

Decision No. 82217

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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, Penn-grove Water Company, Point Reyes Water Company, 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)

James J. Downey, for himself, doing business as Greenvue Estates Water Company, Inverness Park Water Company, Kenwood Village Water Company, Penn-grove Water Company, Point Reyes Water Company, Rio Dell Water Company, and Russian River Terrace Water Company, for James J. Downey and W. H. Appleton, doing business as Canon Manor Water System, and for Happy Acres Water Co., Inc., respondents.

Martin A. Gavriloff of Westgate Realty, for John Webster, William Graham, Raymond G. Haver, and Elaine G. Haver; Penny M. Buckett, Lee R. Johnston, David L. Knops, Alvin H. Reynolds, D. M. Schrader, Mrs. Jean M. Snider, Mrs. Ann Blacker, Herman B. James, and Theodore Kirby, for themselves; Robert H. Reed, for County of Sonoma Public Health Department; John Cannon and Morgan E. Stewart, for State Department of Health; interested parties.

Robert T. Baer, Attorney at Law, and J. E. Johnson, for the Commission staff.

ORDER GRANTING CERTAIN REQUESTS AND DENYING
OTHER REQUESTS FOR MODIFICATION OF
ORDERING PARAGRAPH 4 OF DECISION NO. 81621

At the hearing in this proceeding held before Examiner Cline in San Francisco on September 19, 1973, Lee R. Johnston requested this Commission to authorize James J. Downey, doing business as Russian River Terrace Water Company, to accept an application from Lee R. Johnston to provide water service to his residence located at 10620 Terrace Drive, Forestville, which is within the service area of Russian River Terrace Water Company, and to provide such service by a connection to the 2 $\frac{1}{2}$ -inch main from which Mr. Johnston's neighbor, Mr. Proto, is presently being served instead of through a 4-inch main extension under the main extension rule at a cost of approximately \$1,600.

At the hearing held before Examiner Cline in San Francisco on November 14, 1973, requests were made by or on behalf of Mr. and Mrs. Seymour Levine and Gloria Ewing for the Commission to authorize James J. Downey, doing business as Kenwood Village Water Company, to accept applications to provide water service to certain properties located within the service area of Kenwood Village Water Company. Also at this hearing requests were made by or on behalf of Mrs. Ann Blacker, Herman B. James, Theodore Kirby, and Frank Boyle for this Commission to authorize James J. Downey, doing business as Russian River Terrace Water Company, to accept applications to provide water service to certain properties located within the service area of Russian River Terrace Water Company. ✓

There were no protests to the granting of the requests to serve the properties located within the service area of Kenwood Village Water Company. ✓

The Commission staff engineer recommended that the order in Decision No. 81621 in this proceeding prohibiting customer growth be rescinded for Penngrove Water Company, the Canon Manor Water System, and the Kenwood Village Water Company, but that Rio

Dell Water Company and Russian River Terrace Water Company should not be permitted to increase the number of customers served until the existing customers are adequately supplied with water. He did recommend, however, that where building permits have been issued and houses have been constructed pursuant to such building permits that exceptions should be granted to the restrictions applying to the Rio Dell Water Company and Russian River Terrace Water Company. The witness for the Sonoma County Public Health Service joined in the foregoing recommendations of the Commission staff witness.

Findings

1. Public convenience and necessity no longer require that James J. Downey, doing business as Penngrove Water Company and Kenwood Village Water Company, and James J. Downey and W. H. Appleton, doing business as Canon Manor Water System, be required to limit service to those customers presently being served by said water systems.

2. Lee R. Johnston has constructed a weekend and retirement residence located at 10620 Terrace Drive, Forestville, California, at a cost of approximately \$45,000. In order to obtain service from Russian River Terrace Water Company under its main extension rule, Mr. Johnston would be required to deposit approximately \$1,600 to cover the cost of constructing all except the first fifty feet of a 400 foot 4-inch main to connect to the 6-inch main of the water system. If Mr. Johnston is permitted to make a connection to the 2½-inch main of the water system which serves his neighbor, Mr. Proto, he would have to obtain a 27-foot right-of-way across the property of his neighbor, Mr. Proto, and he could avoid being required to make the deposit required under the main extension rule.

3. Mrs. Ann Blacker has purchased an option for \$1 to enable her to buy Lots 108 and 109 on Woodside Avenue, Forestville, on which she wishes to construct a home providing she can obtain water service from Russian River Terrace Water Company. She desires to

obtain such water service even though she is aware of present deficiencies in the water service offered by Russian River Terrace Water Company.

4. Herman B. James began construction of a home at 10160 Field Lane, Forestville, California, in April of 1973. His home was completed the first part of November but he cannot file his notice of completion until he obtains water service from Russian River Terrace Water Company. His neighbors presently experience no shortages of water from the Russian River Terrace Water Company, and no protests have been submitted to the Commission with respect to his request for service. Mr. James and his wife and four children propose to move from Sebastopol to Forestville because of the school situation.

5. Theodore Kirby, a merchant builder, purchased $4\frac{1}{2}$ acres of property on Woodside Road, Forestville, within the service area of Russian River Terrace Water Company in 1971. He has subdivided this property, and on October 3, 1973, he obtained a building permit to construct a residence for sale on one of the parcels. The residence was half completed on November 14, 1973, and Mr. Kirby expected to complete the construction in four to six weeks. There are no wells on the property and no source of water other than from Russian River Terrace Water Company which would have to extend its main approximately 25 feet to furnish water service to Mr. Kirby's residence.

6. Frank Boyle wants to buy property within the service area of the Russian River Terrace Water Company and to build a residence on the property. The property which he has under consideration would require a main extension of approximately 500 feet.

7. James J. Downey, doing business as Russian River Terrace Water Company, is ready, willing, and able to furnish water service to the residences of Herman B. James and Theodore Kirby which are under construction within the service area of Russian River Terrace Water Company and to the residence of Lee R. Johnston which has already been constructed within said service area.

8. During the summer peak period there have been many complaints regarding the service of Russian River Terrace Water Company and at times some of its customers have been without water service to their residences. In the absence of a showing that inability on the part of Russian River Terrace Water Company to accept an application for water service will result in particular hardship to the prospective customer, Russian River Terrace Water Company should not be permitted to accept applications for new water service until further order of this Commission.

Conclusions

1. Ordering Paragraph 4 of Decision No. 81621 dated July 24, 1973 in Case No. 9076 should be modified so as no longer to require James J. Downey, doing business as Pennngrove Water Company and Kenwood Village Water Company, and James J. Downey and W. H. Appleton, doing business as Canon Manor Water System, to limit service to those customers presently being served by said water systems.

2. Ordering Paragraph 4 of Decision No. 81621 in Case No. 9076 should be modified to permit James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to Lee R. Johnston at his residence located at 10620 Terrace Drive, Forestville, California, (a) by a connection to the 2 $\frac{1}{2}$ -inch main of the water system from which Mr. Johnston's neighbor, Mr. Proto, is served, provided Mr. Johnston can obtain the necessary right-of-way through Mr. Proto's property to make such connection, or (b) under the main extension rule of Russian River Terrace Water Company, if Mr. Johnston does not obtain the necessary right-of-way across Mr. Proto's property to enable Mr. Johnston to make his service connection at the 2 $\frac{1}{2}$ -inch main from which Mr. Proto's residence is served.

3. Ordering Paragraph 4 of Decision No. 81621 in Case No. 9076 should be modified to permit James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to Herman B. James at his residence located at 10160 Field Lane, Forestville, California, and to Theodore Kirby at the house now under construction on one of the parcels located in his 4½-acre subdivision on Woodside Road, Forestville, within the service area of Russian River Terrace Water Company, and to any subsequent purchaser of said house. ✓

4. Ordering Paragraph 4 of Decision No. 81621 in Case No. 9076 should not be modified to permit James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to Mrs. Ann Blacker and to Mr. Frank Boyle at properties which they would like to acquire within the service area of Russian River Terrace Water Company. ✓

IT IS ORDERED that:

1. After the effective date of this order Ordering Paragraph 4 of Decision No. 81621 dated July 24, 1973 in Case No. 9076 is modified to provide that:

- a. James J. Downey, doing business as Penngrove Water Company and Kenwood Village Water Company, and James J. Downey and W. H. Appleton, doing business as Canon Manor Water System, are no longer required to limit service to those customers presently being served by said water systems.

- b. James J. Downey, doing business as Russian River Terrace Water Company, may accept an application for water service from and provide water service to the residence of Lee R. Johnston at 10620 Terrace Drive, Forestville, California, (1) by a connection to the 2½-inch main of the water system from which Mr. Johnston's neighbor, Mr. Proto, is served provided Mr. Johnston can obtain the necessary right-of-way through Mr. Proto's property to make such connection, or (2) under the main extension rule of Russian River Terrace Water Company if Mr. Johnston does not obtain the necessary right-of-way across Mr. Proto's property to enable Mr. Johnston to make his service connection at the 2½-inch main of the water system from which Mr. Proto's residence is served.
- c. James J. Downey, doing business as Russian River Terrace Water Company, may accept an application for water service from and provide water service to the residence of Herman B. James at 10160 Field Lane, Forestville, California.
- d. James J. Downey, doing business as Russian River Terrace Water Company, may accept an application for water service from and provide water service to the house of Theodore Kirby under construction on one of the parcels of his 4½-acre subdivision on Woodside Road, Forestville, within the service area of Russian River Terrace Water Company, and to any subsequent purchaser of said house. ✓

2. The requests of Mrs. Ann Blacker and Mr. Frank Boyle that Ordering Paragraph 4 of Decision No. 81621 dated July 24, 1973 in Case No. 9076 be modified to permit James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to properties which they wish to acquire within the service area of Russian River Terrace Water Company are denied.

The Secretary of the Commission shall cause copies of this order to be served by mail upon all parties of record in this proceeding, and also upon the California Department of Real Estate, the Sonoma County Department of Building Permits, the Chairman of the Board of Supervisors of Sonoma County, the Press Democrat in Santa Rosa, Mrs. Partis, 9667 Sonoma Highway, Kenwood, Mr. and Mrs. Seymour Levine, 177 Warm Springs Road, Kenwood, Gloria Ewing, 917 Cherry Street, Santa Rosa, and Frank Boyle, 8759 Marianna Drive, Forestville, California.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 14th day of DECEMBER, 1973.

William L. Steiner
President
William Steiner

[Signature]
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Commissioners

Robert

Robert, Commissioner