

Decision 84 02 046

FEB 16 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
Carmel Valley Ranch for water service  
from the Monterey Division of the  
California American Water Company.

} Application 60125  
(Filed December 4, 1980)

Michael D. Cling, Attorney at Law, for  
Carmel Valley Ranch, applicant.  
Steefel, Levitt & Weiss, by Lenard G. Weiss,  
Attorney at Law, for California American  
Water Company; Bruce Buel, for Monterey  
Peninsula Water Management District; Jack  
Sassard, for Carmel Valley Property  
Owners Association, Carmel View Community  
Association, and Rancho Rio Vista Property  
Owners Association; Alexander T. Henson,  
Attorney at Law, for Environmental Law  
Fund, Inc.; Richard H. Rosenthal,  
Attorney at Law, for Daniel and Jennifer  
Rosenthal; and Stanley J. Worth, for  
Carmel Area Coalition; interested parties.

ORDER OF DISMISSAL

Statement of Facts

California American Water Company (Cal Am), a California corporation, is a wholly owned subsidiary of the American Water Works Service Company, Inc. of Wilmington, Delaware, operating public utility water systems in areas of California including the Monterey Peninsula where it serves 31,000 customers in the Cities of Monterey, Pacific Grove, Carmel-by-the-Sea, Del Rey Oaks, and Sand City; portions of the City of Seaside and unincorporated areas of Monterey County known as Carmel Valley, Carmel Highlands, Pebble Beach, and Robles Del Rio.

As an outcome of this Commission's prodding of the Monterey Peninsula area community during the drought proceedings involving Cal Am in Case (C.) 9530 to have some local agency set up to determine

where the limited water resources available to the area would be used, the community in 1977 was instrumental in persuading the Legislature (see Statutes of 1977, Chapter 527, found at West's California Water Code Appendix, Section 118-1, et seq.) to create the Monterey Peninsula Water Management District (District). This instrumentality was clothed with primary review authority over service requests for water from Cal Am. By Decision (D.) 89195 dated August 8, 1978 in C.9530, this Commission prohibited further extension of Cal Am's service territory without prior authorization from the Commission. By D.92793 dated March 17, 1981 in C.10088, this restriction was modified to provide future extensions, where District approval had first been obtained (see Water Code Appendix, Section 118-363), by advice letter proceedings.

The Carmel Valley Ranch (Ranch) consists of 1,700 acres located mid-valley on the south side. Development plans contemplated a wide range of uses. The County Board of Supervisors approved a General Plan for development on July 26, 1976. Subsequently a Specific Plan was authorized which called for 500 condominiums, a 100-unit resort lodge, and a golf course. That Specific Plan contemplated water service to be provided through a homeowners' association water company with water to be obtained from wells on the property penetrating the Tularcitos Aquifer, or from Cal Am.

In 1979 the Board of Supervisors heard an appeal on a decision of the Planning Commission and granted the Ranch a Use Permit, interpreting the Specific Plan as having meant that water for the Ranch could be obtained from either the separate homeowners' water company or from Cal Am. The Board further decided at that February 27, 1979 meeting that "as a matter of policy and in the public interest, it is desirable for the Carmel Valley Ranch Development to utilize a public utility for its water supply," and that policy would be satisfied by use of Cal Am. Opponents of

development of the Ranch continued to object, contending that it was not intended that Cal Am would provide the water and that the developer had never proved that Tularcitos Aquifer exists as an adequate water source.

In 1980, the developers, seeking to develop the proposed 100-unit lodge on a 30-acre site on the Ranch, and noting that previous approvals for specific development of other parcels within the Ranch had been conditioned by local authorities upon service by Cal Am to eliminate proliferation of private wells, applied to Cal Am for service. In that a small segment of their 30-acre site lies within Cal Am's service area, they sought a single meter connection on that segment, agreeing to incur the cost of a booster pump and storage system as well as its maintenance. Considering the extent of the service contemplated and the spirit of D-92793, Cal Am demurred, and suggested referral of the application to the Commission. Accordingly, on December 4, 1980, the Ranch filed this application.

No protests were filed during the 30-day formal protest period. However, Administrative Law Judge (ALJ) John B. Weiss, assigned to this proceeding, was aware of the developing authority of the nascent District in these matters as well as the interest of Senator Mello's office, and determined that a hearing on the application was indicated so that an indication of the District's formal position could be obtained. Consequently, a duly noticed public hearing was held before ALJ Weiss on February 11, 1981 in Monterey, California.

On the eve of this hearing, in accord with a letter to the editor published in the Carmel Pine Cone soliciting response, 12 letters and one post card opposing the application were received by the Commission.

At onset of the hearing, applicant filed a motion to take the matter off calendar, citing a recommendation to the Commission adopted by the District at its February 9, 1981 meeting. The District recommended that the application be deferred in that it was premature because the Ranch had not obtained a Use Permit for the

proposed lodge, a precondition to any building. Applicant stated in its motion that it would seek approval in the form of a Use Permit before continuing with any application to the Commission. The ALJ adjourned the hearing, continuing the matter to a future date to be set.

Thereafter the Ranch sought to obtain a Use Permit. On August 25, 1982 the Planning Commission determined that the existing Environmental Impact Report would require supplementation. Applicant appealed this to the Board of Supervisors which on October 5, 1982 reversed and unanimously granted the appeal. Use Permit 2903 was granted October 27, 1982 conditioned on the water service being supplied by Cal Am. Applicant then applied to the District to be annexed to Cal Am's service territory. On February 14, 1983 the District amended Cal Am's service territory to include the 30-acre lodge site and notified Cal Am to file an advice letter with the Commission to complete the procedure.

On March 7, 1983, Cal Am filed Advice Letter 253 with tariff sheets to reflect this annexation. The League of Woman Voters and other organizations against the annexation filed a protest with the Commission and we suspended the filing and ordered an investigation (see I&S 83-04-01). On June 13, 1983, the District reversed itself and voted to rescind the permits granting annexation. Cal Am thereupon asked the Commission to permit withdrawal of Advice Letter 253.

Without approval of the District, extension of Cal Am's service territory to include the Ranch parcel would be null and void. Accordingly, by D.83-12-016 dated December 7, 1983, we ordered I&S 83-04-01 discontinued and permitted the withdrawal.

At its board meetings July 11, 1983 and July 26, 1983, the District again reconsidered this matter, finally determining that it would require a feasibility study at Ranch's expense to ascertain if the Tularcito's Aquifer can deliver an adequate and sustained flow of potable water to District standards to accommodate the Ranch's project. If the aquifer is determined to have the capability, the

Ranch will be permitted and required to develop and use wells to use it; if not, the Ranch will be permitted to annex to Cal Am for water. This study continues.

It now appears obvious that with the passage of time and changed circumstances the reason for this application has ceased to have any validity. If the District determines that annexation will be permitted, it at such time will instruct Cal Am to file a new advice letter before the Commission to provide adjustment of Cal Am's service territory, and Ranch will be entitled to receive Cal Am water without need for any application by Ranch to this Commission.

The Commission finds and concludes that the application should be dismissed without prejudice.

IT IS ORDERED that Application 60125 is dismissed without prejudice.

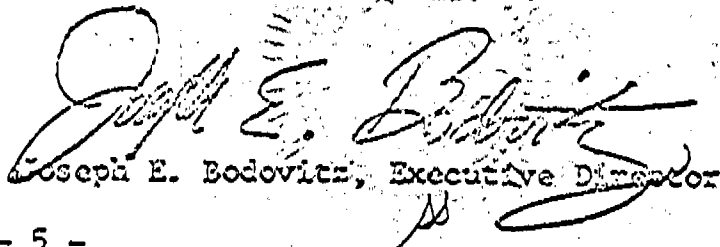
This order becomes effective 30 days from today.

Dated FEB 16 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
PRISCILLA C. CREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

Commissioner Victor Calvo,  
being necessarily absent, did  
not participate

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director