

ORIGINAL

Decision No. 88194 DEC 6 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DAVID L. HUGHES AND BETTY J. HUGHES, }
Complainants,

vs.

CALIFORNIA-AMERICAN WATER COMPANY,
a California corporation,
Defendant.

Case No. 10156
(Filed August 5, 1976)

David L. Hughes and Betty J. Hughes, for themselves,
complainants.
Dinkelspiel, Pelavin, Steefel & Levitt, by Lenard G.
Weiss, Attorney at Law, for California-American
Water Company, defendant.
Eugene M. Lill, for the Commission staff.

O P I N I O N

Complainants David L. and Betty J. Hughes request that the Commission determine that they have suffered financially, emotionally, and physically by reason of the failure of defendant California-American Water Company (Cal-Am), to fulfill its legal obligations and that Cal-Am be ordered to provide water service to complainants' real property at Lot 28, Elinor Place, Carmel, which they purchased in 1963. Public hearing was held in this matter before Administrative Law Judge James F. Haley in San Francisco on April 29, 1977.

The complaint relates that the complainants sold their home in Florida and proceeded to Monterey, California, and that on or about January 13, 1976, following their arrival, they were advised of the refusal by Cal-Am to provide water service to their lot. The complainants allege that substantial hardship has resulted from their inability to carry out their long-established retirement plans. They

contend there is no water shortage in the Carmel Valley; that the inadequacies in the water system of Cal-Am exist "downstream" from their property; and that Cal-Am is in a position to provide them adequate water service.

Cal-Am, in its answer, admits that it did refuse the complainants' application for water service, but denies the other allegations contained in the complaint. Cal-Am cites, as the basis of its refusal to provide service, Ordering Paragraph 4 of the Second Interim Order (Decision No. 84527) of this Commission in Case No. 9530, which, as modified by Decision No. 84683, provides as follows:

"Until otherwise permitted by further order of this Commission, California-American Water Company shall not provide water to new service connections within its Monterey Peninsula District, other than those in municipally sponsored redevelopment or renewal projects, unless, prior to the effective date of this Order, a valid building permit has been issued. However this prohibition shall not apply to those parcels of property granted in variance from Decision No. 81443 by Decision No. 81987."

The record shows that complainants did not have and there was not issued a valid building permit prior to the effective date of Decision No. 84527.

In Decision No. 84527 the Commission found that Cal-Am's Monterey District had reached the limit of its capacity to supply water and that, with the exception of service connections in redevelopment and urban renewal projects, no further customers could be supplied from the system of the utility without injuriously withdrawing the supply wholly or in part from present customers.

The last sentence of Section 2708 of the Public Utilities Code reads:

"The commission, after hearing upon its own motion or upon complaint, may also require any such water company to allow additional consumers to be served when it appears that service to additional

consumers will not injuriously withdraw the supply wholly or in part from those who theretofore had been supplied by such public utility."

In Decision No. 84527 the Commission concluded that there is a deficit of 1,000 acre-feet in the available water supply of the Monterey District, and that this deficit is being met by overdrafting the Seaside aquifers. The Commission also noted that there is a real and frightening possibility that salt water may intrude into the Seaside aquifers and make them unavailable for use for many years.

The Commission finds that Cal-Am denied the complainants' application for water service in compliance with the provisions of the ordering paragraph quoted above.

Subsequent to the filing of this complaint and the hearing therein, the Commission issued Decision No. 87715, the Tenth Interim Opinion in Case No. 9530. That decision, which is now final and effective, lifts the ban on providing water service to some 1,500 residential lots in the service area of Cal-Am's Monterey Peninsula District. Complainants' lot is among that number. Thus, complainants may now receive water service upon making appropriate application therefor to Cal-Am.

The Commission concludes that complainants are entitled to water service, but not to any other relief.

O R D E R

IT IS ORDERED that defendant shall provide water service to complainants at lot 28, Elinor Place, Carmel.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 6th day of DECEMBER, 1977.

Robert Bateman
President
William Amos
Vernon L. Stinson
Richard D. Howell
Clair D. DeRich
Commissioners