

ORIGINAL

Decision No. 81987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA-AMERICAN WATER COMPANY, a corporation, for a Certificate of Public Convenience and Necessity and for authority to carry out the terms of certain contracts relating to the construction of facilities required to render water service in the proposed certificated area.

Application No. 53653

Investigation on the Commission's own motion into the operations, practices, service, equipment, facilities, rules, regulations, contracts, and water supply of the MONTEREY PENINSULA DISTRICT OF CALIFORNIA-AMERICAN WATER COMPANY, a corporation.

Case No. 9530

ORDER PROVIDING FOR VARIANCE
FROM REQUIREMENTS OF
INTERIM DECISION NO. 81443

In our previous Decision No. 81443 dated May 30, 1973 in this matter, we concluded that:

"Pending further hearings and orders, Cal-Am should be prohibited from extending water mains to serve any new developments in the Monterey Peninsula Division that are not in final planning stages."

and ordered that:

"Until otherwise permitted by further order of this Commission, California-American Water Company shall not extend or accept distribution mains within or from its Monterey Peninsula Division system to serve new developments, other than municipally sponsored redevelopment or renewal projects, unless prior to the date of this order:

- (a) The final subdivision map has been approved for filing by the local governmental body having authority over the filing.
- (b) A subdivision agreement has been entered into between the developer and the appropriate local governmental body.
- (c) All surety bonds, or other alternative guarantees, covering faithful performance and payment for materials, labor, and engineering expenses have been filed with and accepted by the appropriate local governmental body."

At the hearings held before Examiner Boneysteele on June 19, August 16, and August 17, 1973, in Monterey and Seaside, testimony was taken requesting variances from Decision No. 81443 in order to permit completion of two real estate developments that appeared to be in the final planning stages but did not meet the specific requirements laid down by the Commission.

Gallaway Request

On June 19, 1973 A. Russel Gallaway asked for relief from the interim order so that his organization, Gallaway and Sons, Inc., could obtain an extension of water mains to the fourth and final unit of its Carmel Views subdivision.

Tariff records in the Commission's files indicate that on July 11, 1966, Gallaway and Sons, Inc. entered into a main extension agreement with California-American Water Company for water service to the entire Carmel Views subdivision, located on the northern slopes of Carmel Valley in unincorporated territory about a mile east of Carmel. The agreement involved a deviation from the utility's filed main extension rule and therefore required Commission authorization. Such authorization was obtained on September 6, 1966 by Resolution 1060. A copy of the resolution and agreement was taken into the record as Exhibit 17.

On April 26, 1967 California-American Water Company filed, by Advice Letter No. 8, a revised tariff service area map indicating that the utility was holding itself out to serve the entire Carmel Views subdivision.

It was recognized in the agreement that Gallaway and Sons, Inc. planned to develop the property over a period of years and that the facilities to be constructed were to be of the size and type to serve the entire subdivision. The developer agreed to install, without refund, distribution facilities estimated to cost \$34,700 for the first unit of the subdivision and \$78,100 for future units. The utility in turn agreed to install pumping and storage facilities estimated at \$19,800 for the first unit and \$59,100 for the subsequent units.

In 1965 Carmel Views was annexed to the Carmel Sanitary District and over the years has developed by units as follows: No. 1, 1967, 44 lots; No. 2, 1971, 36 lots; No. 3 1972, 23 lots. The fourth and final unit is planned to comprise 71 lots.

Upon the total of 103 lots developed so far, 52 houses have been built. If Unit No. 4 should develop at a similar rate, four additional residences would be constructed each year for the next five years, for a total of 19 or 20.

Plans for orderly development of Unit No. 4 were progressing when Decision No. 81443 became effective. At the hearing of August 21, 1973, a representative of the subdivider, Allan D. Le Fevre, supplied the following letter for the record:

" MONTEREY COUNTY
OFFICE OF ROAD COMMISSIONER AND SURVEYOR

July 27, 1973

SUBJECT: CARMEL VIEWS UNIT
NO. 4 SUBDIVISION

Mr. A. Russell Gallaway
111 Scripps Drive
Sacramento, California 95825

Dear Sir:

Reference is made to your letter of July 20, 1973 requesting the verification of information on file in this office.

This will advise that we find the following facts regarding the subject subdivision:

1. Your tentative map was accepted by the County Board of Supervisors on January 2, 1973.
2. Improvement plans were submitted to this office the latter part of March 1973.
3. No other subdivision plans were pending as of May 30, 1973.
4. A subdivision agreement has been executed by the subdivider.
5. Surety bonds for faithful performance and material and labor are presently in this office.
6. You were well beyond the advanced planning stage since your planning was finalized (November 29, 1972) before the effective date of the interim order of the Public Utility Commission.

Very truly yours,

BRUCE W. McCLAIN
PUBLIC WORKS DIRECTOR

/s/ By Lowell H. Shifley
Lowell H. Shifley
Public Service Engineer "

The staff, upon the direction of the examiner, investigated the Gallaway request and presented a report by Senior Utilities Engineer James M. Barnes, P.E., which was received as Exhibit 18.

The staff engineer determined that as of May 30, 1973, the effective date of Decision No. 81443, the planning of Carmel Views No. 4 had not reached the advanced stages defined in Ordering Paragraphs 1.a, b, and c of the order. The staff recommended that the Gallaway request be denied.

Di Lorenzo Request

Adeline Di Lorenzo appeared at the August 16, 1973 hearing and requested that California-American Water Company be permitted to extend service to two subdivisions in Seaside, a 13 lot subdivision designated as "Richard" and an 8 lot development known as "William". (Mrs. Di Lorenzo testified that she has been naming her subdivisions after her children.) Subsequent to the hearing the staff advised California-American Water Company by letter that the Richard subdivision met the requirements of the interim order. Discussion herein will therefore be confined to the William subdivision. The Commission's tariff files show the area of the William subdivision to be within the area indicated on the first tariff service area map filed by California-American Water Company's predecessor, California Water and Telephone Company.

According to Mrs. Di Lorenzo, she has been developing the William subdivision over a period of a year and a half, but had been delayed by a dispute with the city of Seaside over drainage for an adjacent area, and also was delayed because adequate water facilities for fire protection were not available. By letter of September 7, 1973, Mrs. Di Lorenzo furnished a copy of Resolution No. 2462 of the Planning Commission of the city of Seaside, passed and adopted June 14, 1972.

According to the resolution, of which we take official notice, tentative approval of the William subdivision was recommended subject to certain routine terms and agreements and a special "development condition" as follows:

"As a condition for implementation, the developer shall provide for adequate fire flow or water for adequate fire protection to serve the development. This shall be in accordance with the standards required by the Seaside Fire Department."

The letter of September 7, 1973, and the attached resolution are declared to be open to public inspection pursuant to General Order No. 66-B, Part D. In the letter Mrs. Di Lorenzo stated that water for fire protection will be made available by October 15, 1973, and asked that she be granted water service as soon as possible after that date.

California-American Water Company's Position

At the hearing of August 17, 1973, the examiner asked both the President of California-American Water Company, Wilford J. Hays, and the General Manager of the Monterey Peninsula Division, A. K. Fuller, whether, in their opinion, the utility could accommodate the requests of Gallaway and Sons, Inc. and Mrs. Di Lorenzo without placing an undue burden upon the other customers. Both executives agreed that the additional service could be accommodated and, in the case of Mrs. Di Lorenzo, the William subdivision could be served, within the letter of the interim order, by several long service connections instead of a main extension, but that such long services would not be in accord with generally accepted water works practices.

When questioned by the examiner as to the current water supply situation, (realizing that 1972-1973 was a "good" water year) the general manager replied that San Clemente Reservoir was practically full, Los Padres was at a much higher level than it has been many times at that time of year, the water table was higher in the Carmel Valley, and he knew of no change in the Seaside water table.

Discussion

In the opinion portion of our Interim Decision No. 81443 we said:

"It is recognized that, after a development is quite far along in the planning phase, a severe financial hardship could result from a delay in completion. The interim order which follows permits service to new developments which are in the advanced planning stage; to municipally sponsored redevelopment or renewal projects; and, of course, to individual lots where the distribution mains already are installed or accepted by Cal-Am."

The two subdivisions that we are considering are obviously "quite far along in the planning phase". As we have noted, Carmel Views Unit No. 4 was to be the last unit of a project that was progressing according to a long term plan for the orderly development of the entire subdivision. According to the letter of the county of Monterey, the tentative map and improvement plans were submitted to the county well before the May 30th date of our interim decision.

Mrs. Di Lorenzo's William subdivision also was in the advanced planning stage. Had not she experienced the delay over drainage and fire protection, she probably would not be before us. As a prudent business person, and not being aware of a potential curtailment of water service, she could not be expected to give surety bonds and pay filing costs until such time as the drainage dispute was settled and as fire protection facilities were made available by California-American Water Company.

Both of these projects meet our criterion of being in "the advanced planning stage" although they do not meet the letter of our requirements as set forth in the order. We have had only these two requests for variances in our four months' experience with the order. In the judgment of the management of the utility they can be served without undue hardship to the other customers. Delay in their completion could result in severe financial hardship.

Findings

1. Carmel Views Unit No. 4 and the William subdivision are within the dedicated service area of the Monterey Peninsula Division of California-American Water Company.
2. Both subdivisions were in the advanced planning stage on May 30, 1973.
3. Neither of the subdivisions meet the specific requirements for extension of service as set forth in the interim order portion of our Decision No. 81443.
4. Extension of service to the two subdivisions would not place an undue burden on the water supply of the Monterey Peninsula Division.
5. The limited extensions of California-American Water Company's distribution system, as authorized by the order herein, will not have a significant effect on the environment.

Conclusions

1. The requested variances should be granted.
2. California-American Water Company should be authorized and directed to extend water service to the two subdivisions under the terms and conditions which, in the absence of our interim order in Decision No. 81443, they otherwise would have been served.

IT IS ORDERED that California-American Water Company is authorized and directed to extend service to the subdivisions known, and described herein, as Carmel Views No. 4 in the Carmel Valley, and William in Seaside, under the terms and conditions which, in the absence of our interim order in Decision No. 81443, they otherwise would have been served.

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In all other respects the interim order in Decision No. 81443 shall remain unchanged.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10th day of OCTOBER, 1973.

William Sproule President
[Signature]
[Signature] Commissioners

Lab. Tring
[Signature]

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner