

ORIGINAL

Decision No. 75385

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Gabriel Valley Water Company for a certificate of public convenience and necessity to furnish water service to Tract No. 29956, located in unincorporated territory in Los Angeles County.

Application No. 50649
(Filed October 28, 1968)

In the matter of the application of Suburban Water Systems, a California corporation, for a certificate of public convenience and necessity to extend its water system operation to Tract No. 29956, Los Angeles County.

Application No. 50682
(Filed November 13, 1968)

Brobeck, Phleger & Harrison, by
Robert N. Lowry and J. E. Skelton,
for San Gabriel Valley Water
Company, applicant in A. 50649 and
protestant in A. 50682.
Arthur D. Guy, Jr., and Walker Hannon,
for Suburban Water Systems, applicant
in A. 50682 and protestant in A. 50649.
E. C. Crawford, L. M. VanZandt and
Casimir Strelinski, for the Commission
staff.

O P I N I O N

San Gabriel Valley Water Company (San Gabriel) seeks a certificate of public convenience and necessity to furnish water service to Tract No. 29956 located in unincorporated territory in Los Angeles County. (See Map, Appendix A.) Suburban Water Systems (Suburban) seeks authority to serve the same tract. Each company protests the application of the other.

The applications were consolidated for hearing and public hearings were held on December 16 and 17, 1968 at Los Angeles before Examiner Robert Barnett.

San Gabriel's Evidence

San Gabriel's vice president testified to the following: Northwest Whittier Properties, the company that is developing the entire 178 acres of Tract No. 29956, requested San Gabriel to provide public utility water service to the tract. The tract is located approximately 3,000 feet south of San Gabriel's El Monte division, and will be part of said division if San Gabriel's application is granted. Southerly of the tract is hilly, uninhabited territory not served by or certificated to any water company; westerly is Rose Hills Memorial Park, which provides its own water; northerly is a tract served by the Beverly Acres Mutual Water Company; and easterly is the Stody Estate, which also is not served by or certificated to any water company. At the northwest corner of Tract No. 29956, and physically contiguous thereto, Suburban serves one customer, Grandview Sanitarium.

The El Monte division of San Gabriel presently serves over 25,000 customers and has a capacity of 70 million gallons of water daily. No additional capacity will be required to provide service to the tract. San Gabriel proposes to serve the tract by extending its 17-inch water main on Capitol Avenue approximately 5,900 feet to a 1-1/2 million gallon reservoir (the lower reservoir) to be constructed at the tract; 4,200 feet of this extension will be outside of the tract. The standard of construction of the extension, and system water pressure, will be within the limits prescribed by this Commission's General Order No. 103, Rules Governing Water Service Including Minimum Standards For Design and Construction.

From the lower reservoir water will be pumped by two 75-horsepower boosters to a middle reservoir (elevation 625 feet) whose two 50-horsepower boosters will pump water to an upper reservoir (elevation 725 feet).

Estimated costs of facilities to be advanced by the developer are:

Lead-in main	\$ 84,000
Reservoirs (middle & upper)	95,000
Booster stations	71,000
In-tract mains	149,400
Services & fire hydrants	<u>65,300</u>
Total	\$ 464,700

San Gabriel will pay for the cost of the lower reservoir (estimated to be \$105,000) and water meters (estimated to be \$25,000). San Gabriel has sufficient capital to cover these costs. All land for reservoirs and booster stations will be donated by the developer.

San Gabriel will apply the rates currently in effect in its El Monte division, which rates were authorized September 11, 1968.^{1/}

In the area certificated to San Gabriel that is shown on the map attached hereto as Appendix A, San Gabriel serves five or six industrial concerns, a Los Angeles County equestrian area, and the Rio Hondo Junior College. The college obtains water from the same 17-inch main that will serve the tract. However, the college is served from a reservoir located on the campus which supplies all of its daily requirements. The reservoir is refilled at night, or when the water drops to a certain level.

^{1/}

A comparison of San Gabriel's rates with Suburban's is set out on sheet 11 of this opinion.

The lower reservoir on Tract No. 29956 will reinforce water service along the entire 17-inch main from which is served, in addition to the aforementioned customers, some 400 customers who are located in an area northerly beyond the area shown on the attached map. In effect, the lower reservoir will provide a new source of water supply to customers already being served, as will the middle and upper reservoirs. For this reason San Gabriel will absorb the entire cost of the lower reservoir. San Gabriel also interconnects with the Rose Hills water system, although this connection is for emergency purposes only and has never been used.

An architect employed by the developer testified as follows: Tract No. 29956 will consist of approximately 470 single family dwellings plus one school. The tract is expected to be totally developed within five years. Land development is to start in January of 1969 and lots will be offered for sale approximately April 1, 1969. Both San Gabriel and Suburban submitted estimates on the cost of providing water service to the tract. Suburban's estimate was much lower than San Gabriel's, which caused the developer to doubt the accuracy of Suburban's estimate.^{2/} Consequently, engineers employed by the developer prepared their own estimate which essentially consisted of revising Suburban's estimate upwards based on higher unit costs. After this revision, the developer compared the two estimates and concluded that they were

^{2/}

The estimate of a water company is in no way binding on the water company. The company's filed main extension rule provides that any advances made by a subdivider based upon estimates are subject to being adjusted to actual costs.

so close that other factors would be used to pick a water supplier. These other factors were low water rates to the consumer (which would facilitate the sale of lots) and ease of cooperation between the developer and the water company. Because San Gabriel's rates were lower than Suburban's, and because the developer felt that it would be able to work more easily with San Gabriel, thus insuring early development of the tract, it chose San Gabriel.

An engineer employed by a firm retained by the developer testified that his firm did the engineering for the tract. Pursuant to that assignment he was asked to evaluate the estimates submitted by San Gabriel and Suburban. On October 23, 1968, he submitted his evaluation to the developer. The original estimate of developer's cost by San Gabriel was \$475,000; by Suburban \$390,000. Based upon his experience of comparable costs, he decided that Suburban's estimate of on-site costs was approximately \$50,000 too low, and he adjusted Suburban's estimate accordingly. He determined that San Gabriel's estimate was high, mainly in the estimate of on-site main and services cost. With other adjustments (primarily eliminating from Suburban's estimate the \$20,000 cost of a temporary reservoir) his revised estimate of developer's costs was Suburban \$424,840; San Gabriel \$443,380.

In his original comparison he included as part of Suburban's estimate the sum of \$151,500 which reflected the cost of two reservoirs (\$115,500) and off-site mains (\$36,000). Later, Suburban informed the developer that this \$151,500 would not be part of the developer's advance but would be assumed by Suburban.

Suburban's Evidence

The treasurer of Suburban testified that Suburban expects to invest \$165,000 of its own money in water facilities to serve Tract No. 29956 in addition to money to be advanced by the developer. On November 1, 1968 Suburban obtained \$2.7 million from a condemnation award which has been deposited with a trustee for the utility's bondholders, that can be used to improve its system. In the witness's opinion, Suburban can invest the \$165,000 without impairing its financial standing.

The executive vice president of Suburban testified as follows: His company wishes to serve Tract No. 29956 and proposes to construct a water system to provide such service at a total cost of \$409,500. Presently Suburban serves four customers in the area (see Map, Appendix A) one of which, Grandview Sanitarium, is contiguous to the tract. Two of these four customers (Grandview Sanitarium and Mill School) are served from a six-inch main along Workman Mill Road. The new tract would be served by a 16-inch main extended from the 36-inch transmission main at a point on Pioneer Boulevard shown on the northwest portion of the map. The 36-inch main is not contiguous to the tract. The distance from the connection of the 36-inch main with the 16-inch main to the tract is approximately 2,450 feet. Two reservoirs (one million gallon capacity each) with adequate booster pumps will be built on the tract at different levels. The 16-inch main will parallel the six-inch main and, through an interconnection, will provide backup facilities to the two customers on the six-inch main. Suburban has an adequate water supply to serve the tract. The rates for service would be those presently authorized in this area. Suburban's estimate of \$409,500 to provide water service should be within 5 percent

of actual cost; also, the unit costs used by Suburban in its estimate are reasonable. Suburban proposes to absorb the cost of constructing the off-site main (2,450 feet) and the two reservoirs because these facilities will be used to improve service on other parts of its system and provide backup for service to the Mill School and Grandview Sanitarium.

Discussion

This case is another in a long series of controversies between San Gabriel and Suburban concerning service to new customers in the Whittier area. In Decision No. 52574 dated February 7, 1956 in Application No. 37435, a dispute over service in this area, we certificated Suburban to serve one customer (Shepherd Machinery Company) in territory previously certificated to San Gabriel. In Decision No. 67599 dated July 28, 1964 in Application No. 46232, we certificated San Gabriel to serve the Rio Hondo Junior College over the protest of Suburban which also applied to serve the college. In Decision No. 67599 we recognized that Suburban was serving Grandview Sanitarium and Mill School in the vicinity of the college, but we found that "it would not be in the public interest to establish an island water system operation in San Gabriel's logical operating territory." Tract No. 29956 is approximately 3,000 feet south of San Gabriel's certificated area and is in effect an island surrounded by Rose Hills Memorial Park which operates its own water system. The tract will not be contiguous to either company's water system no matter which company is granted a certificate to serve, although the tract is physically contiguous to the property of Grandview Sanitarium, Suburban's customer.

By Decision No. 58716 dated July 7, 1959 in Application No. 40628, this Commission prohibited Suburban from extending its system without Commission authorization. Suburban argues that if it were not for this restriction it could serve the tract pursuant to authority granted by Public Utilities Code section 1001 which permits extensions of service without Commission authorization "into territory . . . contiguous to its . . . line, plant, or system and not theretofore served by a public utility . . ." Suburban asserts that the restriction was imposed because of inadequate financing, that financing is now adequate and, therefore, because the reason for the restriction is not applicable to this extension, Suburban should have the right to extend its system as though the restriction were not in effect. Suburban expects too much from this argument. Even if the restriction were not in effect the Commission could authorize San Gabriel to serve the tract. And, even though the tract is physically contiguous to one customer of Suburban's, such physical contiguity does not, because of that fact, necessarily bring Suburban within the ambit of section 1001. In Kern County Land Company v. Railroad Commission (1934) 2 Cal 2d 29, 35, the Supreme Court said, ". . . the question whether two areas are contiguous is not always to be determined by the physical facts of contiguity. That is, in a proper case, although the lands are physically contiguous, nevertheless the spirit, purpose and objects to be attained by the regulation in respect thereof may be violated to such an extent as to constitute the extension a violation of the requirement that the territory must be contiguous." Not only is

Tract No. 29956 contiguous to only one customer of Suburban, and said customer is not contiguous to any other part of Suburban's system, but no part of the water system serving this customer will be extended to serve Tract No. 29956. Service to the tract is proposed to come from a new main to be constructed for a distance of approximately 2,450 feet starting at Pioneer Boulevard to the northwest. In the light of these considerations the fact that Suburban serves one customer whose property is physically contiguous to Tract No. 29956 is an element to be weighed in determining which company should be certificated to serve the tract; it is not determinative.

Among the factors to be considered when determining which of two competing utilities should be permitted to serve a new area are: 1) financial soundness and managerial ability of the utility, 2) adequacy of water supply, 3) adequacy and cost of new system, 4) utilization of new system in providing additional facilities for existing system, 5) proximity of new area to the logical operating territory of the utility, 6) level of rates to be charged new customers, and 7) the preference of the developer.

Both San Gabriel and Suburban are financially able to provide the requested service, have able management, adequate water supplies, and can provide the required service without impairing their ability to serve existing customers. The design of each system is adequate to provide service to the tract in accordance with General Order No. 103.

The cost of constructing the proposed systems, as estimated by each utility is:

	<u>Suburban</u>	<u>San Gabriel</u>
Developer's Costs	\$244,500	\$464,700
Utilities' Costs	<u>165,000</u>	<u>130,000</u>
Total	\$409,500	\$594,700

Of the developer's costs Suburban estimates that \$86,500 would be subject to refund in accordance with the terms of its filed main extension contract for special facilities, and the balance of \$158,000 would be subject to refund in accordance with the terms of its filed main extension contract for subdivisions. The amounts San Gabriel would refund pursuant to similar contracts are \$166,000 and \$298,700, respectively.

San Gabriel and the developer disputed Suburban's low cost estimate. An engineer employed by the developer made his own calculation and concluded that Suburban's estimate was at least \$50,000 too low as a result of using unrealistic on-site construction costs. We find that Suburban's estimate is low by \$50,000 and that a more reasonable estimate of its total cost to construct its proposed system (including a temporary reservoir) is \$459,500. San Gabriel has reduced its original \$475,000 estimate of developer's cost to \$464,700 because there will be 28 less services than originally planned. The estimate of the developer's engineer further reduced this amount by approximately \$20,000 after

analysis of on-site costs. We find that this reduction is reasonable and that a more reasonable estimate of San Gabriel's total cost to construct its proposed system is \$574,700.^{3/}

A comparison of the monthly rates that each company expects to charge in Tract No. 29956 follows:

<u>Consumption in Cubic Feet</u>	<u>San Gabriel's</u> ^{4/} <u>Charge</u>	<u>Suburban's</u> ^{5/} <u>Charge</u>	<u>Suburban's Charge Exceeds San Gabriel's By</u>
800	\$ 2.68	\$ 2.82	5%
1,600	3.90	4.90	26%
2,000	4.50	5.93	32%
2,500	5.26	6.96	32%
3,000	6.02	7.99	33%
3,500	6.78	9.02	33%
4,000	7.54	10.05	33%

At an average monthly domestic use of 2,500 cubic feet we find that Suburban's rates are one-third more than San Gabriel's.

In Decision No. 67599 when we authorized San Gabriel to provide service to the Rio Hondo Junior College we made a finding that the college was in San Gabriel's logical operating territory. Tract No. 29956 is about 3,000 feet from the college and is separated from San Gabriel's present territory by Rose Hills Memorial Park. It is apparent that the tract will remain non-contiguous to the main portions of the systems of San Gabriel and

^{3/} We recognize that our findings as to the reasonableness of estimates are not conclusive but are subject to being adjusted to actual costs pursuant to the main extension rule.

^{4/} Rates authorized September 11, 1968 by Decision No. 74674.

^{5/} An application to increase these rates is currently pending before the Commission.

Suburban no matter which one is certificated. However, because of the close proximity of Tract No. 29956 to a major portion of San Gabriel's system, we find that Tract No. 29956 is in San Gabriel's logical operating territory.

The water system proposed by Suburban will provide backup facilities for only two customers of Suburban. The system proposed by San Gabriel will provide backup facilities for five or six industrial companies, the Los Angeles County equestrian area, and the Rio Hondo Junior College, all in the immediate vicinity of the system, plus over 400 customers farther back on the transmission main. We find that San Gabriel's proposal will provide backup facilities more useful to its present system than Suburban's proposal would provide to Suburban's present system.

The final consideration is the preference of the developer. In this case the developer prefers San Gabriel. Based upon past experience the developer feels that San Gabriel will provide close cooperation in installing the water system as quickly as possible, thus assisting the development and early marketability of the lots in the tract. Also, the developer feels that San Gabriel's lower rates will be attractive to prospective purchasers, thus further enhancing the marketability of the lots.

In summary, we find that both utilities have adequate financing, sound management, adequate water supply, and a water system that will not be strained by the addition of Tract No. 29956; Suburban serves one customer whose property is physically contiguous

to Tract No. 29956; Suburban's proposed system is estimated to cost about \$115,000 less than San Gabriel's; San Gabriel will provide service at lower rates than Suburban; the new system will provide backup facilities to an important segment of San Gabriel's present system; Tract No. 29956 is in San Gabriel's logical operating territory; and the developer prefers service from San Gabriel.

After considering all the relevant factors we conclude that San Gabriel's application should be granted and Suburban's application denied. We give little weight to the fact that Suburban serves one customer whose property is physically contiguous to Tract No. 29956. The other factor in favor of Suburban, the lower cost of its system, is outweighed by the factors that favor San Gabriel: backup facilities, location of tract in San Gabriel's logical operating territory, preference of the developer, and, most importantly, lower rates to the public.

Findings of Fact

1. Northwest Whittier Properties is developing a residential area of 178 acres in Los Angeles County presently known as Tract No. 29956. There will be about 470 water services in the development. No public utility water service is presently being rendered to the tract. Both San Gabriel and Suburban each wish to provide such water service.

2. The tract is physically contiguous to the property of one customer of Suburban, which customer's property is not contiguous

to any other part of Suburban's service area, and no part of Suburban's water system which serves this customer will be extended to serve Tract No. 29956. Tract No. 29956 is not contiguous to Suburban's line, plant, or system within the meaning of Public Utilities Code section 1001.

3. Both San Gabriel and Suburban are financially able to provide the service, have competent management, adequate water supplies, and can provide the required service without impairing their ability to serve existing customers. The design of each system is adequate to provide service to the tract in accordance with General Order No. 103.

4. The cost of constructing the proposed systems, as estimated by each utility is:

	<u>Suburban</u>	<u>San Gabriel</u>
Developer's Costs	\$244,500	\$464,700
Utilities' Costs	<u>165,000</u>	<u>130,000</u>
Total	\$409,500	\$594,700

5. Suburban's estimate of construction costs is \$50,000 too low and San Gabriel's estimate of construction costs is \$20,000 too high. Suburban's proposed system will cost approximately \$459,500; San Gabriel's, \$574,700.

6. Each domestic water service will use at least 2,500 cubic feet per month, on average. At such average use Suburban's proposed rates are one-third higher than San Gabriel's. The rates set forth in San Gabriel's filed tariffs for its El Monte division are fair and reasonable and should be applied to the service to be rendered.

7. Tract No. 29956 is about 3,000 feet from the Rio Hondo Junior College and from a major portion of San Gabriel's system. The tract is in San Gabriel's logical operating territory.

8. The water system proposed by Suburban will provide backup facilities for only two customers of Suburban. The system proposed by San Gabriel will provide backup facilities for five or six industrial companies, the Los Angeles County equestrian area, and the Rio Hondo Junior College, all in the immediate vicinity of the system, plus over 400 customers farther back on the transmission main. San Gabriel's proposal will provide backup facilities more useful to its present system than Suburban's proposal would provide to Suburban's present system.

9. The developer prefers that San Gabriel provide water service to Tract No. 29956.

10. Public convenience and necessity require that San Gabriel's application be granted and that Suburban's application be denied.

The Commission concludes that San Gabriel's application should be granted and that Suburban's application should be denied.

The certificate hereinafter granted shall be subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

The action taken herein is for the issuance of a certificate of public convenience and necessity only and is not to be considered as indicative of amounts to be included in a future rate base for the purpose of determining just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. San Gabriel Valley Water Company is granted a certificate of public convenience and necessity to extend, construct and operate its public utility water system in the area known as Los Angeles County Tract No. 29956 as shown on the map attached hereto as Appendix A.

2. San Gabriel Valley Water Company is authorized to apply to the area certificated herein its presently filed tariffs applicable to its El Monte Division.

3. San Gabriel Valley Water Company is authorized to revise, within thirty days after the effective date of this order and in conformity with General Order No. 96-A, such of its tariff schedules, including a tariff service area map, as are necessary to provide for the application of its tariff schedules to the area certificated herein. Such tariff sheets shall become effective on the fourth day after filing.

4. San Gabriel Valley Water Company shall notify this Commission, in writing, of the date service is first rendered to the public under the rates and rules authorized herein, within ten days thereafter.

5. Application No. 50682 of Suburban Water Systems is denied.

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

Dated at San Francisco, California, this 4th

day of MARCH, 1969.

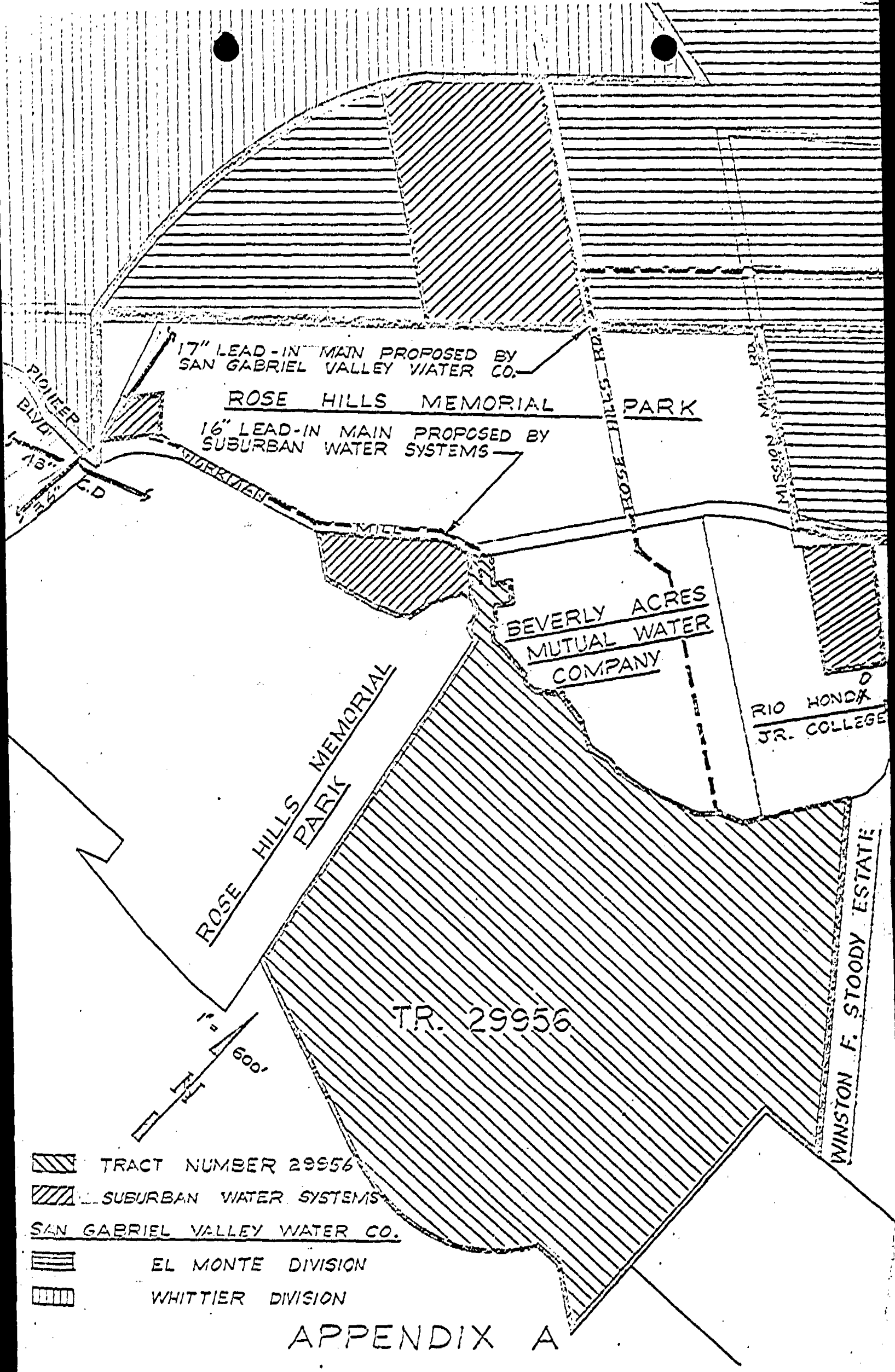
William J. ...
President

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Commissioners



17" LEAD-IN MAIN PROPOSED BY
SAN GABRIEL VALLEY WATER CO.

ROSE HILLS MEMORIAL PARK

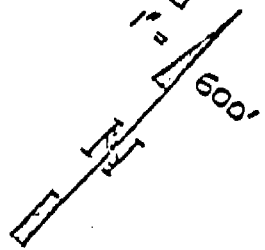
16" LEAD-IN MAIN PROPOSED BY
SUBURBAN WATER SYSTEMS





BEVERLY ACRES
MUTUAL WATER
COMPANY

RIO HONDA
JR. COLLEGE

TR. 29956

WINSTON F. STOODY ESTATE



-  TRACT NUMBER 29956
-  SUBURBAN WATER SYSTEMS
- SAN GABRIEL VALLEY WATER CO.
-  EL MONTE DIVISION
-  WHITTIER DIVISION

APPENDIX A