

Decision 83 12 039 DEC 20 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Lowell R. Turner and Louis W.)
Bruton to modify Decision 93584)
to remove the moratorium against)
new connections for water service)
provided by the Split Mountain)
Water Company in Kern County.)

Application 83-02-46
(Filed February 22, 1983)

Lowell R. Turner, and Louis W. Bruton,
for themselves, applicants.
Clell M. Card, for Tillie Creek Property Owners
Association, protestant.
Albert A. Arellano, Jr., for the Commission
staff.

O P I N I O N

By Decision (D.) 93584, dated October 6, 1981 in Case (C.) 10950 we ordered certain improvements to be made by Split Mountain Water Company (Split Mountain). The decision also provided in Ordering Paragraph 5 that:

"5. No new water connections shall be installed in Tract 3141 or Tract 3491 until defendant has complied with Ordering Paragraphs 1 through 4 of this order."

To date we have not received evidence that Split Mountain has complied with the order in D.93584.

By this application Lowell R. Turner and Louis W. Bruton request a modification of Ordering Paragraph 5 of D.93584 with respect to properties owned by them.

Public hearing was held before Administrative Law Judge Frank J. O'Leary at Los Angeles on July 14, 1983 at which time the matter was submitted.

Evidence of the applicants discloses that:

Each of the applicants has made about \$20,000 investment in purchase of unimproved property in the service area of Split Mountain and in site improvement costs. Both applicants are retired and intend to construct dwellings for their personal use and for their families on their respective lots prior to the summer of 1982.

Lot No. 106 of Tract No. 3491 (Homestead Tract) in Kern County, owned by Mr. and Mrs. Bruton, was graded during the summer of 1981 and is now being eroded severely by the rains. Although a building permit was paid for in February 1982 in anticipation of the expected lifting of the moratorium, the permit was not issued by the County because of the moratorium.

Lot No. 14 of the same tract was purchased by Mr. and Mrs. Turner on November 1, 1981. The purchase price included grading and site improvements that cannot be accomplished because of the moratorium. The funds paid for this purpose remain in escrow. Had the Company complied with the Commission's orders in a timely manner, the site improvements could have been completed in early 1982 as planned.

Both applicants feel that the forced delay in their construction plans, which are now a year behind schedule and with no end in sight, creates considerable hardship both personally and financially. Both applicants believe that no other property owners in the Company's certificated service area are caught in similar situations. Applicants, moreover, believe that due to the uniqueness of their situation the Commission can grant specific relief without diminishing the effectiveness of its order and that only minor changes to Decision 93584 need be made to provide the requested relief.

The Tillie Creek Property Owners Association (TCPOA) opposes any modification of Ordering Paragraph 5 of D.93584 until such time as Split Mountain has made the improvements ordered in D.93584. Exhibit 1 is a copy of a letter from the president of TCPOA setting forth its position. The exhibit also states that:

"On July 1, 1983, the property owners in Pala Ranches were without water--again. It must be apparent to you at the P.U.C. why the T.C.P.O.A. is so adamant against any new water connections which would affect our supply. We also wonder why Oscar Greene, owner of the Split Mountain Water Company is not complying with D.93584 dated October 6, 1981."

The Commission staff (staff) presented testimony (Exhibit 3) by an engineer assigned to the Commission's Hydraulic Branch. The staff believes the requested relief is reasonable and justified and can be accommodated without jeopardizing the water supply for existing customers. The staff further recommends the following:

- "1. Rescind Ordering Paragraphs 3 and 4 of D.93584, regarding constructing an intertie of two segments of the system.
- "2. Grant an electric power offset rate increase immediately.
- "3. Require Split Mountain Water Company to drill new well(s) or otherwise provide sources of water to bring the system production capability up to 115 gpm before any new water connections can be installed.
- "4. Provide assurance in the decision that the company will be eligible and should apply for a general rate increase upon compliance with the above Item 3.
- "5. Require filing of an updated service area map or maps to include the area along Evans Road being served by the company."

With respect to the recommendation to rescind Ordering Paragraphs 3 and 4 of D.93584 the engineer testified that, "...the intertie between the two segments of the system is not economically justified in that it would cost as much as a new water well but would not provide any additional water production. The booster that now transfers water from Tract 3491 to Tract 3141 and the capability for gravity flow in the other direction provides adequate interchange capability."

Discussion

The properties for which applicants seek the water connections are located in Tract 3491 (Homestead Tract). Tract 3141 (Pala Ranches tract) is the tract that was the subject to C.10950. Tract 3491 became involved because it was a possible source of water to Tract 3141. However, there has not been a shortage of water to Tract 3491 that we are aware of. We do not believe that under the circumstances described the two connections requested in this proceeding will be detrimental to the residents of Tract 3141. We concur with the staff.

The additional recommendations of the staff go beyond the parameters of this proceeding and should not be dealt with now. However, we expect Split Mountain to comply with our order set forth in D.93584. If the intertie required by Ordering Paragraph 3 is not economically justified Split Mountain should file a petition to modify D.93584. With respect to any rate increase, Split Mountain must apply first either through a formal application or by Advice letter filing. We direct the staff to assist Split Mountain with respect to the filing of a petition for modification of D.93584 and a rate increase application or Advice letter filing.

Findings of Fact

1. Applicants own property in Tract 3491 served by Split Mountain.
2. Ordering Paragraph 5 of D.93584 ordered "No new water connections shall be installed in Tract 3141 and Tract 3491 until defendant has complied with Ordering Paragraphs 1 through 4 of this Order."

3. Ordering Paragraphs 3 and 4 of D.93584 have not been complied with.
 4. Applicants seek to develop the property owned by them.
 5. Applicant's property is located in Tract 3491. The outages occurred on Tract 3141.
 6. The staff recommends the request be granted.
 7. The application is protested by TCPOA.
- The Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that:

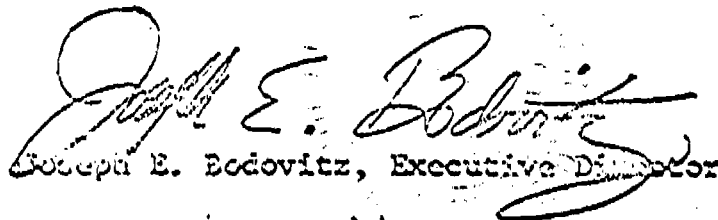
1. Ordering Paragraph 5 of D.93584 as modified to the extent that new water connections may be installed in Lots Nos. 14 and 106 of Tract No. 3491.
2. In all other respects D.93584 shall remain in full force and effect.

This order becomes effective 30 days from today.

Dated DEC 20 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

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


Joseph E. Bodovitz, Executive Director