

*CORRECTION*

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Decision No. 84459

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GARY J. NEAR, individually and as a )  
representative of all persons similarly )  
situated )

Complainants )

vs. )

PARADISE ESTATES WATER CO. also known as )  
the West Marin Water Company, a California )  
Corporation; DAVID S. ADAMS & SONS Inc., a )  
California corporation; DOUGLAS G. ADAMS; )  
Does one through Ten )

Defendants )

Case No. 9916

ORDER GRANTING INTERIM RELIEF

Complainant alleges that he is a resident and property owner in Paradise Ranch Estates subdivision in Inverness, Marin County, California. His complaint alleges that defendant Paradise Estates Water Co., owned and operated by David S. Adams & Sons, Inc., is a public utility water company within the meaning of Public Utilities Code Sections 2701, 216, and 241, but does not have a certificate from this Commission.

The complaint alleges that defendants are providing inadequate water service and are seeking increases in rates without having obtained authority from this Commission. It further charges that defendants are threatening to withhold service to any customer who disputes the allegedly improper rate increases or disputes the assertion that the water being supplied is an accomodation and thus is not public utility water service.

Attached to the complaint are "STATEMENT[S] IN SUPPORT OF COMPLAINT TO THE PUBLIC UTILITIES COMMISSION" signed by numerous residents or property owners of Paradise Ranch Estates subdivision.

Also attached to the complaint is a declaration of Thomas G. Hendricks, Chief Deputy County Counsel, County of Marin, stating that the water supply to Paradise Ranch Estates subdivision is seriously deficient and unsafe and inadequate, and that water boiling orders and a total moratorium on building have been imposed by county officials for more than three years. In his declaration Mr. Hendricks urges the Commission to assume jurisdiction over the water system and promises the full cooperation of Marin County officials in moving this matter to an effective resolution.

A further attachment is a declaration of Carolyn B. Albrecht, M.D., M.P.H., who is the Marin County Health Officer. This declaration alludes to a "boil-water directive" to the residents of Paradise Ranch Estates subdivision which was issued May 17, 1972 and remains in effect. In addition to the unsafe water described in this declaration the health officer also indicates an insufficient supply of water to the Paradise Ranch Estates subdivision.

A similar declaration by Mr. William L. Desmond, Director of the Division of Environmental Control, Marin County Department of Health Services, reiterates many of the statements in the declarations of Mr. Hendricks and Dr. Albrecht.

Further attachments to the complaint are declarations of numerous owners or residents of property in Paradise Ranch Estates subdivision. Without going into details, these declarations indicate that the defendants had not indicated that water would be provided as an accommodation at the time that defendants, in the capacity of real estate agents, brokers, or sellers of property, had offered property for purchase.

The complaint further alleges that defendants have increased rates to customers on a retroactive basis and threatened the residents of Paradise Ranch Estates subdivision with termination of water service if the increased rates are not paid. In addition to declaring defendants to be a water utility, complainant seeks an

order prohibiting defendants from threatening to cut off service to those customers who have not paid the illegally increased rates. They further seek an order restoring the rate to the customers to \$2.75 per month per water connection, which was the rate in effect until the end of 1974, at which time retroactive rate increases were placed in effect.

Based on the allegations of the complaint, as well as the declarations attached thereto, the Commission finds that immediate and irreparable injury may well occur if interim relief is not accorded.

The complaint alludes to a preliminary injunction obtained on August 21, 1973 in the case of People, et al v. David S. Adams & Sons, Inc., et al, Marin Superior Court No. 67152, and states that this injunction continues in effect. A copy of this injunction was not included with the complaint. Issuance of the interim relief granted by this order should in no way be interpreted as excusing compliance by any party to the order issued by the Marin County Superior Court.

The Commission concludes that complainant has shown good cause for issuance of an interim order requiring defendants to cease and desist from interfering with or terminating service to any existing customers of water service in the Paradise Ranch Estates subdivision. Complainant has also shown good cause to grant an order requiring defendants to cease and desist from increasing rates and charges above those presently being billed to the residents of Paradise Ranch Estates subdivision.

IT IS ORDERED that:

1. Defendants shall cease and desist from any action which would interfere with or terminate water service to existing customers or service connections in Paradise Ranch Estates subdivision.
2. Defendants shall cease and desist from increasing rates or charges to said users of water above those rates and charges presently being billed and shall reinstitute service to any

customer who may have had his service interrupted or terminated for failure to accede to the present rates and charges.

3. Hearings will be held before Examiner Pilling commencing June 17, 1975 at 10:00 a.m. in the Commission Courtroom, 350 McAllister Street, San Francisco, California, at which time all issues in the complaint may be heard. The parties are advised that the Commission has reserved June 18, 19 and 20, 1975 for additional hearings if necessary.

Defendants are relieved of the need to file written defects to the complaint, as outlined in Rule 12 of the Commission's Rules of Practice and Procedure, and are ordered to answer the complaint no later than June 5, 1975, in accordance with Rule 13 of the Commission's Rules of Practice and Procedure.

Complainant seeks an order requiring us to restore rates to that level which was charged prior to the first retroactive rate increase described in the complaint. Since the status of defendants as a public utility is an issue in this proceeding, we shall not grant this relief. However, defendants are placed on notice that there has never been a finding of reasonable rates for the service being provided to Paradise Estates Ranch subdivision. Should the Commission determine that defendants are a public utility, they are placed on notice that all sums heretofore collected prior to the issuance of this order, and all sums that may be collected prior to a final decision determining utility status, may be subject to reparation.

The Secretary is directed to cause certified copies of this order to be served on defendants in this proceeding.

The effective date of this order is the date hereof. This order shall continue in effect until further order of the Commission.

Case 9916      rw

Dated at San Francisco, California, this 20<sup>th</sup> day  
of MAY, 1975.

Vernon L. Sturges  
President

William J. Spence Jr.

Donna M. [illegible]

Leonard Ross

Robert [illegible]  
Commissioners