000. The report also stated that an engineering consultant had been retained to complete structural designs for the Misselbeck Dam repairs required by the Division of Dam Safety. The report concluded by asserting that: the new owners have spent about \$35,985, over a 10-month period, on repairs and maintenance since acquiring the utility; all phases of the operation have gone on schedule except the Dobey Creek syphon installation; the company expected a 50% decrease in income during 1965, as compared with the previous year, due to loss of revenues from inability to deliver water because of storm damage; hardship has resulted from having to spend time, money and effort "without visible signs of return, and at the same time have the non-operating assets of the company frozen by a Commission 'tie-order'".

The two reports were placed in evidence at hearings held March 9 and 10, 1966 and were supplemented by another document (Exhibit 28) listing a schedule of repairs and maintenance completed by September, 1965, together with proposed projects, estimated to cost from \$10,000 to \$15,000, to be completed prior to the 1966 irrigation season. The proposed projects are designed to place transmission facilities upstream from Harbinson Reservoir in condition to maintain optimum flows of water. The exhibit contains a

cost breakdown for the projects completed in 1965, by districts, showing the following totals:

Total Labor	\$10,452.18
Ashurst's (superintendent) Labor	5,379.20
Materials, Equipment and Equipment Rental	<u>24,735.32</u>
	\$40,566.70

The foregoing account of events occurring since the Commission's last rate and service order in 1961 (Decision No. 62741) is given here principally to bring into focus the urgent necessity, at this time, for an interim decision designed to carry out certain understandings reached by the utility and the two public districts which operate in its service area, namely, Clear Creek Community Services District, located in Division 3, below Harbinson Reservoir, and Igo-Ono Community Services District, located in Divisions 1 and 2 above Harbinson. These understandings, tentatively agreed to early this year after months of arduous and complex negotiations among the interested parties (concerning which the Commission was informally advised from time to time), resulted in the filing by the utility, on February 15, 1966, of a petition requesting four types of authority, as follows:

1. Authorization for a contract between the utility and Clear Creek Community Services District pursuant to which the utility would deliver a minimum of 400 miners inches of water into Harbinson Reservoir throughout the 1966 irrigation season, subject to normal adjustments, at no cost to Clear Creek. The District would assume responsibility for distributing such water in Division 3. The utility agreed to make necessary repairs to its facilities above the Harbinson Reservoir prior to commencement of the 1966 season (estimated to start April 15, 1966).

2. Concurrently, authority to suspend service to Division 3 for the 1966 season.

3. Authority to substitute, for 1966, the improvement projects set forth in the agreement (which are also shown in Exhibit 28 as projects to be completed prior to commencement of the 1966 season), in lieu of those ordered by Decision No. 62741 (the 19 projects referred to above).

4. Revocation of the "tie-order" contained in Decision No. 62429, in order to permit the new management to reimburse itself for personal borrowings to finance the completed and prospective rehabilitation of the system.

Hearings on the company's petition were held at Olinda on March 9 and 10, 1966, after due notice. Although it appeared that the parties were in general agreement concerning the need for a workable plan for water service in all three of the utility's service divisions, and that tentative understandings concerning system repairs, distribution of water by Clear Creek in Division 3 and modification of the "tie-order" were considered as basic to providing water for the forthcoming season, a number of questions arose, concerning matters involved in the over-all activities of the utility past and present, which tended to impair the understandings previously reached. As some of those questions cannot be resolved on the present record and, indeed, are not especially relevant to the immediate problem of providing water service during 1966, they will be only briefly mentioned here as indicating the background against which the parties have had to conduct their negotiations and which the Commission will eventually have to consider on a more complete record.

Probably the most significant background fact in this proceeding, at the present time and for the future, is that with the expected advent of a supply of water by 1967 from Bureau of Reclamation facilities at Whiskeytown Dam, the completion of the Olinda and, probably, the Igo-Ono areas will undergo significant change. Land prices are rising and developers, among whom are the present management of the utility, are seeking to capitalize on the values inherent in an assured supply of both irrigation and domestic water. The record indicates that the Happy Valley canal and ditch system, while probably adequate to supply present needs if fully rehabilitated, will eventually, at least in Division 3, be supplanted by underground piped water. In fact, one of the questions raised - and not fully answered - at the recent hearing concerned the extent to which the utility's laterals and other distribution facilities in Division 3 had been damaged by contractors, in 1965, who were engaged in installing underground pipelines for the Clear Creek District for distribution of water to be received from the federal project.

Another question, raised by the largest irrigation water user in Division 3, West Coast Orchards, Inc., which has an action pending against the utility for substantial damages for failure to deliver water to its olive orchards in previous years, has to do with its concern lest the temporary suspension of the utility's obligation to distribute water in Division 3, as requested here, if not extended beyond the end of the normal irrigating season in October, would result in failure to receive water needed for its orchards later in the year. As counsel for West Coast properly observed, the utility may not enter into arrangements with the District which have the effect of abdicating its responsibility to supply water to its customers, at least without assurance that its customers will have an adequate substitute supply and then only upon authorization of such arrangements by the Commission.

Other questions concern the financial affairs of the utility and the ownership of its capital stock. These questions relate back to the inception of the utility in 1925 and involve, among other matters, the status of its landed capital as utility or non-utility in nature. They have been explored in some detail in prior decisions of the Commission going back many years, but are a constant topic of discussion in any proceeding involving the Happy Valley Water Company.

Returning to the utility's petition for interim relief, it is clear, from this record, that heroic temporary measures are required to assure an adequate, or any, water supply in all operating divisions of the utility at least for the 1966 season. The utility's new management is faced with the problem of supplying water from a system that was stipulated to be in deplorable condition when it was acquired at the end of 1964. Significant and costly repairs and improvements have been made since, whether the motivation has been only to rehabilitate the utility or, as the record indicates is more likely, to prepare for the expected change in the area's economy and assure that water will be available for developing the company's lands. Such development is now in progress, with three approved subdivisions and three more awaiting approval by the county upon assurance of water. In any event, the reasonableness of the utility's proposals, and of the agreements reached with the Clear Creek District, with which the Igo-Ono District concurs if assured of a continuous adequate water supply, must be gauged in light of the rapidly changing physical and economic situation in which the utility is operating, and the necessarily transitory character of the proposed arrangements.

The parties, at the hearings on March 9 and 10, after considerable discussion reached an agreement covering repairs to the

system in Divisions 1 and 2 and distribution of water by Clear Creek in Division 3 for the 1966 season. The agreement, which modifies the one submitted as Exhibit 1-A of the utility's petition filed February 15, is included as Exhibit 34 herein.

The question of how much the utility's ability to provide service in Division 3 had been impaired by damage to its ditches, resulting from installation of Clear Creek's underground distribution system, was also the subject of some discussion. It appears that the utility and the contractor, Baker-Anderson Corporation, have made claims upon one another for damages arising out of the underground installations (Exhibit 33), but the extent of and responsibility for any damage has not yet been determined. It is clear, nevertheless, that a combination of circumstances (such as deterioration of the system under the former owners; storm damage at the end of 1964; time needed by the new owners to plan, commence, and finance rehabilitation projects; delay in the Dobeay Creek syphon installation; disruption, to some extent, of the company's distribution facilities in Division 3) all contributed to the unquestionably poor water service available during the 1965 season.

The present record, though sufficient to support a temporary order for service during the balance of 1966, based on arrangements mutually agreed upon by the parties and which are hereby found to be reasonable, still leaves for future consideration such questions as: (a) the extent to which the utility may have carried out its commitments to rehabilitate the system and supply the agreed volumes of water to Clear Creek at Harbinson Reservoir, as well as to provide adequate supplies for the Igo-Ono customers, during 1966; (b) evaluation of the situation that would confront the utility and its customers if Bureau water were not available in Division 3 in

time for the 1967 irrigation season; (c) the extent to which Clear Creek Community Services District would undertake to serve present and former customers of the utility, inside or outside district boundaries, if Bureau water were available from 1967 on and the utility, as it has indicated, should then request authority to abandon service in Division 3; (d) present ownership of the utility's stock and certain financial transactions by former owners, which may be relevant to a consideration of the utility's plans, briefly indicated in its report of May 1, 1965 (Exhibit 26), for continued utility, or other, service to its land development projects; and (e) the effect of such projects on the company's ability to continue to operate as a public utility in the Igo-Ono District, including the problem of a reasonable rate structure.

The foregoing are some of the questions which the Commission, undoubtedly, will be asked to consider at a later date.

The present record, which comprises matters disposed of in the 1961 proceedings and what has transpired since, leads us to find and conclude that the agreements reached by the parties for operation and repair of the utility's system are not adverse to the public interest and should be authorized by the ensuing interim order. The agreements referred to are, specifically:

(a) A written agreement, dated March 10, 1966, between Happy Valley Water Company and Clear Creek Community Services District for repairs to the utility's facilities above Harbinson Reservoir; for deposit by the utility, in a bank or trust company, of \$20,000 in a special "Repair Capital Account" for such repairs; for delivery by the utility of a minimum of 400 miners inches of water, continuous flow, at Harbinson Reservoir during the 1966 irrigation

season, without cost to the District, and distribution by the District of water in Division 3 during the 1966 season. That agreement is incorporated in this record as Exhibit 34.

(b) A verbal agreement among the parties, entered into at the hearing on March 10, for modification of the "tie-order" (Decision No. 62429) to the extent that certain landed assets claimed by Happy Valley Water Company in Division 3, comprising the Hawthorne West, Cloverdale West and Spanish Canyon West Subdivisions totalling some 423 acres, as described in Exhibit 32 herein, may be released from the operation of that interim order, so as to provide for financing repairs during 1965 and earlier this year for which the present management has obligated itself on personal short-term loan commitments.

INTERIM ORDER ON FURTHER HEARING

IT IS ORDERED that:

1. Happy Valley Water Company, after the effective date of this interim order, is authorized and directed to carry out the terms and conditions of an agreement with Clear Creek Community Services District, dated March 10, 1966, Exhibit 34 herein.
2. Happy Valley Water Company is authorized, concurrently with the first delivery of water from Harbinson Reservoir for distribution by Clear Creek within Division 3 of the utility's service area, as provided by said agreement, to suspend service to its Division 3 until termination of the current irrigation season on or about October 1, 1966, unless, upon good cause first shown, the Commission by further order shall have extended or otherwise modified this order authorizing

such suspension of service. Happy Valley Water Company, within thirty (30) days after the effective date of this order, upon not less than five (5) days' notice to the Commission and the public and in accordance with General Order No. 96-A, shall amend its presently filed tariffs to show such temporary suspension of service.

3. Decision No. 62429, dated August 18, 1961 in Case No. 6679 (Second Interim Opinion and Order), is modified to the extent that the order therein, forbidding, without Commission authorization, the disposal by Happy Valley Water Company of any of its assets, including any lands now standing of record in the company's name on the records of the County Recorder's Office of Shasta County, is rescinded and annulled with respect only to those lands, comprising Hawthorne West, Cloverdale West and Spanish Canyon West Subdivisions, totalling 423 acres, more or less, more particularly described in Exhibit 32 herein.

4. Further hearings shall be held herein, at times and places hereafter to be fixed upon due notice, for the purpose of determining, among other matters, whether Happy Valley Water Company has complied with the terms and conditions of its agreement with Clear Creek Community Services District, whether repairs to Misselbeck Dam have been completed or are in progress, and whether consumers of the utility in Divisions 1, 2 and 3 of its service area have been accorded reasonably adequate water service during the 1966 irrigation season under the agreements and arrangements disclosed by this record. Pending such hearings, the utility's request that the improvement projects for the year 1966, set forth in the written

agreement of March 10, 1966, be substituted for those ordered by Decision No. 62741 herein, is denied without prejudice.

Because of the urgency for implementing its provisions, IT IS ORDERED that this decision shall become effective on the date hereof.

Dated at San Francisco, California, this 15th day of APRIL, 1966.

Fredrick B. Holdoff
President
John E. Hutchell
George H. Hoover
Auguston
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX "A"

Appearances at Further Hearing - December 16, 17, 1964:

William L. Knecht, for California Farm Bureau Federation, Shasta County Farm Bureau, Happy Valley Farm Center and Igo-Ono Farm Center, interested parties.

A. Crawford Greene, Jr., for Happy Valley Water Company, applicant and respondent.

Henry Saunders, for Clear Creek Community Services District, interested party.

John D. Reader, for the Commission staff.

Additional Appearances at Further Hearing - February 9, 1965:

Marvin Handler, of Handler, Baker & Greene (substituted for A. Crawford Greene, Jr.), for Happy Valley Water Company.

Jack Halpin, of Leep & Saunders, for Clear Creek Community Services District, interested party.

Joseph H. Redmon, for Igo-Ono Community Services District, interested party.

Additional Appearances at Further Hearing - March 9, 10, 1966:

Graham, James & Rolph, by Boris H. Lakusta, with Ephraim A. Krackov, President, for West Coast Orchards, Inc., interested party.