

Decision 90 05 084 MAY 22 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Gladys M. Groves, doing business as Camptonville Water Works, to sell and Camptonville Community Services District to buy the water system in Yuba County.

ORIGINAL
Application 89-09-001
(Filed September 1, 1989)

Michael V. Sexton, Attorney at Law, Wilton L. Dyer, and Ethel McElfresh, for Camptonville Community Services District, applicant.
Jasjit S. Sekhon and Donald R. McCrea, for the Commission Advisory and Compliance Division.

O P I N I O N

This is an application in which Gladys M. Groves, doing business as Camptonville Water Works (Utility), seeks authority to sell her public utility water system to Camptonville Community Services District (District).

A duly noticed public hearing was held in this matter before Administrative Law Judge (ALJ) Donald B. Jarvis in Grass Valley on May 3, 1990, and the matter was submitted on that date.

Material Issue

The material issue presented in this proceeding is whether Groves should be authorized to sell Utility to District?

Discussion

Notice of the filing of the application was served on each customer of Utility. On October 17, 1989, Donald V. Kissig, son of Ned and Thelma Kissig, who own land adjacent to the public utility property sought to be transferred, wrote the Commission protesting the proposed transfer. Kissig stated that he and his parents did not oppose a transfer of Utility to District but that

the proposed transaction purported to transfer property which was on land owned by his parents. On February 2, 1990, the Water Branch of the Commission's Advisory and Compliance Division issued a report on the application. A copy of the report was served on Kissig. The report did not support Kissig's position. On February 27, 1990, Kissig wrote a letter to the Commission in which he reasserted his position. Because of the controversy and nature of the protest the ALJ calendared the matter for a public hearing.

Kissig did not appear at the public hearing nor did any other person representing him or his parents. Neither Kissig nor his parents are parties of record in this proceeding. The evidence adduced at the hearing established that the real property sought to be transferred from Groves to District has the same metes and bounds description as that transferred to Groves and her deceased husband when they acquired the property. All of Utility's assets sought to be transferred are located on the Groves' property. Furthermore, it is well settled that "...an order of this Commission authorizing the sale and transfer of public utility properties does not confer on the vendor title to properties which he may not own at the time. Our order authorizes the sale and transfer of such an interest as the vendor may have in the property." (F. M. and A. A. Guess (1930) 35 CRC 141, 143.)

The evidence also indicates that Utility poses a threat to public health. The most practical solution to ameliorate the threat is to permit District to acquire it and build a new water distribution system.

At the hearing all parties to the record stipulated that they waived the opportunity to file comments to the ALJ's proposed decision and that the Commission could act upon it in less than 30 days.

No other points require discussion. The Commission makes the following findings and conclusion.

Findings of Fact

1. Groves is the owner of Utility which is a water corporation as defined in Public Utilities (PU) Code § 241. Groves and her husband, now deceased, acquired Utility pursuant to Decision 7640 dated August 19, 1969. Groves acquired sole ownership of Utility upon the death of her husband. Utility serves approximately 85 water connections in Camptonville, Yuba County.

2. District is a community services district organized under the laws of California. Funds from the Yuba County Water Agency, an anticipated loan under the Safe Drinking Water Bond Act and an anticipated community development block grant will enable District to acquire Utility and build a new water system. None of these funds can be used for the purpose of having a land survey.

3. Utility's water system is in bad condition. Its water is not potable. The water has debris and scum on its surface and bacterial contamination. The Yuba County Department of Health Services has required Utility to send notices to all its customers telling them to boil the water before using it for domestic purposes. It is necessary for one school to haul in water from other sources. Utility does not have sufficient fire hydrants to provide adequate fire protection to its customers. Additionally, some of the existing fire hydrants are not operative.

4. On April 27, 1990, the United States Environmental Protection Agency served on Groves "Findings and Notice of Violation" with respect to Utility, which included the following:

- *7. 40 C.F.R. §141.14 establishes maximum contaminant levels (MCLs) for coliform bacteria for community water systems.
- *8. Respondent violated 40 C.F.R. §141.14 by exceeding the MCL for coliform bacteria for at least the following months:

August, 1985
August, 1986 through November, 1986
July, 1987
August, 1987

November, 1987 through February, 1988
April, 1988
June, 1988
August, 1988 through March, 1989

- *9. 40 C.F.R. §141.21(b) requires suppliers of water for community water systems serving populations of between 25 and 1,000 persons to sample and analyze for coliform bacteria at least once per month.
- *10. Respondent violated 40 C.F.R. §141.21(b) by failing to take coliform density samples for at least the following months:

April, 1985 through June, 1985
September, 1985 through July, 1986
December, 1986 through June, 1987
September, 1987
March, 1988
July, 1988
April, 1989 through March, 1989
- *11. 40 C.F.R. §141.22 requires public water systems which use water obtained in whole or in part from surface sources to have said water sampled and analyzed for turbidity at least once per day.
- *12. Respondent violated 40 C.F.R. §141.22 by failing to conduct the required turbidity sampling for at least the following months:

April, 1985 through March, 1989
- *13. 40 C.F.R. §141.23(a)(1) requires suppliers of water for community water systems utilizing only surface water sources to sample and analyze for inorganic chemicals at least once every year.
- *14. Respondent violated 40 C.F.R. §141.23(a)(1) by failing to sample and analyze for inorganic chemicals at least five times during the past five years.
- *15. 40 C.F.R. §141.26(a)(1) and (3) requires suppliers of water for community water systems to sample and analyze for

radionuclides in at least four consecutive quarters once every four years.

- *16. Respondent violated 40 C.F.R. §141.26(a)(1) and (3) by failing to sample and analyze for radionuclides in four consecutive quarters at least once during the past four years.
- *17. 40 C.F.R. §141.42 requires suppliers of water for community water systems utilizing surface water sources to sample for corrosivity characteristics of the water.
- *18. Respondent violated 40 C.F.R. §141.42 by failing to sample and analyze for corrosivity characteristics at any time."

5. Groves has agreed to sell Utility to District for \$11,500. None of the purchase price is to be allocated for the business or plant. All of it is for the real property of Utility.

6. The metes and bounds description of the real property Groves proposes to transfer to District is the exact description contained in grant deed from her predecessors in interest, Acton M. Cleveland and Maudeline M. Cleveland to Groves and her now deceased husband.

7. All of the property of Utility including water sources is located upon the real property sought to be transferred.

8. District will have the resources to acquire Utility and ability to continue service to its customers.

9. If District acquires Utility it proposes to build a new distribution system which will meet water quality and fire flow requirements.

10. The proposed transfer of Utility from Groves to District is not adverse to the public interest.

11. At the hearing all parties of record stipulated that they waived the right to file comments to the ALJ's proposed decision and that the Commission could issue its decision in less than 30 days from the filing of the ALJ's proposed decision.

12. Because the public health and interest would be served by having the transfer take place expeditiously, the ensuing order should be made effective on the date of issuance.

Conclusion of Law

The application should be granted.

O R D E R

IT IS ORDERED that:

1. On or after the effective date of this order Gladys M. Groves, doing business as Camptonville Water Works (Utility), may sell and transfer the assets of her public utility water system to Camptonville Community Services District (District) in accordance with the terms of the application.
2. Within 30 days of the sale and transfer hereby authorized, Groves shall notify the Commission in writing of that fact.
3. Within 30 days of the sale and transfer of the assets of Utility to District, District shall notify the Commission in writing of that fact and within such period shall file with the Commission a true copy of each instrument by which such transaction has been accomplished.
4. The foregoing authority is conditioned upon District's assuming liability for all refunds under main extension agreements between Utility and others existing on the date District acquires the assets of Utility; District shall provide the Commission with satisfactory proof of such assumptions within 30 days of the acquisition.
5. Upon compliance with all of the conditions of this order, including the payment of the fee provided in PU Code § 411 for year 1990, and such other period as may occur until the sale and transfer are consummated, Groves shall stand relieved of her public utility obligations and may discontinue service concurrent with the

commencement of service by District as contemplated in the agreement between the parties.

6. The authority granted in Ordering Paragraph 1 shall expire on July 31, 1991 if it has not been exercised by that date.

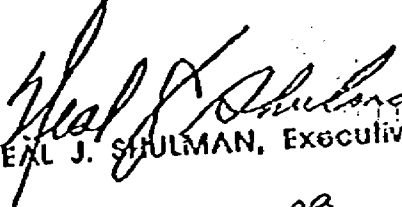
This order is effective today.

Dated MAY 22 1990, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director

JB