

ALJ/md

Decision S2 03 069 ~~MAR 16 1982~~

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Palo Mesa Water Company for a)
certificate of public convenience)
and necessity to construct and)
extend a public utility water)
system to tract numbers 49, 151,)
658, 666, 743, 760, 841, and 922,)
San Luis Obispo County, and to)
establish rates for service.)

Application 60651
(Filed June 12, 1981)

ORDER DENYING PETITION TO VACATE SUBMISSION
AND FOR LEAVE TO INTERVENE

Application 60651 was filed on June 12, 1981. A duly noticed public hearing was held in the proceeding on December 2, 1981 and the matter was submitted on that date. Notice was served on San Luis Obispo County and the Cities of Arroyo Grande and San Luis Obispo. Notice was posted and also published in a newspaper of general circulation.

The caption and prayer of the application indicate that authority is sought to serve Tract 666. On March 1, 1982, Newdoll and Smith filed a Petition For Leave to Intervene; For Hearing of New Evidence; and For Deletion of Tract 666 from Service Area. The petition alleges Newdoll and Smith are the owners of Tract 666 and that new evidence indicates that the applicant should not be authorized to serve Tract 666.

While the caption and prayer indicate that authority is sought to serve Tract 666, the record discloses, and we take official notice, that applicant already has that authority.

Applicant obtained the authority to extend its service to Tract 666, which was formerly known as Rocking Horse Project, in Advice Letter No. 6, filed on July 16, 1979. Since applicant has that authority, the caption and prayer are erroneous. It is not an issue in the pending application.

The Commission has no jurisdiction to revoke the certification of Tract 666 in this proceeding. (Golconda Utilities Co. (1968) 68 CPUC 296, 304-06.) If Newdoll and Smith seek to have Tract 666 removed from applicant's service area, it can only be done on grounds authorized by law by a proceeding in which Newdoll and Smith have the burden of proof and going forward with the evidence. (Evidence Code §§ 500, 550; Shivell v Hurd (1954) 129 CA 2d 320, 324; Ellenberger v City of Oakland (1943) 59 CA 2d 337.)

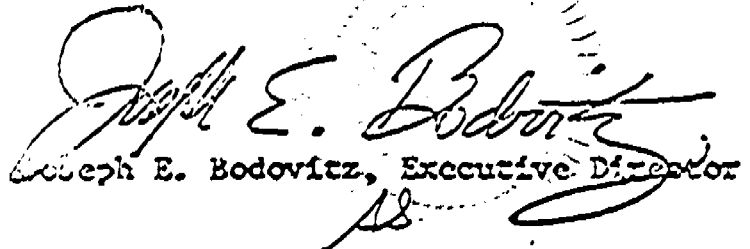
IT IS ORDERED that Newdoll and Smith's Petition For Leave to Intervene; For Hearing of New Evidence; and For Deletion of Tract No. 666 From Service Area is denied.

This order is effective today.

Dated MAR 16 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director