

Decision No. 83608

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, 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)

Additional Appearances

Mrs. Ann Blacker, Herman B. James, Jeffrey K. Connell,
and Paul A. Schaefer, for themselves; Jerri
Kathleen Taylor, for W. G. Paul; and Donald A.
Smith, for West Penngrove Water Association;
interested parties.
Jerry B. Abbott, Attorney at Law, for Paul A. Schaefer
and Jeffrey K. Connell; Seymour H. Mann, Attorney
at Law, for Lloyd and Lena Schultz; and Everett D.
Smith, for himself; petitioners.
Alexander Chocas and Eugene M. Lill, for the
Commission Staff.

ORDER GRANTING REQUEST AND
DENYING CERTAIN 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 May 9, 1974, requests were made by or on behalf of Jeffrey K. Connell, Paul A. Schaefer, and W. G. Paul for the Commission to authorize James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to certain properties located within the service area of Russian River Terrace Water Company.

At the hearing held before Examiner Cline in Guerneville on August 16, 1974, a request was made on behalf of Lloyd Schultz and Lena Schultz, his wife, that the Commission direct James J. Downey, doing business as Rio Dell Water Company, to restore water service to certain property located within the service area of Rio Dell Water Company. The former residence on said property had been burned, and at the time of the issuance of Decision No. 81621 on July 24, 1973, no water service was being rendered to said property of Mr. and Mrs. Schultz. In making such request Mr. and Mrs. Schultz are relying upon Sections 2710 and 2711 of the Public Utilities Code. The Commission staff opposes this request and contends that Ordering Paragraph 4 of Decision No. 81621^{1/} was issued pursuant to Section 2708 of the Public Utilities Code and that Sections 2710 and 2711 are not applicable.

Section 2708 reads as follows:

^{1/} Ordering Paragraph 4 prevents these water utilities from serving new or additional customers except upon order of the Commission.

"2708. Whenever the commission, after a hearing had upon its own motion or upon complaint, finds that any water company which is a public utility operating within this State has reached the limit of its capacity to supply water and that no further consumers of water can be supplied from the system of such utility without injuriously withdrawing the supply wholly or in part from those who have theretofore been supplied by the corporation, the commission may order and require that no such corporation shall furnish water to any new or additional consumers until the order is vacated or modified by the commission. The commission, after hearing upon its own motion or upon complaint, may also require any such water company to allow additional consumers to be served when it appears that service to additional consumers will not injuriously withdraw the supply wholly or in part from those who theretofore had been supplied by such public utility." [Emphasis added.]

At the hearing in Guerneville, Theodore Kirby requested the Commission to authorize James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to two lots adjacent to 10521 Woodside Road, Forestville. Mr. Kirby has paid \$750 to the Russian River Terrace Water Company for the installation of a 220-foot 4-inch main extension to be installed this fall. The main extension when installed will complete a loop in the system which will improve the water pressure in the area. Witnesses testified that the present water service in this area continues to be inadequate.

Both the witness for the State Department of Health and the witnesses for the Commission staff offered testimony to show that the restrictions on service to additional customers should be continued in effect in the areas served by Russian River Terrace Water Company and Rio Dell Water Company because of the inadequacy of water service to existing customers.

Several customers of the Russian River Terrace Water Company testified regarding the continued inadequacy of the water service by Russian River Terrace Water Company and opposed the lifting of the restrictions against service to additional customers.

Everett D. Smith, at the hearing on August 16, 1974, requested that the Commission authorize Happy Acres Water Company, Inc. to furnish water service to his Lot 69 which is located on Detroit Street in Happy Acres Development. The staff witness testified that the staff is concerned because no one is taking responsibility for the operation of Happy Acres Water System. He further testified that the system serves only seven customers and that one more customer could be handled so far as the volume of the water supplied by the system is concerned. Witness John Downey testified that at the last meeting of the Board of Directors of Happy Acres Water Company, Inc. Mr. Bill Appleton, Jr., was appointed to be in charge of the operations of the Happy Acres Water System.

Findings

1. James J. Downey, doing business as Russian River Terrace Water Company, has reached the limit of his capacity to supply water. No further consumers of water can be supplied from the system of such utility without injuriously withdrawing the supply wholly or in part from those who have heretofore been supplied by the utility. The utility should continue to be required not to furnish water to any new or additional customers.

2. James J. Downey, doing business as Rio Dell Water Company, has reached the limit of his capacity to supply water. No further consumers of water can be supplied from the system of such utility without injuriously withdrawing the supply wholly or in part from those who have heretofore been supplied by the utility. The utility should continue to be required not to furnish water to any new or additional customers.

3. No water service was being rendered to the property of Mr. and Mrs. Schultz at 8642 Trenton Road, Forestville, California, and located within the service area of Rio Dell Water Company at the time of the issuance of Decision No. 81621 on July 24, 1973. To authorize service to them at such property even though they were former customers of Rio Dell Water Company would be to authorize service to them as additional customers of Rio Dell Water Company within the meaning of the term "additional customer" which appears in Section 2708 of the Public Utilities Code.

4. Service to Everett D. Smith at his property known as Lot 69 located on Detroit Street in Happy Acres Development by Happy Acres Water Company, Inc. will not injuriously withdraw the supply of water wholly or in part from the customers of Happy Acres Water Company, Inc. who heretofore have been supplied by such public utility.

Conclusions

1. 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 Jeffrey K. Connell, Paul A. Schaefer, and W. G. Paul at their properties which are located within the service area of Russian River Terrace Water Company.

2. 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 Theodore Kirby at his two lots which are adjacent to 10521 Woodside Road, Forestville, California, and are located within the service area of Russian River Terrace Water Company.

3. Sections 2709, 2710, and 2711 of the Public Utilities Code are not applicable to the request of Lloyd Schultz and Lena Schultz, his wife, that James J. Downey, doing business as Rio Dell Water Company, be directed to restore water service to their property located within the service area of Rio Dell Water Company and such request should be denied.

4. Ordering Paragraph 4 of Decision No. 81621 in Case No. 9076 should not be modified to permit James J. Downey, doing business as Rio Dell Water Company, to provide water service to Lloyd Schultz and Lena Schultz, his wife, at their property located within the service area of Rio Dell Water Company.

5. Ordering Paragraph 4 of Decision No. 81621 in Case No. 9076 should be modified to permit Happy Acres Water Company, Inc. to provide water service to Everett D. Smith at his property known as Lot 69 on Detroit Street in Happy Acres Development which is within the service area of Happy Acres Water Company, Inc.

IT IS ORDERED that:

1. The requests of Jeffrey K. Connell, Paul A. Schaefer, and W. G. Paul that Ordering Paragraph 4 of Decision No. 81621 dated July 24, 1973 be modified to permit James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to their properties which are located within the service area of Russian River Terrace Water Company are denied.

2. The request of Theodore Kirby that Ordering Paragraph 4 of Decision No. 81621 dated July 24, 1973 be modified to permit James J. Downey, doing business as Russian River Terrace Water Company, to provide water service to his two lots which are adjacent to 10521 Woodside Road, Forestville, California, and located within the service area of Russian River Terrace Water Company is denied.

3. The request of Lloyd Schultz and Lena Schultz, his wife, that James J. Downey, doing business as Rio Dell Water Company, be directed to restore water service to their property located within the service area of Rio Dell Water Company is denied.

4. 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 Happy Acres Water Company, Inc. may accept an application for water from Everett D. Smith to provide water service to his property known as Lot 69 on Detroit Street in Happy Acres Development which is within the service area of Happy Acres Water Company, Inc.

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, and the Press Democrat in Santa Rosa.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16th
day of OCTOBER, 1974.

Vernon L. Sturgeon
President
William S. Jones, Jr.
[Signature]
[Signature]
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.