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**ORIGINAL**

Decision No. 88599 MAR 21 1978

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**First American Realty Co., a Delaware Corporation, herewith requests authorization to acquire control of Spring Crest Water and Power Company through acquisition of 75% of the outstanding stock of Spring Crest Water and Power Company.**

Application No. 57468  
(Filed July 22, 1977)

**EDMUND ORTMEYER, TRUSTEE, and POCKET BEVERAGE COMPANY, INC.,**

**Complainants,**

Case No. 10226  
(Filed December 29, 1976)

**vs.**

**SPRING CREST WATER AND POWER COMPANY, a Corporation,**

**Defendant.**

**Harry F. Chaddick, for applicant.**

**Albert A. Webb Associates, by**

**Reginald H. Knaggs, for complainants.**

**Anthony Burke and Rowland F. Sweet, for**

**themselves; and Albert J. Lambert, (c)**

**for Riverside County Assessor;**

**interested parties.**

**Robert C. Durkin and Richard Finnstrom, for the Commission staff.**

**INTERIM OPINION**

**Applicant, First American Realty Company (American),**

seeks authorization to acquire control of Spring Crest Water and Power Company (Spring Crest) through acquisition of 75 percent of Spring Crest's outstanding stock. This application

was preceded by a complaint (Case No. 10226) filed by Edmund Ortmeier, Trustee, and Pocket Beverage Company, Inc. (complainants) against Spring Crest seeking an order requiring Spring Crest to provide water service to complainants' properties in Tract 3380 and to make certain data available to complainants so that permits required for the development of the property could be obtained from Riverside County. After proper notice a public hearing on the complaint was held on March 18, 1977 in Palm Desert before Administrative Law Judge James D. Tante and the matter was submitted upon the filing of letter briefs due May 2, 1977. ALJ Tante issued a proposed report in Case No. 10226 on August 3, 1977. Because of the contemplated change in the ownership and operation of Spring Crest, the submission of Case No. 10226 was set aside and the matter was combined for hearing with Application No. 57468. After notice a combined hearing on both matters was held before Administrative Law Judge N. R. Johnson on November 22, 1977 in Palm Desert and the matters were submitted. At this latter hearing testimony was presented on behalf of applicant by its president, on behalf of complainants by its real-estate-development consultant, and on behalf of the Commission staff by one of its engineers.

ALJ Tante's proposed report would have this Commission deny the relief requested by complainant and require Spring Crest to do the following as recommended by the staff's engineer:

(a) Provide the Commission with a list of its officers and directors pursuant to Section 584 of the Public Utilities Code.

(b) Be restricted to its present number of services until a supply of water adequate to serve additional services is proven and the control system is repaired and operates satisfactorily, and until further order of the Commission.

- (c) Repair its control system and all facilities related to the delivery of water and pressure regulation.
- (d) Locate and repair all horizontal wells connected to its system and develop the production of these wells to the fullest extent, as far as is reasonable and practical.
- (e) Make a reasonable effort to locate the remainder of its horizontal and vertical wells, to develop and test these sources, and connect these sources to its system, if feasible, and prudent to do so.
- (f) Meter all sources of supply at each source.
- (g) Begin a program whereby all of its customers will be metered within the reasonably near future, and provide a meter for all new connections to the water system.
- (h) Begin a program of standard billing practices and immediately begin billing its customers according to its filed tariffs.
- (i) Engage a competent civil engineer consultant to organize its operations and practices and set up a schedule for the system improvements ordered herein.
- (j) File an annual report with the Commission for the year 1976, which report shall be prepared and signed by individuals who are, or act under the direction of, the principal officers of Spring Crest. The report shall list the principal officers and owners of its capital stock as of December 31, 1976.
- (k) File a schedule for a plan of its system's upgrading with the Commission within ninety days of the effective date of this order, which schedule shall show a reasonable timetable for the system improvements with completion within one year.

At the November 22, 1977 hearing, the staff's engineer presently assigned to these matters recommended that the transfer of ownership be conditioned on American supplying proof of the safe water yield of the system as it relates to Tracts 2947 and 3380 and compliance with requirements (b) through (f), and (k) above listed. American's president testified to acceptance of requirements (a) through (c), (f) through (i), and (k). He further testified that a precedent first step to accepting and effecting recommendations (d) and (e) was to obtain an accurate "as built" system map as there appears to be a number of discrepancies between the "as planned" and "as built" system. He proposes to have the design engineer prepare such a map and, further, to have the original 12-year-old water replenishment study updated as he does not wish to rely on what he believes to be an outdated study. At that time he feels that he will be in a position to intelligently plan for any future development of the water system that might be feasible. He agrees that no new customers should be connected until the study is completed.

Testimony was presented on behalf of complainant to the effect:

- (1) The study of water replenishment was prepared by a competent geologist and could be used as a basis for the determination of available water at this time.
- (2) He is precluded from building 72 single-dwelling units because of Spring Crest's failure to provide information to the Real Estate Commission.
- (3) The water consumption of 14 customers represents about 16 percent of the water replenishment of 130 gpm determined 12 years ago.

- (4) The cleaning and repair of horizontal wells is a relatively easy and inexpensive job.
- (5) Providing adequate and reliable water service to the existing contemplated customers can be accomplished within a reasonable period of time.

The sales agreement, entered into on March 8, 1977, is between Essaness Theatres Corporation (Essaness), Paul Rosenbaum (Rosenbaum), and American and provides that American will purchase the interest of Essaness and Rosenbaum for \$75,000 each. American believes a reasonable allocation of the purchase price would be \$10,000 for 125 shares of the common stock and \$65,000 for land value so that the purchase price of the 250 shares of stock being herein contemplated would be \$20,000. American's witness testified that there presently exists no plans to develop the 335 acres of land being transferred if the sale is consummated.

Findings

1. The proposed transfer of stock would not be adverse to the public interest.

2. The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.

3. Spring Crest should be restricted to its present number of services until a supply of water adequate to serve additional services is proven.

4. Spring Crest should engage a competent engineer consultant to:

- (a) Determine the dependable water replenishment available to Spring Crest.

- (b) Prepare a plan, together with a timetable for its inception, to repair facilities related to the delivery of water and pressure regulation; develop, test, and connect horizontal and vertical wells to serve Tracts 2947 and 3380; and prepare a map showing the "as built" facilities.

5. Spring Crest should implement a program to meter all sources of supply at each source and to meter its customers and bill them in accordance with its filed tariffs.

The Commission concludes that the application for American to acquire ownership of 75 percent of Spring Crest's common stock should be granted and that the relief requested by complainant should be denied until further order of the Commission.

INTERIM ORDER

IT IS ORDERED that:

1. First American Realty Company is authorized to acquire control of Spring Crest Water and Power Company through acquisition of 75 percent of its outstanding stock as set forth in the sales agreement attached to the application.

2. Spring Crest shall add no new customers until further order of the Commission.

3. Spring Crest shall retain a competent engineer consultant to determine the dependable water replenishment available to it and prepare a plan to repair water delivery facilities, meter all water sources, and meter all customers.

4. Within ninety days after the effective date of this order, Spring Crest shall submit the results of the tests required by paragraph 3, together with the cost estimates and construction schedule for implementing the required repairs and metering.

5. Spring Crest shall bill its customers in accordance with its filed tariffs.

6. The relief requested by complainants is denied at this time and until Spring Crest complies with this order. When compliance is complete, we will reopen the complaint to determine if relief should be granted.

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

Dated at San Francisco, California, this 21<sup>st</sup> day of MARCH, 1978.

Robert B. ...  
President  
William ...  
Vernon L. ...  
Richard D. ...  
Clare T. ...  
Commissioners