

ORIGINALDecision No. 74981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of GEORGE H. BUSHNELL and JOHN C.
BUSHNELL, doing business as
TEAFORD WATER WORKS, for a certi-
ficate of public convenience and
necessity to construct a public
utility water system near Oakhurst
in Madera County, State of Cali-
fornia, and to establish rates
for service.

Application No. 50423
(Filed July 24, 1968)

Donald E. Oren of Oren & McCartney, for applicants.
Andre Verville, for the Commission staff.

OPINION AND ORDER

By this application, George H. Bushnell and John C. Bushnell (Teaford Water Works) seek a certificate of public convenience and necessity to construct a public utility water system to serve Subdivision Tract No. 163, Teaford Meadow Lakes, Madera County.

Public hearing in the matter was held before Examiner Emerson on October 2, 1968, at Fresno, at the conclusion of which the matter was submitted.

Tract No. 163, Madera County is a subdivision tract of 25.86 acres being developed into 65 lots by Teaford Meadow Lakes, a California corporation, of which George H. and John C. Bushnell are the principal stockholders. The two Bushnell brothers, as the partner applicants herein, and the subdividers are essentially one and the same.^{1/} As of the date of hearing, four lots had been sold.

^{1/} Testimony of George H. Bushnell; TR 6, lines 4-7.

Tract No. 163 is but a portion of a larger parcel of 474.19 acres owned by the Bushnell brothers. It is located on County Road No. 223, about 6 miles from Oakhurst and about 2-1/2 airline miles southwest of Bass Lake. The overall acreage is heavily wooded, lies at elevations between 3495 and 3660 feet above sea level, is almost surrounded by the Sierra National Forest and is suited to "recreational area" or "vacation homes" development because of its proximity to Yosemite Valley and Bass Lake. The subdividers' overall program is to develop the total acreage over a period of five or more years, dependent upon the progress of lot sales and financing arrangements.

Water service for the area must come from the site because existing public utility water systems are several miles distant. Two 7-inch diameter wells were drilled in 1966 and are reported to produce 45 gpm. With a storage capacity of 120,000 gallons the production facilities would meet the peak demand requirement for Tract No. 163. Such facilities together with the planned distribution system also would meet the requirements of this Commission's General Order No. 103. At the time of the hearing in this matter, the water system had been 90 percent installed, with completion being contemplated within approximately two weeks.^{2/}

The County of Madera requires that all new subdivisions within the County "must have a community water system that shall be operated as a public utility as authorized by the Public Utilities Commission of the State of California".^{3/} The County has granted a "variance" from said ordinance to permit operation and maintenance

^{2/} TR 25, lines 10-13.

^{3/} Ordinance No. 278-d, Section 850, passed November 1, 1966.

of the water system by a County maintenance district.^{4/} The variance, issued originally for a period of six months, has been extended to February 28, 1969. If the subdividers have not by such date complied with the ordinance, the County maintenance district will close down all facilities and operations in connection with the subdivision.

The County Engineer is on record as having advised that the County of Madera has accepted the water system proposed for the subdivision and that the system will be maintained by the County under a County maintenance district.^{5/} The State Division of Real Estate has so advised the public by its "Final Subdivision Public Report" issued April 9, 1968. The County has required the subdividers to deposit a cash "subdivision bond" of \$38,146 for the construction of the water system. Such sum is controlled by the County and funds therefrom are disbursed to the subdividers as the construction work is accomplished.

Applicants do not personally propose to operate the system or to tend to the public utility needs within the tract, but intend to use a "subcontractor" for such purposes.^{6/} The Commission staff report (Exhibit No. 1), in this respect, states: "Applicants appear to be interested primarily in land development and would prefer that the water system be operated and maintained by the County of Madera Maintenance District No. 24." Upon cross-examination on this point^{7/} it developed that one of the applicants

^{4/} The district was formed on May 21, 1968, pursuant to County Resolution No. 68-211 issued that date.

^{5/} Letter of April 9, 1968, Exhibit No. 2 in this proceeding.

^{6/} TR 17, lines 1-21.

^{7/} TR 16, line 18 to TR 17, line 4.

had stated to the staff witness that the County could serve water in the area at a much lower price and that the applicants really wanted the County to operate the system. Such testimony elicited neither denial nor explanation from the applicants. It stands uncontroverted.

Applicants' estimates concerning the prospective operations of the system show net operating losses of \$3,151 for the first year and \$561 for the fifth year without inclusion of any salaries for management. The staff estimates show "out-of-pocket" losses for each of the first ten years, with a cumulative loss of \$13,890 for such period. Such prospective losses are predicated on applicants' proposal to charge an annual flat rate of \$120 for water service, a rate which the staff believes to be excessive.

From the evidence the Commission finds that:

1. Applicants, in compliance with Ordinance No. 278-d, Section 850 of the County of Madera, have applied to this Commission for a certificate of public convenience and necessity to construct a public utility water system in said County.
2. Operation of the proposed water system at reasonable rates for service is economically unfeasible.
3. Neither Teaford Meadow Lakes (a California corporation), their alter ego, nor applicants have demonstrated that either the present or future public convenience and necessity require or will require construction of the proposed water system.

The Commission concludes that the application should be denied.

A. 50423 ds

IT IS ORDERED, therefore, that the application is hereby denied.

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

Dated at San Francisco, California, this 26th day of NOVEMBER, 1968.

William J. ...
President

William L. ...

Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.