

ORIGINAL

Decision No. 85263

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SALINAS UTILITY SERVICES, a California corporation, for a certificate of public convenience and necessity to provide sewer service to Corral de Tierra Shopping Center in Monterey County.

Application No. 55583
(Filed March 25, 1975)

George G. Grover, Attorney at Law,
for Salinas Utility Services,
applicant.
Brian Finegan, Attorney at Law,
for William and Nancy Phelps;
and Mary Lou Yuckert, for
herself; interested parties.
John E. Brown, for the Commission
staff.

O P I N I O N

Salinas Utility Services (Salinas), a California corporation, seeks authority to extend its public utility sewer service into a contiguous area to serve an additional seven commercial customers.

After due notice, public hearings were held before Examiner Johnson in Salinas on September 16, 1975 and the matter was submitted upon receipt of late-filed exhibits due October 7, 1975. Testimony was presented on behalf of applicant by its president, by a consulting engineer, and by the developer of the shopping center requesting the service. Testimony was presented on behalf of the Commission staff by one of its engineers. Other parties to the proceeding participated through cross-examination of the various witnesses.

Present Operations

Salinas presently provides public utility sewer service in the Toro area located approximately four miles southwest of Salinas, Monterey County, California. This service area, as set forth in Exhibit A, extends along the Monterey - Salinas highway between Rancho El Toro and the Salinas River. Ultimately there will be approximately 900 customers in this service area but at the present time service is provided to approximately 725 customers.

Ontario Utility Services, Ventura Utility Services, and Lompoc Utility Services (sewer system corporations) and Mission Hills Water Company are affiliated with Salinas through stock ownership and common management.

County Franchise

Salinas operates under a nonexclusive franchise for a sanitary sewerage system which was granted to its predecessor, Western Pacific Sanitation, by the Board of Supervisors of Monterey County on June 17, 1963.

Discharge Requirements

The California Regional Water Quality Control Board - Central Coast Region, by Order 71-32 dated September 17, 1971, ordered applicant's predecessor, Western Pacific Sanitation, among other things, to comply with the following discharge specifications:

Discharge to the Salinas River is prohibited. The discharge shall be confined to land owned or controlled by the discharger without overflow or bypass to adjacent properties or drainageways at any time.

The mean daily flow shall not exceed 270,000 gallons per day.

The discharger shall provide evidence that adequate land disposal areas will be made available and designated for this purpose.

The Board requires a discharger to file a written report at such a time as the dry weather discharge equals or exceeds 75-80 percent of the design capacity of the waste treatment or disposal facilities. For Salinas this point will occur when the plant's dry weather discharge equals 202,500 gallons per day. The Board requires the report to include a schedule for studies, design, and other steps needed to provide for additional capacity, otherwise the discharger must limit the flow below the design capacity prior to the time when the plant discharge would be reached. The record shows that Salinas' consulting engineer was retained to prepare such a report to satisfy this requirement on the erroneous premise that the requirement related to wet weather flow. This witness presented testimony clarifying the Board's requirements and indicated that the maximum dry weather mean flow thus far experienced was 162,000 gallons per day, well below the flow activating the requirement for the in-depth report.

Subsequent to the hearing we received a copy of a letter dated September 25, 1975 to Mrs. Diana Williams Heagle (President of Salinas) from the California Regional Water Quality Control Board - Central Coast Region requesting an engineering study of the wet weather capacity of the existing spray field be submitted to the Board by January 15, 1976. Copies of this letter were sent to appearances of record and we will accept it as late-filed Exhibit 7. The record shows that the maximum wet weather flow so far experienced was 240,000 gallons per day.

Treatment Plant

The treatment plant consists of two lagoon ponds, each approximately 250 feet by 300 feet in size. Pond No. 1, for primary treatment, has an aerator located in the center. Pond No. 2 is used for secondary treatment. The effluent is pumped from Pond No. 2 into a chlorine contact chamber, is chlorinated, and is then pumped to disposal fields located across the Salinas River, where it is sprayed on the land by sprinkler irrigation.

Proposed Addition to Service Area

The proposed addition to Salinas' service area consists of a new commercial shopping center, to be known as Corral de Tierra Shopping Center (Corral), located contiguous to Rancho El Toro Unit No. 1 which Salinas was authorized to serve by Decision No. 83193 dated July 23, 1974 in Application No. 54252. This decision prohibited further expansion of Salinas' service area without prior Commission approval and necessitated the filing of this application. In his testimony the staff engineer recommended that a similar restriction be retained in any decision authorizing the further expansion of the service area.

Salinas proposes to serve Corral by installing a 12-inch sanitary sewer trunk main from its existing system at Rancho El Toro southwesterly along State Highway No. 68 (Salinas - Monterey highway) approximately 1,050 feet to tie into Corral's proposed intract system. This intract sewer system will consist of a six-inch sewer main with four-inch laterals. Construction of the 12-inch sanitary sewer trunk main will be by contract to the lowest responsible bidder after competitive bids are obtained.

Corral's developer testified that he presently contemplated retaining ownership of the seven-customer commercial development and either leasing out or operating the various enterprises. He further testified that he believed these enterprises would be relatively low-use sewerage customers such as a grocery store, gas station, real estate office, etc., and would therefore impose little burden on Salinas' facilities.

Financing

Salinas' consulting engineer testified that the cost of the proposed 12-inch sewer trunk main is estimated to be about \$14,300 but that the exact amount cannot be obtained until the receipt of competitive bids. It is proposed that the cost of this trunk will be advanced by Corral which will be refunded \$75 for each additional commercial or domestic connection which directly or indirectly ties into the trunk main. The intract collection system will be built and financed by Corral and contributed to Salinas.

Rates

It is proposed that the seven new commercial connections in the proposed shopping center be charged the prevailing rate for residential connections. This rate is presently five dollars a month but Salinas has pending an application (Application No. 53991) to increase it to \$7.25 per month.

Operating Revenues and Expenses

The record shows that revenues to be derived from the proposed seven new connections will be \$420 a year at presently effective rates and \$609 per year if the full increase requested in Application No. 53991 is granted.

Salinas' consulting engineer testified to the estimated operating expenses set forth in Exhibit D as follows:

	<u>First Year</u>
Administration and General Expense	\$146
Maintenance and Operation Salaries	83
Maintenance of Treatment Plant and Equipment	76
Pumping	46
Treatment	48
Miscellaneous	75
	<u>\$474</u>

Salinas' consulting engineer testified that the above expenses exclude ad valorem taxes. The basis for this exclusion is that the major portion of Salinas' facilities were built with contributions in aid of construction or advances for construction and, according to this witness' testimony, it is not uncommon for counties to exclude such plant from its tax assessment base.

Inclusion Fees

Salinas' consulting engineer testified that Salinas proposes to collect an inclusion fee of \$430 per connection from Corral's developer. No mention of such an inclusion fee is included in the application. Such fees were, however, discussed in detail in Decision No. 83193. In this decision the Commission staff was quoted as stating that Salinas has been collecting a \$430 per connection inclusion fee since June, 1965.

In the hearing on Application No. 54252, the staff supported a proposed reduced inclusion fee of \$300 per connection on the basis that the developer had agreed to contribute part of the sewer pipelines, equipment, and apparatus, and had also agreed to pay the rental, taxes, and assessments on the spray field and sewer pipelines.

Decision No. 83193 found that under these circumstances an inclusion fee of \$300 a connection was reasonable. A similar reduction of inclusion fees in this matter was neither requested nor supported. The record does, however, support the authorization of an inclusion fee to provide for future treatment plant additions and betterments. Decision No. 83193 provides for the use of inclusion fees for future treatment plant additions and betterments by ordering these fees impounded in a separate interest bearing account in a California bank or insured savings and loan association to be released only after the receipt of specific authorization obtained by means of a letter signed by the Secretary of the Commission. Similar restrictions will be contained in the order that follows.

Decision No. 83193 further orders: "Applicant shall provide the Commission, attention of the Finance and Accounts Division, two copies of an annual statement no later than March 31 of each year, detailing the proper distribution and amount of all additions, interest earned, and withdrawals from the fund earned, and withdrawals from the funds during the prior calendar year, together with the balances in the fund at the close of the year." A copy of the annual statement for the period ended December 31, 1974 was received as late-filed Exhibit 5. Exhibit 5 shows receipts of \$7,200 from developers plus \$14.74 interest and expenditures totaling \$8,206.04, indicating that expenditures by Salinas exceeded monies received by \$991.30. Presumably, this deficit will be repaid from future inclusion fees if authorized by a letter signed by the Secretary of the Commission.

Refunds

This application states that it is Salinas' intention to repay Corral a proportionate portion of the cost of the 12-inch sewer main for new developments which connect to the trunk main. These refunds are to be calculated at the rate of \$75 for each additional commercial or domestic connection which directly or indirectly ties into the trunk main until the total cost of the trunk main without interest, has been repaid. Decision No. 83193 authorized similar refund provisions for the Rancho El Toro development and continued in effect similar provisions for Toro Park Estates Units Nos. 1 through 6. Refunds to be made to the developers of Rancho El Toro and Corral are specifically not to be paid from monies collected for inclusion fees. Decision No. 83193 permits payment of refunds to the developer of Toro Park Estates from inclusion fees as such an arrangement was contractually made prior to the time that this Commission assumed jurisdiction over sewer utilities. Confirmation of the authority to pay Toro Park Estate trunk refunds from inclusion fees is contained in late-filed Exhibit 3 which is a copy of our letter dated October 3, 1974 to Salinas stating in part: "Therefore authorization is granted to pay \$75 to Muster Corporation in accordance with trunk line reimbursement agreements entered into with that corporation as such were evidenced at the hearing on Application No. 54252."

The record discloses some disagreement over the proper amount and disposition of refunds generated because of direct or indirect connections to the Corral trunk main. Salinas' president testified that in her opinion, a new Corral connection would generate a refund of \$75 to be paid the developer of Rancho El Toro and an additional \$75 refund to be paid to the developer of Toro Park Estates

(Mr. Kelton). She further testified that both refunds were to be paid from the inclusion fee collected from the new customers. Such an interpretation is erroneous because no refund is to be made the developer of Rancho El Toro out of inclusion fees, and only one \$75 refund per connection is contemplated in our decisions. The proper method of making refunds is as follows: For each new connection made directly or indirectly to Corral or Rancho El Toro a \$75 refund will be made to Mr. Kelton until such time as the amount of the original advance, without interest, has been repaid. Such refunds may be made from inclusion fees collected from the new customers. After the total amount advanced by Mr. Kelton has been repaid a \$75 refund for each new connection made directly or indirectly to Corral or Rancho El Toro will be paid the developer of Rancho El Toro until the total amount he advanced, without interest, has been repaid. Additional refunds generated by new connections made directly or indirectly to Corral will then be made the developer of Corral until such a time as the total amount he advanced, without interest, has been repaid. Refunds to the developers of Rancho El Toro and Corral are not to be paid from inclusion fees collected from the new customers.

Environmental Impact

A copy of an Environmental Impact Report for the Toro Area Shopping Complex was received into evidence as Exhibit 2. This report was certified by the Monterey County Board of Supervisors on September 11, 1973. In Decision No. 83193 we found that the county of Monterey is the lead agency which has the principal responsibility for approving the Rancho El Toro project. We also found that the extension of sewer service to Rancho El Toro Unit 1 would

have no detrimental effect on community values, recreational and park areas, historical and aesthetic values on the environment. Such findings are equally applicable to the instant project and are supported on its record by an exhibit and testimony presented on behalf of Salinas by the attorney for the developer of Corral. According to the testimony of this witness, Corral is located in a planned commercial zone wherein structures will receive continuing review during construction by the lead agency, the county of Monterey.

Findings

1. There is no other purveyor of sewer service ready, willing, and able to supply sewer service to the Corral de Tierra Shopping Center.
2. Extension of sewer service to Corral under the terms and conditions authorized herein would not be a burden on existing customers of the utility.
3. The facilities, as proposed, are adequate to accommodate the area authorized and the dry and wet weather discharges are presently well within the design parameters.
4. The county of Monterey is the lead agency which has the principal responsibility for approving the Corral de Tierra Shopping Center Project. The granting of a certificate by the Commission would not invoke a greater degree of responsibility or control over the project as a whole than did the approval of the Corral de Tierra Shopping Center by Monterey County.
5. The Final Environmental Impact Report for a project including Corral was certified by the Monterey County Board of Supervisors on September 11, 1973.

6. The Commission has considered the Monterey County Environmental Impact Report in approving this project.

7. The extension of sewer service to Corral would have no detrimental effect on community values, recreational and park areas, historical and aesthetic values, or the environment.

8. Extension of service, under the terms and conditions authorized herein, is financially feasible.

9. Application of applicant's present monthly rates for sewer service to Corral is reasonable.

10. An inclusion fee of \$430 for Corral as authorized herein is reasonable.

11. Payment of refunds to Mr. Kelton from inclusion fees as previously provided by contract is permitted for additional connections, made directly or indirectly to the Toro Park Estates sewer trunk. Refunds that become due and payable to the developers of Rancho El Toro and Corral are not to be made from inclusion fees.

12. Only one \$75 refund is to be made per additional connection. Such refunds are to be applied to the first advance made for sewer trunks until the total refund equals the total amount advanced, without interest, and then against subsequent advances in the order that such advances were made.

13. Inclusion fees from Corral should be added to those received from Rancho El Toro Unit 1 and impounded in a separate interest bearing account in a California bank or insured savings and loan association. These total fees, and interest accrued thereon, should be expended only for treatment plant additions and betterments and only after specific authorization has been obtained by means of a letter signed by the Secretary of the Commission.

14. Salinas should file a schedule of its presently effective inclusion fees as part of its filed tariffs.

15. All in-tract sewer plant provided by the developer of Corral other than the 12-inch trunk main, should be contributed to the utility without refund.

16. The developer of Corral should be entitled to a refund of a proportionate portion of the cost of the 12-inch trunk main from other subdividers who use the main to serve their own subdivisions. Refund provisions should not apply to individual residential connections.

17. Public convenience and necessity require the construction of the proposed sewer system to serve the Corral de Tierra Shopping Center, Monterey County.

The Commission concludes that the application should be granted as provided in the order which follows.

O R D E R

IT IS ORDERED that:

1. After the effective date of this order, Salinas Utility Services is granted a certificate of public convenience and necessity authorizing it to extend its public utility sewer system and to serve the Corral de Tierra Shopping Center, Monterey County.

2. Applicant is authorized to collect inclusion fees for Rancho El Toro Unit 1 of \$430 per connection. These fees shall be added to those impounded for Rancho El Toro Unit 1 in a separate interest bearing account in a California bank or insured savings and loan association. The fees and accrued interest are to be expended only for treatment plant additions and betterments, and only after specific authorization has been obtained by means of a letter signed by the Secretary of the Commission. Salinas shall include the inclusion fee transactions for the Corral de Tierra Shopping Center in its report to the Finance and Accounts Division of the Commission staff as ordered in Decision No. 83193.

3. Salinas shall enter into a contract with the developer of Corral similar to the one executed with the developer of Rancho El Toro Unit 1 except that the inclusion fee shall be for the authorized \$430 per connection rather than the \$300 per connection provided in the Rancho El Toro Unit 1 contract.

A copy of the executed agreement shall be filed with the Commission concurrently with the filing of its tariff service area map.

4. Salinas shall not extend service from the area certificated herein into contiguous territory without further authorization of this Commission.

5. After the effective date of this order, Salinas is authorized to file revised tariff sheets, including a revised tariff service area map providing for the application of its present tariff schedule, except for inclusion fees, to the area authorized herein. Salinas shall also file a schedule of all of its inclusion fees and a legal description of both its present service area and the area certificated herein. The tariff filing shall comply with General Order No. 96-A insofar as such compliance is possible for a sewer utility. The effective date of the revised tariff sheets shall be four days after the date of filing.

6. Compliance by applicant with paragraph 4 of this order shall constitute acceptance by it of the right and obligation to furnish public utility sewer service to the area authorized herein. The authority granted herein shall expire unless the designated tariff sheets are filed within one year after the effective date of this order.

7. Within ten days after service is first granted to the public under the authority granted herein, Salinas shall file in this proceeding written notice thereof of this Commission.

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

Dated at San Francisco, California, this 30th day of DECEMBER, 1975.

[Signature]
President
William J. Brown
[Signature]
[Signature]
[Signature]
Commissioners