

ORIGINAL

Decision No. 90314 MAY 22 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Donald Ray Wetterman,  
Complainant,

vs.

Hinkley Valley Water Company,  
Defendant.

Case No. 10615  
(Filed June 30, 1978)

Thomas W. Owens,  
Complainant,

vs.

Hinkley Valley Water Company,  
Defendant.

Case No. 10643  
(Filed July 28, 1978)

Donald Ray Wetterman, for himself,  
complainant in Case No. 10615.  
Thomas W. Owens, for himself,  
complainant in Case No. 10643.

O P I N I O N

Complainant Donald Ray Wetterman (Wetterman) alleges that the water service furnished by defendant Hinkley Valley Water Company has slowly deteriorated to a point where it has run out of water each summer for the past four years and that although he was told the system would be repaired by the summer of 1978, defendant has failed to do so. Wetterman further

alleges that he has experienced being out of water for as long as eight hours a day in 100° F. weather and has experienced the loss of cooler pumps and motors which have burned out from lack of water. Wetterman alleges that additional difficulties have been experienced from the lack of water and that defendant has failed to improve the water system as ordered by the court. Wetterman requests that defendant be ordered to repair its water system at no additional cost to its customers and that any future rate changes be observed by the Commission to insure that such repairs have been effected. Wetterman further requests that he be awarded damages in the amount of \$500 to compensate for the loss of cooler pumps and motors, for laundry costs, and family costs. Finally, Wetterman requests that defendant be ordered to deliver sufficient quantities of water to meet customer demand.

Complainant Thomas W. Owens (Owens) alleges that since 1974 he and his family have been without water every summer, thus creating hardships with respect to cooking, washing, bathing, and other needs requiring the usage of water. Owens generally alleges that the water supply system operated and furnished by defendant is poor and that contrary to court orders to improve the water supply system and promises made by defendant to comply, nothing has been done by defendant to improve the water supply system. As in Wetterman's complaint, Owens requests that the Commission order defendant to repair its water system at no additional

charges to its customers and that the Commission regulate any rate changes in the future so that the customers would not have to pay for repairs. Although Owens intended to add 22 residents of Hinkley, mentioned in his complaint, as co-complainants, a procedural defect precludes their inclusion as complainants and the complainant is deemed to be only Owens.

Defendant failed to file an answer to either C.10615 or C.10643 although a notice of each complaint along with instructions to answer were placed in the United States mail by the Commission, properly addressed to defendant and to its owner, Henry P. Snyder (Snyder).

Because of the basic common nature of the complaints and the defendant being the same, C.10615 and C.10643 were consolidated for hearing. Public hearing was held before Administrative Law Judge William A. Turkish on November 30, 1978 in Barstow, California, and the matter was submitted on that date.

Wetterman and Owens testified in their own behalf. Although it failed to file answers to both complaints, defendant's owner Snyder was present at the hearing and was permitted the opportunity to respond to the testimony of the complainants. The hearing was attended by approximately 15 to 20 residents of Hinkley, several of whom gave testimony on behalf of both complainants.

Wetterman read the contents of his complaint into the record. In addition, he testified that defendant had been ordered by the court (Municipal Court, Barstow) to improve its water system.<sup>1/</sup> He also stated that defendant installed a 9,000-gallon storage tank which previously had been used for diesel oil storage and that it had to be disconnected because Wetterman and others tasted oil in the water. In the past two years, Wetterman stated that he lost two water pumps and one electric motor because of a lack of water reaching his evaporative coolers. He went on to state that he has noticed an improvement in water volume within the past three months, although as recently as September 1978 he experienced an insufficient amount of water for his family needs over a two-hour period on at least two occasions. Other than the testimony outlined above, the witness offered no further evidence concerning his complaint.

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1/ A misdemeanor action was brought against Henry P. Snyder, owner of Hinkley Valley Water Company, in May 1977, in the Barstow District of the San Bernardino Municipal Court by the County Department of Environmental Health Service (People v Henry P. Snyder, Case No. M03232) for violation of California Health and Safety Code, Section 4011, and Sections 36024 and 36026 of the San Bernardino County Code (operating a domestic water supply system without a permit and failure to take required bacterial monitor samples). Among the various orders issued by the court in a series of hearings was one which required Snyder to install a water storage tank and to add an additional well to the Hinkley Valley Water Company system.

Owens read his complaint into the record. He outlined the hardships his family has had to endure each summer because of a lack of water. He personally complained to Snyder many times and testified of receiving promises from Snyder that he would repair the system, but that nothing was actually done about it. The witness also testified that the San Bernardino County Environmental Health Services Department filed a complaint against Snyder concerning certain health violations by defendant and that Snyder was ordered to install a 9,000-gallon water storage tank as well as installing another well in the water system. Owens stated that not only was the tank disconnected because of the oil taste after four days of usage, but that the additional well has yet to be drilled and put into operation. According to Owens, it is between the months of May and September that the residents of Hinkley are without water because of the heat and heavy demands for water during those months. He further testified that there are 40 metered customers in Hinkley being supplied water by defendant and that defendant has two pumps in operation supplying a maximum of 30 gallons per minute (gpm) when it should be furnishing 60 gpm to the 40 meters.

In testifying for the complainants, several of the residents related the difficulties they experienced in the summer months when there was insufficient water available

during periods of illness of family members. One witness testified that both she and a neighbor living 200 feet away had wells drilled on their property, after having to borrow the necessary money to do so, and that they were both successful in striking good water at 140-150 feet despite the advice of the Mojave Water Agency that there was insufficient water at Hinkley for its residents. Another witness, employed by defendant to read meters, testified as to repair problems he experienced and the lack of proper repairs to an existing leak in the system.

Although defendant failed to file answers to the complaints, its owner Snyder was permitted to make a statement. He stated that he has spent approximately \$7,288.51 for repairs to the system since acquiring the water company in 1973 and that the customers have not been asked to contribute for those repairs. It was his understanding, at the time he purchased the water storage tank, that it would deliver potable domestic water. He has attempted to get additional wells one and one-half miles away, but was unsuccessful. He has been advised by the Mojave Water Agency that there is bedrock at 130 feet and the likelihood is that he would have a dry hole if he drilled a new well. However, he intends to drill another well and put it on the line in December. He stated that he has been contacted by the San Bernardino County Special Districts Section as to the possibility of consolidating the Hinkley water system with another service area of the county and is awaiting further word from them. Defendant has been charging the tariff rates since acquisition of the water system and it has not sought any rate increases because of the problem of its wells drying up in the summer months. Snyder expects the water volume problem to disappear when he puts in the new well.

Discussion

It is obvious from the record that the present water service system operated by defendant is deficient with respect to the availability of water, water delivery volume, and water storage facilities. Defendant has three wells for its source of water supply, of which only two are serviceable and providing water. These two wells provide water at the rate of approximately 15 gpm each to serve approximately 40 metered customers. This delivery volume is inadequate to serve defendant's customers, and falls well below the minimum requirements of 100 gpm as set forth in General Order No. 103 for serving 40 metered customers. Defendant has obtained a 9,000-gallon storage tank, but it is currently inoperative because it has apparently not been purged of its oil contamination from prior use (and is thus not acceptable for potable water use). Although the water supply and water storage deficiencies are separate, they are related problems in that a sufficiently large enough storage facility can alleviate the inadequacy of the water supply so as to provide continuous service to the customers. Since defendant's owner Snyder is currently under court order to add a water storage tank and an additional well to the water system, it is presumed that the tank alone would be insufficient. He faces possible contempt action if he fails to comply with the court order within the specified time to comply.

A water public utility owes a high degree of responsibility to the public it serves and as part of that responsibility assumes an obligation to its customers to insure a healthy, adequate, and continuous supply of water. It also has a duty to repair its facilities, if damaged, to insure adequate service. It appears

that defendant has failed to meet its duty to its customers. The ensuing order will require defendant to comply with the court order to add a potable water storage tank and an additional well to its system. Defendant is advised that this Commission will not favorably consider any request for rate relief until there is compliance with these requirements.

If defendant fails to bring its water system up to required and reasonable standards as ordered by the court and this Commission, the residents of Hinkley might be well advised to consider alternatives to the water system operated by defendant. County condemnation action or the formation of a mutual, a special water district, or individual well systems should be considered. Failure to maintain required standards would certainly be a negative factor to be considered in any condemnation proceeding.

Wetterman requests that he be awarded \$500 for damages to his water pumps and motors attributed to the lack of water reaching his evaporative cooler and for other expenses incurred as a result of the lack of water. This Commission has long held that it does not have jurisdiction to award damages for alleged loss due to inadequate service (Walker v Pacific Tel. & Tel. Co. (1971) 71 CPUC 778).

Findings

1. The residents of Hinkley are presently being provided water service by defendant from its two wells.
2. Defendant's two wells have been providing a maximum water flow of approximately 15 gpm each for the past four years.

3. Defendant's water system does not meet the requirements of General Order No. 103 with respect to water supply requirements contained therein.

4. During the period from May through September of each year, defendant has failed to provide a continuous water supply to its customers.

Conclusions

1. Defendant's present sources of water supply from its two wells are inadequate to ensure year-round continuous service.

2. With defendant's present wells, a water storage tank is necessary. Even with an additional well, a storage tank would be beneficial in ensuring peak demand, continuous year-round service.

3. Defendant's present water tank is not potable for domestic water consumption and requires purging of oil contamination before it can be put into use in defendant's water system.

O R D E R

IT IS ORDERED that:

1. On or before June 30, 1979, defendant shall either purge its currently owned 9,000-gallon storage tank of its contamination and have it certified potable for domestic water consumption by the county health department, or obtain another potable water storage tank of comparable capacity and install it into its Hinkley water system.

2. On or before July 30, 1979, defendant shall add at least one additional well to its water system. ✓

3. On or before July 30, 1979, defendant shall file with the Commission a notice of compliance of this order along with a detailed summary of action taken, and whether or not it is meeting the minimum flow capacity required by General Order No. 103. ✓

C.10615, 10643 es

4. The request for damages by complainant Donald Ray Wetterman is denied.

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

Dated at San Francisco, California, this 22nd day of MAY, 1979.

John E. Byron  
President  
James L. Thompson  
Richard D. Klock  
Robert J. D'Amico  
James L. Thompson  
Commissioner