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Decision No. 83448

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application of Santa Clarita Water Company for Authority to Expand its Public Utility Service Area in a portion of Northeast Los Angeles County. | Application No. 54934 (Filed June 5, 1974) |
| SANTA CLARITA WATER COMPANY, Complainant, vs. VALENCIA WATER COMPANY, Defendant. | Case No. 9766 (Filed July 16, 1974) |

William G. Fleckles, Attorney at Law, for Santa Clarita Water Company, applicant in A.54934 and complainant in C.9766.
Overton, Lyman & Prince, by Donald H. Ford and Wayne Knight, and Richard C. Hackney, for Valencia Water Company, defendant in C.9766.
Peter Arth, Jr., Attorney at Law, for the Commission staff.

## INTERIM OPINION

This complaint arises out of the following factual situation: On June 5, 1974, Santa Clarita Water Company (complainant) filed Application No. 54934 seeking ex parte authority to expand its tariff service area to include an area of approximately 1,500 acres. On June 18, 1974, Valencia Water Company (defendant) filed its letter protest to the application. Among other things, defendant pointed

out that 900 of the 1,500 acres were owned by its parent, Newhall Land and Farming Company (NL&FC), and that it had always been defendant's plan to serve this area. On June 20, 1974, in response to defendant's letter, complainant requested the Commission to order both utilities to refrain from extending into the 1,500-acre area and/or from serving any customers therein not presently served pending a decision on the application, if the matter was to be set for hearing. The examiner advised both utilities by letter of June 26, 1974 to refrain from extending into the disputed area pending a decision. Complainant alleged that on or about July 12, 1974 defendant commenced installing a 12-inch steel transmission main within the 1,500-acre area, whereupon complainant filed its Complaint for Injunctive Relief on July 16, 1974. On July 23, 1974, the Commission issued a temporary restraining order against defendant (Decision No. 83191) and scheduled a hearing on the matter. On July 29, 1974, defendant filed Application No. 55075 seeking authority to extend its service area into the same area for which complainant is seeking authority. Hearing was held before Examiner Bernard A. Peeters in Los Angeles on August 9, 1974 to determine whether the temporary restraining order should be continued pending a decision in Application No. 54934.

Discussion

Essentially complainant's concern is that if defendant completed its transmission line into the disputed 1,500-acre area, defendant would be in a superior position with some sort of prescriptive rights to serve in the disputed area. At the outset of the hearing, defendant offered a stipulation to the effect that it would not claim prior rights to serve in the disputed area if the temporary restraining order were lifted to enable completion of the transmission

line to new sources of water supply. The offer was not accepted. Complainant did, however, indicate that such a stipulation may be worked out without prejudice to the parties' respective applications. As we see it, the matter does not require a stipulation. It is an offer by defendant to limit itself with respect to its application. We will accept the offer and so provide in the following order.

Complainant presented its case through three witnesses and four exhibits. It called the district sanitary engineer of the State Department of Health, the president of complainant under Section 776 of the Evidence Code, and its own chief engineer. Defendant presented its defense through two witnesses and one exhibit. The district sanitary engineer was also called by defendant, and defendant's president testified. The Commission staff participated and presented one witness.

Complainant showed, through testimony of the Health Department witness, that defendant was aware of the fact that its Wells R2 and 158 were in noncompliance with Sections 7019 and 7020 of the California Administrative Code (Code)[1/] for some period of time prior to the department's notice of noncompliance of May 14, 1974 contained in Exhibit 1. Exhibit 1 required that an additional well should be constructed now to replace Well 158 for peak period use. The sanitary engineer testified that defendant has five wells for its source of water supply, two of which do not meet Code requirements. As to alternate sources of supply, it was stated that the historical quality records of nine wells had been examined, all of which are owned by NL&FC. The location of the nine wells (N1, N2, N3, T2, T4, U3, U4, U5, and 155) was pointed out on Exhibit 3. Four of these wells

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1/ All references are to the California Administrative Code.

(N1, N2, N3, and 155) are located in defendant's present service area. According to the historical quality records, these wells would meet the Health Department standards. However, the engineer pointed out that two of the wells in the service area (N2 and N3) are too close to the river with respect to the waste discharge of Los Angeles County Sanitation District 26 and therefore would not be acceptable to the Health Department for domestic use. Another well (155) would require considerable reconstruction before it would be usable and then it would be only marginal. The last well within the service area (N1) would be satisfactory, but it is being used for a carrot-washing operation and therefore is not available to defendant. It was shown that certain wells (T2, U3, and U5) in the 1,500-acre area sought to be served by both parties appeared to be satisfactory for domestic use provided certain things be done first (Exhibit 2).

Defendant's president testified that construction of the 12-inch pipeline commenced on July 3, 1974. The construction is necessary to provide a transmission line from Wells T2 and U5, located in the disputed area, to provide a water supply for defendant's present service area to replace the two wells found to be in violation of the Code. He pointed out that the defendant's present source of water supply is located in pressure Zones 1 and 2 with boosters for Zone 3. If Well 158, which is used primarily for peaking purposes during the summer season, is to be shut down, the production loss would not be 500 gpm, the peaking use, but actually 2,000 gpm since such a shutdown would directly affect the boosting operation in pressure Zone 1. The effect would be the shutdown of the boosting operation since Zone 1 serves an industrial area where the usage is fairly large, thus causing a water shortage in Zone 2. Although Well 160 is used in

conjunction with Well 158 to pump into the tank from which the booster operates, it would not prevent shutting down the booster operation if Well 158 is not used. This is because Well 160 is owned jointly by defendant and NL&FC, and one-half of its production is for NL&FC's golf course in accordance with a contract filed with the Commission. At the time the tank level drops in the evening, Well 160 has to be diverted to the golf course, and it is necessary to use Well 158 to make the booster operate. Defendant has explored all possible alternate sources of supply within its service area but, because of economic or Health Department impediments, has found no well suitable for use for domestic purposes.

Defendant is presently using Wells R2 and 158 since no specific cut-off date was imposed by the Health Department. If the temporary restraining order is not lifted, it will be necessary to continue to use these two wells since there are no other alternatives that can be implemented within a reasonable time and cost.

Complainant's engineer testified that his company had drilled wells in close proximity to defendant's wells and had discovered water suitable for domestic use. Defendant pointed out that those wells were upstream and that it is a generally accepted fact in the area under consideration that wells located downstream, which is where defendant's wells are located, generally do not produce water satisfactory for domestic use.

To enable defendant to augment its present water supply by reaching out to Wells T2, U4, and U5 in the disputed area, approximately 11,000 lineal feet of pipe will be required. Three thousand feet of the 12-inch transmission line has already been installed near Well T2, which is approximately midway between the edge of defendant's service area where a 14-inch main is located and Wells U4 and U5.

Four thousand eight hundred lineal feet of pipe has been laid on the ground beginning at the edge of the service area. This portion has not been installed pending harvest of a farm crop. One thousand four hundred feet of the 3,000 feet has been installed to Well T2. Beyond Well T2 in the direction of Wells U4 and U5, another 1,600 feet has been installed. The end of this installation lies in the middle of the riverbed. Three hundred feet of installation is required to complete the river crossing.

The staff witness testified that if defendant is to comply with the Health Department standards, a new source of supply must be found. He stated that most of defendant's customers are located in pressure Zone 2 where the supply is needed. Therefore, Well T2 would be a reasonable source of supply for replacing Well R2. If Well T2 produces sufficient quantity it could also supplant Well 158. However, such new supply would be insufficient to accommodate any new customers now or in the future. Additional sources of supply would have to be obtained before new customers could be added to the system.

The staff recommended that defendant be permitted to complete the transmission line from Well T2 to connect with its service area and to complete the river crossing. This recommendation is reasonable and will be adopted.

Findings

1. The State Department of Health has officially notified defendant that water produced from its Wells R2 and 158 does not meet the standards set forth in Sections 7019 and 7020 of the California Administrative Code and therefore such water is not satisfactory for domestic use.

2. Defendant commenced construction of a 12-inch transmission line on July 3, 1974 to a new source of water supply located in a 900-acre area owned by defendant's parent, Newhall Land and Farming Company, which lies within the 1,500-acre area sought to be added to complainant's service area.

3. Wells T2, U4, and U5, which defendant seeks to use, are owned by NL&FC.

4. Defendant has installed 3,000 lineal feet of 12-inch transmission line from Well T2, which lies approximately midway between Wells U4 and U5 and the edge of defendant's service area, of which 1,400 feet extends toward the service area and 1,600 feet extends toward Wells U4 and U5.

5. The 1,600-foot extension of line from Well T2 ends in the middle of a riverbed. Three hundred feet of construction is required to complete the river crossing.

6. Four thousand eight hundred lineal feet of 12-inch pipe has been laid on the ground, but not installed, from the edge of the service area toward Well T2.

7. The partially completed river crossing will be destroyed if not completed prior to the start of the rainy season.

8. The loss of Wells R2 and I58 will cause a shortage of water in defendant's service area, particularly during peaking periods.

9. It is not economically feasible to develop additional sources of water supply within defendant's service area.

10. Existing wells within defendant's service area are either not available to defendant or do not meet the State Department of Health standards.

11. Connection of Well T2 to defendant's system is necessary to meet the requirements of the State Department of Health and to provide an adequate supply of water to its present customers.

12. Completion of the river crossing should be authorized to prevent economic waste.

13. The temporary restraining order should be modified as provided for in the following order.

INTERIM ORDER

IT IS ORDERED that:

1. Defendant may complete installation of its 12-inch transmission line from Well T2 to connect with its present service area.

2. Defendant may complete installation of its 12-inch transmission line over the river crossing.

3. Defendant shall not claim any prior rights in connection with its Application No. 55075 as a result of Ordering Paragraphs 1 and 2 above.

4. Application No. 55075 is consolidated with Application No. 54934 and Case No. 9766 for hearing.

5. In all other respects the temporary restraining order in Decision No. 83191 shall remain in effect pending a decision in the consolidated matters.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 11th day of SEPTEMBER, 1974.

President

Commissioners

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

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.