

ORIGINAL

Decision No. 78297

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JAMES J. DOWNEY and NORTH MARIN COUNTY WATER DISTRICT, a public body, for an order authorizing (1) transfer to North Marin County Water District of title and possession of the operating utility properties of Point Reyes Water Company and Inverness Park Water Company, and (2) discontinuance of service by James J. Downey in the communities of Point Reyes Station and Inverness Park, Marin County, California.

Application No. 52360
(Filed December 18, 1970)

Investigation on the Commission's own motion into the status, operations, service, maintenance, facilities, equipment, water supply, practices, rates, rules, tariff schedules and records of James J. Downey, doing business as Greenvue Estates Water Company, Inverness Park Water Company, Kenwood Village Water Company, Penngrove Water Company, Point Reyes Water Co., Rio Dell Water Company, and Russian River Terrace Water Co.; and James J. Downey and W. H. Appleton, doing business as Canon Manor Water System; and Happy Acres Water Company, Inc., in Sonoma and Marin Counties.

Case No. 9076
(Filed June 9, 1970)

Alan W. Haverty, Attorney at Law, for James J. Downey, applicant in Application No. 52360 and respondent in Case No. 9076.

Jeffrey D. Polisner of Bold and Polisner, Attorneys at Law, for North Marin County Water District, applicant in Application No. 52360.

Marjorie E. Schrader, in propria persona, interested party in Case No. 9076.

Michael J. Stecher, Attorney at Law, for the Commission staff in Application No. 52360 and Case No. 9076.

O P I N I O N

On December 18, 1970, applicant James J. Downey, hereinafter called Downey, and applicant North Marin County Water District, hereinafter called the District, filed the application herein requesting an order authorizing Downey (1) to transfer to the District the title to and possession of the operating utility properties of Point Reyes Water Company and Inverness Park Water Company, and (2) to discontinue public utility water service in the communities of Point Reyes Station and Inverness Park, Marin County, California.

On June 9, 1960, the Commission issued an order instituting investigation as stated in the above title in Case No. 9076 herein.

Application No. 52360 and Case No. 9076 were consolidated for hearing and public hearing was held before Examiner Cline in San Francisco on January 21, 1971.

The parties stipulated that the allegations in Application No. 52360 are true and correct and may be considered as evidence herein. The parties also stipulated that the transfer for which authorization is requested in Application No. 52360 would be effected on the first Monday following the approval of the transfer by this Commission.

Application No. 52360 was taken under submission on January 21, 1971. Further hearings have been held and will be held in Case No. 9076.

Applicant Downey is the owner of two public utility water systems known as Point Reyes Water Company and Inverness Park Water Company, hereinafter called Companies, which supply and distribute water for domestic and industrial purposes in the unincorporated communities of Point Reyes Station and Inverness Park in Marin County.

Applicant North Marin County Water District, herein called the District, is a County Water District duly formed and existing pursuant to the County Water District Law of the State of California. The District intends to provide water service for domestic, commercial, industrial and other beneficial uses within the portion of the District established as Improvement District No. PR-3 which includes the territories now being served by the Companies.

The voters of Improvement District No. PR-3 of the District have authorized the issuance of bonds to provide funds to acquire the operating utility properties of the Companies and to improve and extend the same. The District has heretofore filed with the Commission Application No. 52259 requesting that the Commission fix the just compensation to be paid by the District to Downey for the lands, property and rights comprising the operating utility properties of the Companies.

On December 15, 1970, Downey and the District entered into an agreement, subject to the approval of the Commission, whereby on the first Monday following the approval of the transfer by this Commission, Downey will transfer title to and possession of the operating utility properties of the Companies to the District and the District will thereupon and thereafter operate and maintain the same and undertake public utility water service throughout the territory now served by the Companies. A copy of the agreement is attached to the application as Exhibit A. The District desires to proceed with its program of improving and extending the water systems of the Companies as soon as possible.

The agreement provides that on the transfer date the District will pay Downey the sum of \$50,000 on account of the just compensation to be paid to Downey for the operating utility properties.

If the Commission determines that said just compensation is in excess of \$50,000 the District will within 20 days after such determination pay such excess to Downey together with interest on such excess at the rate of 7% per annum from the transfer date to the date of payment.

Downey warrants that he has not received and does not hold any advance payment, or deposit to secure payment, for water service or construction of facilities by either of the Companies. Downey will pay, as and when the same shall become due, all refunds on all facilities extension reimbursement agreements of the Companies due prior to the date of transfer. The District will assume the liability on all such agreements from and after the transfer date and the fair appraisal of the amount of such liability shall be deducted from the amount of just compensation to be paid to Downey as determined by the Commission.

The Commission finds that the proposed transfer is not adverse to the public interest, and the Commission concludes that the transfer should be authorized as provided in the following order.

The authorization herein granted shall not be construed as a finding of value of the properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before April 30, 1971, James J. Downey, doing business as Point Reyes Water Company and Inverness Park Water Company, may transfer and sell to North Marin County Water District, and North Marin County Water District may acquire, the public utility water systems known as Point Reyes Water Company and Inverness Park Water

Company and referred to herein, substantially in accordance with the terms of the transfer agreement attached to the application.

2. On or before the date of actual transfer, James J. Downey shall refund all deposits, if any, by customers to secure payment for water service.

3. On or before the end of the third month after the consummation of the transfer as herein authorized, James J. Downey shall file with the Commission in such form as the Commission may prescribe, an annual report, or reports related to the operations of Point Reyes Water Company and Inverness Park Water Company for the period commencing with the first day of the current year to and including the effective date of the transfer.

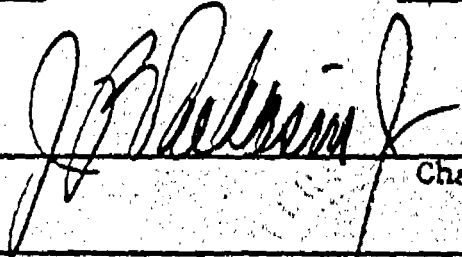
4. Within ten days after the actual date of transfer, James J. Downey shall file in this proceeding (a) a written statement showing the date of transfer and the date upon which North Marin County Water District assumed operation of the water systems herein authorized to be transferred, and (b) a true copy of each instrument of transfer of the properties of said water systems.

5. Upon compliance with all of the above conditions of this order, James J. Downey shall stand relieved of all further public utility obligations in connection with the operation in the communities of Point Reyes Station and Inverness Park, Marin County, California, of the public utility water systems properties herein authorized to be transferred, and the tariffs of James J. Downey, doing

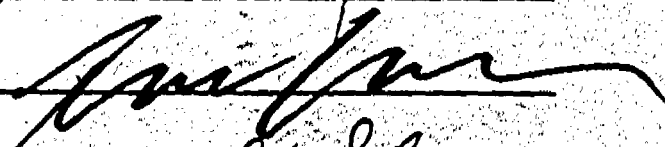
business as Point Reyes Water Company and as Inverness Park Water Company, shall be cancelled.

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

Dated at San Diego, California, this 9th
day of FEBRUARY, 1971.



Chairman



James L. Stinson

Commissioners

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