

MAY 13 1988

Decision 88 05 011 MAY 11 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and)
Investigation on the Commission's own)
motion of tariff filed by Advice)
Letter No. 19 of Gibbs Ranch Sewer)
Company in Tuolumne County.)

(I&S)
Case 87-09-012
(Filed September 10, 1987)

Michael F. Willoughby, Attorney at Law, for
applicant.
Charles A. Walter, for Racetrack Homeowners
Association, protestant.
Edward A. Peterson, for himself, and Mark L.
Travis, for Tuolumne County Planning
Department, interested parties.

O P I N I O N

Gibbs Ranch Sewer Company (Gibbs) is a public utility sewer system providing service in Tuolumne County in the vicinity of Sonora.

On August 13, 1987, Gibbs filed Advice Letter No. 19 whereby it sought to include contiguous territory in its service area in accordance with Public Utilities Code Section 1001. A timely protest to Advice Letter No. 19 was filed by Race Track Homeowners Association (Association) protesting the proposal and requesting the matter be set for hearing. As a result of the protest the Commission issued its investigation and suspension (I&S) Order on September 10, 1987.

Public hearing was held before Administrative Law Judge Frank J. O'Leary on January 12, 1988 at Sonora. The matter was submitted with the filing of the transcript on January 25, 1988.

The intent of Advice Letter No. 19 was to expand Gibbs' service territory to include four parcels of property which are identified on Page 2 of Exhibit 1, which has been reproduced as Appendix A attached hereto, as follows: Misc., Salluce, Peterson

(east of Jamestown Road), and Peterson (West of Jamestown Road). The property described as miscellaneous contains approximately seven single family dwellings that are receiving water service from Gibbs Ranch Water System but are not receiving sewer service from Gibbs. One of the seven parties located in this parcel did make a request to Gibbs for sewer service approximately three to four months prior to the hearing. The owners of the Salluce and Peterson parcels have both requested sewer service from Gibbs. None of the requests for sewer service were solicited by Gibbs.

Racetrack Homeowners Association, the protestant, is an organization of approximately 400 homeowners of which 64 have septic tank systems rather than sewer service. The remaining members are served by Gibbs. Protestant stated that in the 1970's the need for sewer service to the area was recognized and a grant was established with federal and local participation and the area was designated to be served through a regional sewer plant system operated by the Tuolumne Regional Water District (TRWD). The protestant also stated that "At a prior hearing Gibbs Ranch testified that they could serve the area they are proposing to include in this expansion area, but they could not serve any other area outside of these boundaries" (Transcript P. 6 l. 13-16). Protestant believes that the area should be served by TRWD which would be a gravity flow system rather than a lift station system used by Gibbs.

In reply to protestants statement Mr. Gibbs testified that if any of the 64 homeowners who are on a septic tank system requested sewer service from Gibbs, he would attempt to serve them.

Protestant is concerned that the inclusion of the area in Gibbs' territory will create a substantial adverse impact upon the property owners and will affect the tax base when a future sewer line is constructed by TRWD.

Protestant acknowledges that there is a real and present need for sewer service to new and proposed construction in the

area. Protestant would like a requirement in the authorization to expand that when a gravity system comes through the area that the area which is the subject of this proceeding be changed to the gravity system from a lift station system.

The imposition of a requirement such as that proposed by protestant would be inappropriate. The time to determine whether or not to change from a lift station system to a gravity flow system is when such a system is installed. There apparently are no plans at the present time by TRWD to expand its sewer system to the area in question. A copy of Advice Letter No. 19 as well as a notice of the hearing was served upon TRWD. Exhibit 2 is a letter addressed to Gibbs by TRWD in connection with its Advice Letter No. 18. The letter states in part:

"It has been the policy of TRWD to serve all properties within Improvement District No. 1 as the need occurs; however this is not always possible due to the distance to TRWD facilities. It has also been the policy for many years that if an area cannot be reasonably served by TRWD, the applicant is then directed to the nearest available utility for service. There are no facilities in the immediate area, other than Gibbs Ranch Sewer System, which could serve these properties."

The area involved in this proceeding is immediately contiguous to Lone Star Mobile Estates which is the area which was the subject of Advice Letter No. 18.

The Administrative Law Judge's proposed decision was filed and mailed to the parties on April 5, 1988. No comments on the proposed decision have been filed.

Findings of Fact

1. In order to accommodate the requests of various landowners for sewer service, Gibbs filed an advice letter and service area map for the purpose of including a contiguous area within its service area.

2. Association protested the extension on grounds that the inclusion of this area in Gibbs would create a substantial adverse economic impact upon the properties surrounding this area and would effect the tax base when the future sewer line is constructed by TRWD.

3. All the parties including the Association acknowledge that there is a real and present need for sewer service to new and proposed construction in the area.

4. Gibbs' tariff area is contiguous to the proposed service area extension.

5. The proposed service area lies within the sphere of influence of TRWD. However, TRWD did not protest Advice Letter No. 19 nor did it appear at the hearing even though it was served with the Advice Letter and notified of the hearing.

6. Gibbs is capable of providing sewer service to the proposed service area.

7. Gibbs' extension in this proceeding is in compliance with Public Utilities Code Section 1001 and General Order 96-A.

8. Gibbs' construction of sewer collection facilities in the proposed service area will not interfere with the operation of any line, plant or sewer system of any other utility or district.

9. As this extension of service territory is immediately needed to facilitate land owners' construction schedule, this order should be effective on the date it is issued.

Conclusions of Law

1. Public convenience and necessity require that Gibbs extend sewer service to the proposed contiguous areas.

2. The tariff sheets of Advice Letter No. 19 are reasonable and lawful.

3. This order of investigation should be discontinued and the proposed tariff sheets of Advice Letter No. 19 should be effective immediately.

ORDER

IT IS ORDERED that:

1. Gibbs Ranch Sewer Company's Advice Letter No. 19 tariff sheets are effective immediately.

2. C.87-09-012 is discontinued.

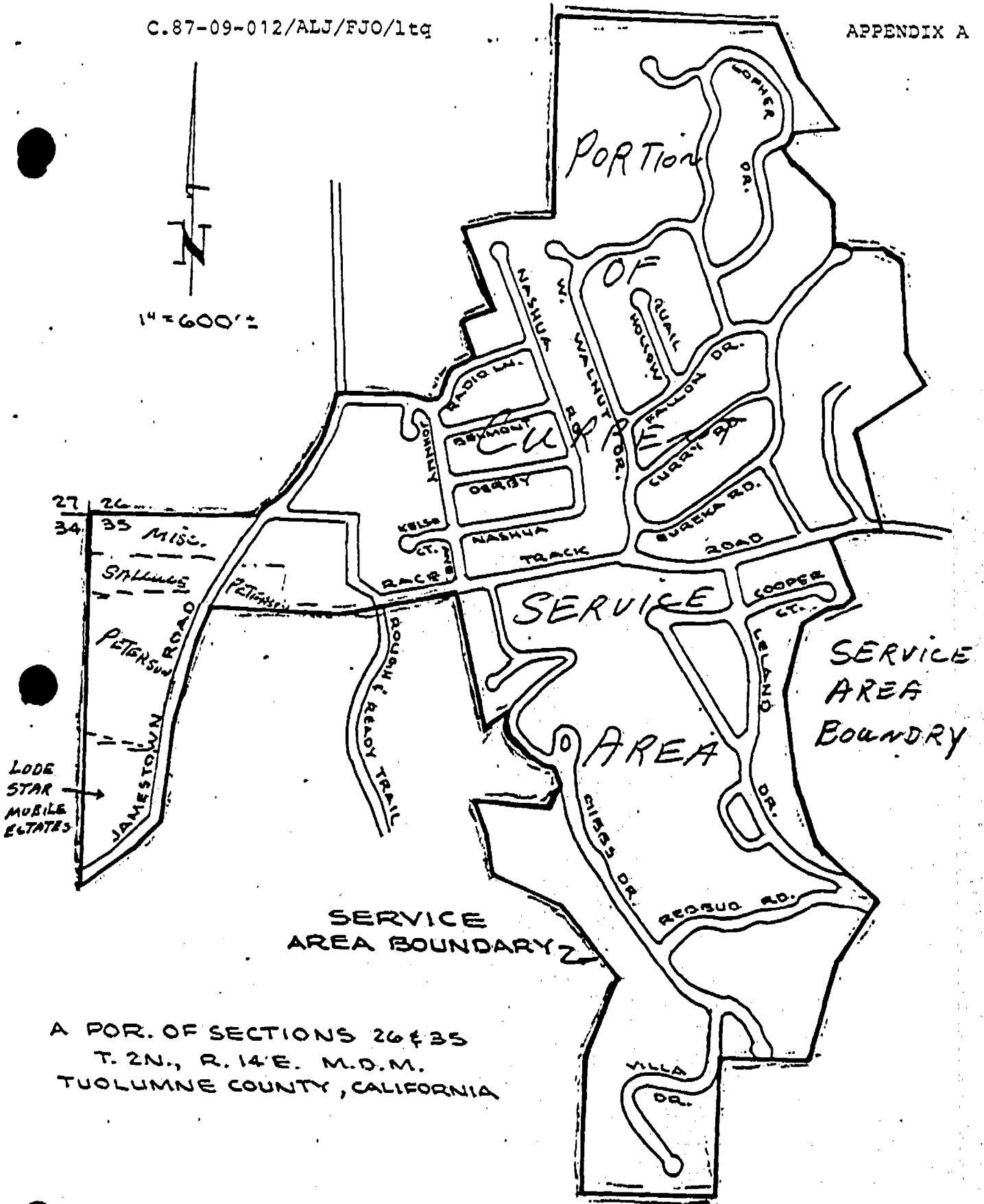
This order is effective today.

Dated May 11, 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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


Victor Weisser, Executive Director



A POR. OF SECTIONS 26 & 35
 T. 2N., R. 14E. M.D.M.
 TUOLUMNE COUNTY, CALIFORNIA

**GIBBS RANCH SEWER CO.
 SERVICE AREA MAP**

JUNE, 1986

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