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Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SAUCITO LAND COMPANY)
 for an exemption from the provisions)
 of Decision No. 89195, and for)
 authorization to exchange water)
 service area from Area B to Area A,)
 Monterey.)

Application No. 58550
 (Filed December 26, 1978)

Wallace Holm, Architect, for Saucito Land Company,
 applicant.

Lenard G. Weiss, Attorney at Law, for California-
 American Water Company, and L. W. McIntyre,
 Public Works Director, for City of Monterey,
 interested parties.

Sara S. Myers, Attorney at Law, for the Commission
 staff.

O P I N I O N

Statement of Facts

Sited on the magnificent Monterey Peninsula, one of the most attractive regions in the United States, and overlooking the surf-swept arc of Monterey Bay, the city of Monterey is bursting at the seams and suffering growth pains as available land becomes built up. The continued influx of people creates pressures for expansion. The natural expansion area must be to the lands lying east and southeast of the city limits. Peaceful in their pastoral setting and featured by high ridges, Monterey pine forests, steep brush-covered slopes, and dramatic oak-studded mesas, these lands extend along State Scenic Highway No. 68 from the Aguajito to the Los Laureles Grade. The rate and nature of growth is a matter of areawide concern, with some trying to discourage growth, others wanting to meet it as it comes, and still others wanting to anticipate it by creating a process to make it work

for the benefit of all. But of all the considerations, probably the paramount factor will be the availability or nonavailability of water, and for the Monterey Peninsula, the water story is the story of Case No. 9530. That case is the backdrop against which any application for water service must be considered.

Case No. 9530

Case No. 9530 was this Commission's order instituting investigation into the operations, practices, service, equipment, facilities, rules, regulations, contracts, and water supply of the Monterey District of California-American Water Company (Cal-Am) A review of the attendant circumstances and relevant decisions reached in that case is in order here.

In 1975 and ensuing years Cal-Am was particularly adversely affected by the severe drought conditions then being experienced in much of California. Following an application in 1973 by Cal-Am to extend service to a project known as Hidden Hills, a conglomerate-type real estate development project adjacent to the Los Laureles Grade just south of Route 68 (and about 5-6 miles east of the instant project), the staff in a preliminary investigation concluded that Cal-Am, instead of being in a position of being able to extend service to Hidden Hills, very possibly would be unable even to meet requirements in its existing dedicated service area. Accordingly, this Commission opened an Order Instituting Investigation (Case No. 9530). Shortly thereafter on May 30, 1973 by Decision No. 81443 we imposed restrictions upon Cal-Am against serving developments other than municipally sponsored redevelopment or renewal projects whether inside or outside its service area.^{1/}

^{1/} Certain exceptions were provided for, not applicable here, where prior to May 30, 1973 subdivisions had reached certain stages of approval.

The Case No. 9530 proceeding continued. After a complete study the Commission on June 10, 1975 issued Decision No. 84527 wherein, inter alia, we found:

"7. The water supply situation is such that there is no justification for rescinding or liberalizing our interim order of May 30, 1973."
(Decision No. 81443.)

We went on in Decision No. 84527 to order a reaffirmation and continuation of the restrictions against provision of water to new service connections other than those in municipally sponsored redevelopment or renewal projects absent issuance of valid building permits prior to the effective date of our order. Case No. 9530 continued, and the years 1975-1977 were two of the driest years on record,^{2/} finally resulting in the imposition of rationing.

Fortunately, with the addition of three wells in the Carmel Valley, construction of the Begonia Iron Removal Plant, and completion of the Canada de la Segunda pipeline, Cal-Am was able to develop additional water supplies to bring its normal year volume up to a maximum of 18,000 acre-feet. Normalized water usage (without rationing or conservation) was calculated to be approximately 16,565 acre-feet per year. Happily, the drought finally ended with the return of seasonal rains. Accordingly, by Decision No. 89195 dated August 8, 1978, the Commission terminated Case No. 9530, after concluding that the 18,000 acre-feet supply of water available in a normal year would suffice to serve all existing customers in Cal-Am's Monterey Peninsula District until approximately 1983.

Meanwhile, in May 1978 Cal-Am began the local agency and environmental impact approval process which must be completed before the construction of four additional wells and a related iron removal treatment plant in the lower Carmel Valley can be commenced. The construction of these four wells and the plant is necessary to enable Cal-Am to develop an additional approximate 5,000 acre-feet of water annually from the lower reaches of the Carmel Valley aquifer. That additional supply

^{2/} According to the California Department of Water Resources.

would allow Cal-Am to deliver a total of approximately 22,000 acre-feet annually; the amount it was estimated which would be required to accommodate all present and potential customers within Cal Am's existing boundaries allowing for a 100 percent build-out. However, this augmented supply would provide nothing for any expansion of service beyond the utility's existing service boundaries. In anticipation that this additional supply would come on stream within a reasonable period in the immediate future, the Commission, to accommodate pressures for build-out within existing service area boundaries, on August 8, 1978 in Decision No. 89195 rescinded restrictions against additional service connections within Cal-Am's service borders, but restricted service outside by providing in Ordering Paragraph 6 that:

"6. Cal-Am shall not extend water service beyond the boundaries of its present service area in the Monterey Peninsula District without prior Commission approval."

This order continues in force today, and is the order from which an exception is here sought.

At this point it is helpful to review some history behind Cal-Am's extension of its service area to include the so-called "Ryan Ranch".

The Annexations

First - Monterey: In March of 1968 the city of Monterey annexed 547.7 acres of land belonging to the T. A. Work Estate; land known locally as the Ryan Ranch. Straddling the junction of Routes 68 and 218 and at places contiguous to the then existing city limits, but entirely outside Cal-Am's service area, the land was undeveloped, largely covered by brush and oak and pine trees. The annexation, however, effectively completed the surrounding by Monterey and Del Rey Oaks of a large tract of land, approximately 600 acres in extent, land mostly used by the Monterey Peninsula Airport.

In 1977 the city of Monterey, having acquired some \$600,000 under a Federal Public Works Act program, determined to build a new corporation yard, and acquired a 62-acre segment of the Ryan Ranch intending to use 10 acres for the new yard and to sell or lease the remaining 52 acres for private development. It was proposed to name this 62-acre segment the Ryan Ranch Industrial Park. The industrial

park was to be served by an 8-inch pipeline, with initial service to the corporation yard and future service to be available as the city sold or leased the rest to private interests. It was intended that all domestic service would be supplied from another source, i.e., wells (but the wells came in dry). The city applied to Cal-Am only to learn that the entire area was outside Cal-Am's existing boundaries and would be subject to the restrictions against further service connections as set forth in Decisions Nos. 81443 and 84527. Thereupon the city asked Cal-Am to expedite processing "permission" through this Commission for fire service to the proposed industrial park. To support this request the city public works director furnished the vice president of Cal-Am and manager of its Monterey Peninsula District, Mr. Richard Sullivan (Sullivan), with a letter dated December 1, 1977 outlining the city's request and attaching a map entitled "Proposed Fire Main, Ryan Ranch Industrial Park, City of Monterey, 11/30/77". The map set forth the 62-acre segment of the 547-acre Ryan Ranch (diagonally striped) and indicated the proposed fire main (see Appendix A).

Second - Cal-Am's Advice Letter No. 167: On January 11, 1978, Cal-Am filed with the Commission (pursuant to normal contiguous area extension practice) its Advice Letter No. 167, requesting extension of Cal-Am's service area to incorporate the Ryan Ranch Industrial Park, and enclosed a copy of the city's letter of December 1, 1977 and the city's map. But Cal-Am also added a map marked "Exhibit B", which outlined in red and shaded the entire 547.7 acres of the Ryan Ranch. On this map the shaded area was indicated as "new city limits and service area" (see Appendix B). In addition, Cal-Am filed the customary service area map to cancel the existing service area map. This latter new map, CPUC Sheet No. 1201-W to cancel CPUC Sheet No. 965-W, also set forth the entire 547.7-acre Ryan Ranch as the extension territory; not merely the 62-acre segment requested by the city for the corporation yard and industrial park. This latter map - a Cal-Am map entitled "Service Area & Pumping Lifts - Monterey & Seaside" - bore the notation: "NEW CITY LIMITS AND SERVICE AREA". But only the western half was shaded pink, although the corporation yard and industrial area are in the eastern half of the ranch.

Apparently construing (1) the filing of the service area extension as a purely administrative act under provisions of Section 1001 of the Public Utilities Code,^{3/} (2) the proposed corporation yard and industrial park project as a "municipally sponsored redevelopment or renewal" project,^{4/} and (3) the use of a fire service main for

3/ Section 1001 of the Public Utilities Code in relevant part provides:

"This article shall not be construed to require any such corporation to secure such certificate for an extension within any city..., or for an extension into territory either within or without a city...contiguous to its... system, . . ."

Normally, contiguous service area extensions are approved by the utility's filing advice letters which include revised CPUC Sheets (Service Area Maps and Tables of Contents). These automatically become effective 30 days after filing unless the staff seeks an Order of Suspension and Investigation (OSI). Once effective, the provisions of Section 453 of the Public Utilities Code provide that the utility must not discriminate in providing service to anyone within its boundaries. In this instance, after the February 20, 1978 effective date, the entire Ryan Ranch was entitled to service on an equal basis with any other area within the Cal-Am Monterey Peninsula District. Although at the time the provisions of Decisions Nos. 81443 and 84527 still prevented any new service connections anywhere in the District, immediately thereafter on August 8, 1978 these restrictions were lifted as to new service connections within the District, leaving only extensions outside the District boundaries unobtainable without prior Commission approval. In other words, the Ryan Ranch in its entirety was "in".

4/ The proposed corporation yard was a new project, and neither it nor the proposed Ryan Ranch Industrial Park were "municipally sponsored redevelopment or renewal" projects as contemplated under the provisions of Decisions Nos. 81443 and 84527.

distribution service as being acceptable practice in certain circumstances as a consequence of Decision No. 88391 issued January 24, 1978 in Application No. 57713,^{5/} the staff routinely processed the extension filing since no water was immediately required for non-municipal use, and the extension was allowed to become effective on February 10, 1978 after 30 days without further consideration.

When immediately thereafter, in the closing days of the proceedings in Case No. 9530, the question arose of Cal-Am's ability to serve its existing territory, assuming a 100 percent build-out, and assuming that the anticipated additional water production from the three new Carmel Valley wells would be reasonably forthcoming, Cal-Am was directed to prepare and present an exhibit projecting 100 percent build-out consumption, area by area. Cal-Am's exhibit^{6/} estimated that 100 percent build-out of its existing territory would require 22,415 acre-feet of water annually. Included in Cal-Am's 100 percent build-out projection were two estimates to cover the 547 acres of the Ryan Ranch. For then unexplained reasons but which we now presume were efforts to reflect different zoning usage, the Ryan Ranch was divided into two segments, one north and the other south of Route 68. Under the heading "Monterey - Ryan Ranch" was an estimate of 400 acre-feet to serve the estimated 400 acres^{7/} of the Ranch lying north of Route 68. The

5/ Fire protection mains enjoy a special status under the Commission's Standard Rule 15. Decision No. 88391, recognizing some special circumstances existing in that instance, allowed the applicant therein to connect his 24-unit condominium to a 12-inch main by way of a 6-inch fire main extension. The decision expressly stated: "This finding is not to be construed as a precedent for relaxation of the restrictions provided by Decision No. 81443, nor as changing the status of the fire protection main under the Commission's Standard Rule 15."

6/ Exhibit R-1 in Case No. 9530; reproduced in Appendix B in Decision No. 89195.

7/ In making this estimate Cal-Am erred. The actual Ryan Ranch acreage north of Route 68 is 371 acres; comprised of Area B - 309 acres; the corporation yard - 10 acres; and the industrial park - 52 acres. Cal-Am's projection computation was based on 400 unserved ~~areas~~ ^{areas} with one potential service per acre using one acre-foot of water annually per service. The ~~correction~~ projection for this area should have been 371 acre-feet. *ll*

remaining 147 acres^{8/} of the Ranch lying south of Route 68 were provided for under an allocation of 386 acre-feet included in the 6,964 acre-feet ✓ listed under the heading "Monterey". Thus for all the 547 acres of the Ryan Ranch there was an estimate included of 786 acre-feet (400 + 386) for 100 percent build-out.

Having set forth the background and history against which the instant application must be considered, we now can turn to the application and the issues.

The Application

For close to 70 years the Work Family has owned approximately 3,300 acres of the lands along Route 68 east of Monterey.^{9/} The segments bear different names: Monterra, the Ryan Ranch, and Tarpey Flats. Over the past 13 years different developers have submitted plans for development to the city, but none came to fruition. Until the Hidden Hills application (noted earlier), it always had been assumed that there was underground water available throughout the area. Since 1973 wells have been drilled and proved otherwise: either producing insufficient water, dry holes, or water of high saline content. It is now well-recognized that any development of these lands will be dependent upon outside water. Therefore, water allocation is critically important.

The instant application is made under the name of Saucito Land Company (Saucito), the instrumentality currently involved in proposed development of part of the Work Family land holdings in the Route 68 area. A duly noticed public hearing on this application was

^{8/} The actual number of acres south of Route 68 in the Ryan Ranch were 176; comprised of Area B-1 - 98 acres; Area C - 28 acres along Route 68; and Area D - 50 acres in the School District. Cal-Am's projection computation was based on 147 unserved acres with a density of .36 acres per service and each service requiring .73 acre-feet annually. The correct projection should have been 481 acre-feet for the Ryan Ranch lands south of Route 68.

^{9/} On which allegedly it has paid over a million dollars in taxes.

held in Monterey on February 22, 1979 before Administrative Law Judge John B. Weiss. At the conclusion of the hearing the matter was submitted. By its application as amended, Saucito sought an order from this Commission authorizing Cal-Am to remove from its service area 407 acres of Saucito's property north of Highway 68 in exchange for the addition to Cal-Am's service area of another 407 acres owned by Saucito south of Highway 68. At the hearing, evidence was presented by an architect appearing for Saucito, the owner-operator of the Monterey Ford Agency, the planning director of the city of Monterey, a senior hydraulics engineer of the Commission staff, and Cal-Am's vice president and manager of its Monterey Peninsula District.

Discussion

For convenience in reference and discussion we have identified the various land areas involved in this proceeding as follows (also see the map: Appendix C hereto):

Area A: A 407-acre parcel made up by about 91.7 acres of Tarpey Flats (zoned "Commercial"), and the balance by Monterra land. It is all south of Route 68 and west of Area D. Monterra is not yet rezoned although an application is pending to obtain planned housing unit development zoning. Outside both Monterey city limits and Cal-Am's service area, without Commission approval under Decision No. 89195 it is ineligible for Cal-Am water.^{10/}

Area B: A 309-acre segment of the Ryan Ranch north of Route 68, zoned "Light Commercial", inside Monterey city limits and Cal-Am's service area (as a result of Advice Letter No. 167) it is eligible for Cal-Am water.

Area B-1: A 98-acre segment of the Ryan Ranch lying south of Route 68, not rezoned, but within Monterey city limits and Cal-Am's service area (as a result of Advice Letter No. 167) it is eligible for Cal-Am water.

^{10/} Physically situated within Area A, but excluded from acreage figures used herein, is a 20-acre tract of land owned by Cal-Am and used exclusively for reservoir purposes.

Area C: The 28.3-acre pandhandle segment of the Ryan Ranch lying south of and extending parallel to Route 68 to a depth of 300 feet. Sometimes considered part of "Tarpey Flats", it is zoned "Commercial", within Monterey city limits and Cal-Am's service area (as a result of Advice Letter No. 167) and eligible for water service.

Area D: A 50-acre tract of undeveloped land sold by the Work Family to the Monterey Peninsula Unified School District; it is within Monterey city limits and Cal-Am's service area (as a result of Advice Letter No. 167) and eligible for water. It was part of the Ryan Ranch participating in both annexations.^{11/}

Area E: A 62-acre segment of the Ryan Ranch north of Route 68, earlier sold by the Work Family to the city of Monterey. It is inside the city limits and in Cal-Am's service area (as a result of Advice Letter No. 167). Consequently, it is eligible for water service apart from the 8-inch fire line. Subdivided, the city uses 10 acres for a corporation yard and is developing the remainder as an industrial park to be sold or leased to private interests. The first building is complete.

While the details of its development plans were changed somewhat between submission of the original application in this proceeding and the date of the hearing,^{12/} Saucito has submitted concept plans to the city of Monterey seeking approval to proceed with the development

^{11/} It should be noted that although it was reported that the school district says that some day they will build there, there is some question when and if a high school will ever be built, in part because of Proposition 13, and in part because the Airport Land Commission reportedly has indicated that they would never allow a school facility there because the site is on a left downward runway approach.

^{12/} The initial application anticipated development of an auto center, a shopping complex, and a PUD residential complex to include 700 units: 36 SFD, 136 townhouses, and 528 apartments.

of Tarpey Flats and part of Monterra.^{13/} Saucito would start with the development of a commercial area, including an "auto row" and a shopping center in the 120-acre area rezoned "Commercial" (28.3 acres from Area C and 91.7 acres from Area A), and continue with the development of residential housing in the remaining approximate 315.3 acres of Area A (407 - 91.7 = 315.3). Development would be stretched out over several years starting with the commercial area on the flat lands and then moving up the hillside with residential units. Ultimately, Saucito would hope to expand eastward counterclockwise to develop all of Monterra, but those long-term plans, while apparently fitting into the General Plan of the city of Monterey (see Monterey II, a plan for the Highway 68 area to the year 2000; Exhibit 7 in this proceeding), are not at issue here.

To achieve this initial development objective, however, Saucito must first obtain approval from this Commission for Cal-Am to extend its service area to embrace Area A. Recognizing that under local city planning, Area A (zoned or to be zoned commercial and residential housing) has a development schedule priority over Area B (zoned light industrial) by five years, and that the city of Monterey working with the county through the Local Agency Formation Commission (LAFCO) and other agencies want to apply the planned village concept of the master plan for the area (Monterey II: a plan for the Highway 68 area to the year 2000) to this project (Monterra contains two of the areas designated for villages in Monterey II, and Village I would embrace much of Area A), so that Monterey has indicated willingness to annex Area A,

^{13/} The Monterey city planning director testified that the 8,000-acre area east of Monterey to the Los Laureles Grade was in Monterey's sphere of influence, potentially annexable to Monterey, and that as part of the city's planning in 1976 the city approved the Monterey II plan as an amendment to the city's General Plan. Under this plan the Ryan Ranch was shown as light industrial but with the possibility of a city park should the city be able to get funds to purchase the land. Tarpey Flats was shown as a potential regional commercial center which could include an auto complex.

Saucito seeks this order to allow Cal-Am to transfer water service rights presently enjoyed by Areas B and B-1 to an Area A parcel of estimated equivalent water usage. Thus Saucito would exchange the existing rights enjoyed by the 309 acres of Area B and the 98 acres of Area B-1 for equivalent rights for 407 acres in Area A. All three areas are undeveloped and legally owned by Saucito.

As matters now stand, Area A, the land area best suited for housing and so designated in the master plan, Monterey II, is outside Cal-Am's water service area and under provisions of Ordering Paragraph 6 of Decision No. 89195 cannot have water service extended to it by Cal-Am without prior approval by this Commission. On the other hand, Area B, suitable for and zoned "Light Industrial", is both within the city limits and Cal-Am's water service area. Saucito could proceed with development in Area B today. But the need for light industrial development can be adequately met by the city's 52-acre industrial park where the first building is now being completed, and the need for additional development is possibly five years away.

In support of its proposal Saucito produced testimony to the effect that as a consequence in part of urban renewal the auto dealers in Monterey who remain must relocate; that 8 to 10 dealers already have moved to Seaside with substantial sales tax revenue loss to Monterey,^{14/} and that the 4 remaining dealers want to remain in Monterey, relocating to a proposed automotive complex to be located in the Tarpey Flats area.^{15/} Saucito also produced evidence that Monterey's primary land

^{14/} Estimated to be approximately \$200,000 annually.

^{15/} The local Ford dealer testified that the remaining Monterey dealers plan to develop 30 acres in Tarpey Flats as an automotive complex and want to remain in Monterey. The city planning director told of Monterey's need to retain the sales tax revenue remaining, and said that the city council's attitude would be very strongly to try to do everything possible to retain the remaining dealers.

usage requirements at the present time are for housing in that housing was extremely tight with a very low vacancy rate.^{16/} Housing relief is difficult in that there is insufficient remaining land on the peninsula and the most important undeveloped area is in the eastward lands along Route 68 toward Salinas. The Monterey director of planning stated that, while the city needs and hopes to obtain more employment centers in order to diversify its economy and provide jobs for its citizens in fields other than tourism and the military, the immediate need is housing. Closely related is the tax revenue problem and he testified that the tax losses must be stemmed.

Analyzing the transfer as originally proposed in its application by Saucito, a proposal which would have involved appropriation of water in an estimated amount of 473.3 acre-feet to the then proposed Area A in exchange for the 400 acre-feet estimated needed to build out the "Monterey-Ryan Ranch" set forth in Cal-Am's water consumption projection exhibit in Case No. 9530, the staff demurred, correctly concluding that misconceptions flawed the proposal, and that as proposed the trade would result in disparate and excessive allocation of water and should be denied.^{17/} However, when at the hearing Saucito revised its position and proposed a tradeoff of all its existing water entitlement rights in Areas B and B-1 for a 400-acre-foot water entitlement for Area A, with the 400 acre-feet to include a pro rata allocation to meet the requirements of the city's corporation yard and industrial park and the school district's needs, the staff witness removed his objections. The revised tradeoff proposal was further coupled to a collateral agreement by Saucito that while Saucito would start construction as soon as approvals were obtained on its plans, it would not commence drawing any

^{16/} According to the city planning director, the city's rental vacancy rate is 2½ percent as compared to a more desirable 5 percent.

^{17/} Actually the 473.3 acre-feet estimated by the staff would have provided water only for a part of the initially proposed Area A. It developed that the units set forth were for only a partial build-out of the area. A full build-out would have required more water.

water until Cal-Am actually received its permit to proceed with the four new wells presently tied up in the local agency and environmental impact report process.^{18/} For its part, Cal-Am, after pointing up the difficulties which would be involved were it required to attempt any effective policing of water consumption limits which might be based upon estimated consumption as set forth in its Case No. 9530 exhibit, and repeating again its avowed policy not to willingly increase its service obligations beyond capacity to deliver, expressed willingness to exchange service territories so long as the exchange did not result in an increase in the estimated consumption for the new area over the old certificated area to be traded. The Cal-Am attorney also lauded the Work Family for its civic contributions, particularly in regard to the Canada pipeline project which crosses Work Family-owned Montererra.

The proposed development of Area A, combined as it will be with the planned concurrent commercial development of Area C,^{19/} would provide

18/ In April or May of 1978, Cal-Am applied to Monterey County for use permits to cover the development of the four new wells in the lower Carmel Valley endorsed in concept by Decision No. 89195 in Case No. 9530; the wells designed to provide 5,000 acre-feet of additional water to bring the supply up to where Cal-Am can deliver 22,000 acre-feet of water annually. In January 1979 the Board of Supervisors, after an appeal, concurred with the Planning Commission that an Environmental Impact Report would be required before a permit could issue. At the time of hearing, 10 months later, the county, the lead agency, was attempting to secure a consultant to prepare an Environmental Impact Report.

19/ It must be remembered that Area C, the 28.3-acre stretch of land 300 feet wide alongside Highway 68 is also both inside Monterey's present city limits and Cal-Am's water service boundaries. Zoned "Commercial", it can be developed by Saucito whenever Saucito chooses. Consolidated with the 91 acres part of Tarpey Flats lying inside Area A, it would form the site for the auto dealers' automotive complex and the future shopping center. Both uses are in harmony with the master plan, Monterey II, and both would be low water consumers.

a needed residential complex in keeping with Monterey II, the city's master plan village concept; one located just where the master plan contemplated location of the first village. It would provide construction jobs and, later on, permanent employment opportunities in the commercial areas. It would preserve some sales tax revenues and create additional property tax revenues for Monterey. It would provide a future shopping center. While construction would commence fairly soon, actual water consumption would not begin until later, at a time when Cal-Am finally receives its use permit for the new lower Carmel Valley wells. The water earmarked for the demands to be created by Area A development would be no unanticipated burden, but rather would be part of a quantity already earmarked for and allocated to build-out of Areas B and B-1, build-out which would now not occur. Areas B and B-1 would lose their earmarked water and would be excised out of Cal-Am's certificated area, and would stand along with other lands outside Cal-Am's service boundaries in the future.

We do have difficulties, however, when we contemplate imposition of limits on water demand, assuming the exchange were to be approved. This Commission does not intend to be in a position of attempting to police the allocation of water within Cal-Am's service boundaries. The difficulties that Cal-Am pointed up are only too real. At the hearing Saucito proposed that Area A be granted a maximum usage of 400 acre-feet, less a pro rata share to be left for use of the city's corporation yard and industrial park, and less an amount for the school district's property.^{20/} The city was alarmed at such an allocation being proposed.

^{20/} Although then the applicant argued that the school district's school would probably not be built at all because of airport landing patterns, or that it would be "15 years down the road"; the connotation being that no water need be allocated for the school property out of the 400 acre-feet.

expressing concern about being included in any limitations at all. But the city's position overlooked the fact that in its 1978 application to Cal-Am, subsequently processed as Advice Letter No. 167, the city had requested only fire protection, asking nothing for domestic or industrial use, stating that it intended "to supply all domestic use from another source". It was only later that the wells drilled came in dry or unusable. The staff testified that Advice Letter No. 167 was approved on the basis that it was fire protection only that was being approved; that at the time none of the lands involved, corporation yard, industrial park, or the remainder of the Ryan Ranch, was entitled to connect to domestic or industrial water from Cal-Am under the prevailing restrictions. It was only after Decision No. 89195 was issued on August 8, 1978 that these lands became entitled to water other than fire protection. While we are not pleased with the somewhat less than straightforward manner by which Advice Letter No. 167 was used to bring the entire 547.7 acres of the Ryan Ranch into Cal-Am's service area when Monterey had merely requested inclusion of 62 acres for the corporation yard and industrial park, the extension of boundaries was made under our established procedures applicable to contiguous territory annexations and will not be now disturbed. The basic decision whether or not a utility will extend its service area or dedicate its facilities to serve a new or contiguous area, absent franchise considerations, is one for the utility to make. However, it is open to serious question whether Cal-Am's management acted prudently in enlarging its dedicated territory beyond the immediate municipal demand in this instance when the water supply to its existing consumers was restricted. By the method followed it effectively "grandfathered in" about 485 acres of extra Ryan Ranch land so that when the internal service connection restrictions within the service territory were lifted, these Ryan Ranch acres would be entitled to water service on an equal footing with all other unserved lands within Cal-Am's service area boundaries. Similarly, if we grant this exchange and permit Cal-Am to add Area A to its service

area, the lands in Area A must thereafter stand on the same footing as any other of the unserved lands within Cal-Am's service territory as to rates, charges, service, facilities, or in any other respect (see Section 453 of the Public Utilities Code which prohibits a public utility from making or granting any preference or advantage to any person).

On balance we therefore conclude that while an exchange of geographic areas would be in the overall public interest at this time in that it would put to the best utilization a scarce commodity, water, by providing housing and an automotive complex, both needed now by the city of Monterey, the exchange must be limited to an acreage exchange based upon equivalent estimated water usage as applicant proposed. We believe that there is validity in the Cal-Am water consumption projection presented to the Commission as an exhibit in Case No. 9530 and used in Decision No. 89195, and we will use those build-out projections, including the underlying density and service requirement factors used in arriving at those projections. Applying these density and service factors to Areas B and B-1, we obtain a total acre-foot projection of 566.5 acre-feet of water for 100 percent build-out:

<u>Area B:</u>	309 acres at 1 acre-foot per acre	= 309	acre-feet
<u>Area B-1:</u>	98 acres at 2.628 acre-feet per acre	= <u>257.5</u>	acre-feet
		Total	566.5 acre-feet

To arrive at an Area A land mass which would utilize an equivalent 566.5 acre-feet of water, we divide this 566.5 volume by the same 2.628 acre-feet per acre factor which was applied to Monterey in the

1978 Cal-Am water consumption projection for similar 100 percent build-out, and derive an equivalent land mass acreage applicable to Area A of 215 acres.^{21/}

Accordingly, at this time if applicant wishes to proceed on this abbreviated basis, we would approve Cal-Am's extension of its service territory to embrace therein an Area A land mass to consist of 215 contiguous acres (see map: Appendix C for approximate location) extending southward from the southern border of the present 28.3 acres of the panhandle area along Route 68 (which earlier in this opinion we designated as Area C with water service to be available as needed).^{22/} Thus the combined Areas A and C acreage would be 243.3 acres (215 + 28.3). The extended service area embraced within Area A should be defined as far as possible by logical natural boundaries, avoiding any small unserved enclaves or peninsulas. At such time as Cal-Am annexes the above 215 acres it will also de-annex the 407 acres presently comprising Areas B and B-1, removing these lands from its service territory entirely. These latter lands will thereafter revert to the status of lands outside the utility's service boundaries with no rights to receive water from Cal-Am, except as provided by Ordering Paragraph 6 in Decision No. 89195. The concurrent annexation and de-annexation of these lands will be processed by advice letter proceedings in conformance with this opinion.

^{21/} Saucito had no meaningful estimate for water consumption for its proposed Area A to present; its plans are still merely concept plans for the city to consider. However, it placed emphasis upon its intentions to avoid high water elements, specifically mentioning its rejection of consideration to include the Del Mar Laundry in the Tarpey Flats commercial area, and stated that its first two-year increment of housing would avoid single-family detached units. While Saucito presented general residential usage figures, these were not tied in any meaningful or specific way to plans for Area A.

^{22/} This approach serves the further purpose of leaving intact the respective rights to water service now held by the city for 62 acres (Area E) comprising the corporation yard and Ryan Ranch Industrial Park, and by the school district for 50 acres (Area D) of the school site.

Findings of Fact

1. The influx of people to the Monterey area continues.
2. The existing housing market in the Monterey area is very tight and the city of Monterey is seeking to expand the number of housing units available to its citizenry.
3. Civic requirements, including widening of certain streets, have mandated relocation of the Monterey auto dealers, forcing some to move to Seaside with consequent serious loss of sales tax revenues to the city of Monterey.
4. There is insufficient land unused within Monterey to accommodate all the new housing needed or the requirements of the auto dealers remaining.
5. Monterey's natural expansion would be to the 8,200 acres of the lands east and southeast along Route 68 from the Aguajito to the Los Laureles Grade. Among these lands are the Ryan Ranch and the Monterra.
6. Monterey's long-term planning, exemplified by Monterey II, its plan for the Highway 68 area to the year 2000, contemplates and plans such directed expansion.
7. The remaining auto dealers in Monterey, in agreement with the city, want to remain in Monterey, and specifically, to relocate on the Tarpey Flats area of the Monterra.
8. The Ryan Ranch lands, including a small segment of Tarpey Flats, were annexed to Monterey in 1968 and to Cal-Am's service territory in 1978.
9. The Monterra, including the balance of Tarpey Flats, lies outside Cal-Am's service territory.
10. Cal-Am is prohibited by the terms of Ordering Paragraph 6 of Decision No. 89195 from extending water service beyond the boundaries of its service area without prior permission of this Commission.
11. Saucito, a development instrumentality of the Work Family, owns the entire Ryan Ranch and the Monterra.

12. Saucito could develop the 309 acres of the Ryan Ranch north of Route 68, but this area is zoned "Light Industrial" and there is no immediate requirement for such development.

13. Instead, Saucito seeks to develop part of the Monterra, including that part of Tarpey Flats apart from the panhandle, for needed residential and commercial development, with the latter area to include an automotive complex for the Monterey car dealers.

14. Saucito's proposals to develop part of the Monterra in exchange for not developing the Ryan Ranch less the panhandle area, would require nonequivalent tradeoffs in terms of estimated water consumption, using the 1978 Cal-Am water consumption projection factors as the basis for computation of estimated usage per acre.

15. These proposed nonequivalent tradeoffs would not be in the public interest.

16. Development by Saucito of 215 acres of the Monterra, including that part of Tarpey Flats apart from the panhandle, for housing and commercial, in exchange for not developing the Ryan Ranch less the panhandle area, would involve an equivalent exchange in terms of estimated water consumption.

17. Development by Saucito of these 215 acres of the Monterra would be in the public interest, providing needed jobs, homes, an automotive complex, and tax revenues.

Conclusions of Law

1. If within a reasonable period Saucito wishes to proceed with development of 215 acres of the Monterrra in exchange for not developing the Ryan Ranch less the panhandle, Cal-Am should be permitted to extend its existing service area boundaries to include these 215 acres owned by Saucito, and at the same time Cal-Am must remove the 407 acres of the Ryan Ranch owned by Saucito (but not including the 28.3 acres of the Ryan Ranch panhandle also owned by Saucito) from its existing service area.

2. Cal-Am should be authorized to arrange this exchange of service area territories by advice letter proceedings.

O R D E R

IT IS ORDERED that California-American Water Company will be granted an exception to the provisions of Ordering Paragraph 6 of Decision No. 89195 in Case No. 9530, and, upon the filing with this Commission of an appropriate advice letter within six months following the effective date of this order, will be authorized to adjust the boundaries of its present service area in its Monterey Peninsula District such as to extend that service area to include 215 acres owned by Saucito Land Company at the northwest corner of the Monterra; the extension to be in exchange for the concurrent removal from its present service area of the easternmost 407 acres of the Ryan Ranch owned by Saucito Land Company.

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

Dated at San Francisco, California, this 3rd day of JULY, 1979.

John E. Byron
President
George L. Stegeman
Robert D. Swalle
Clair J. Daniels
Donald H. King
Commissioners

A. 58550
SAUCITO LAND CO.
APPENDIX A

1" = 1500'

PROPOSED RYAN RANCH
INDUSTRIAL PARK

8"

PROPOSED FIRE MAIN

RYAN RANCH

ANNEXATION 4/19/68

PROPOSED FIRE MAIN
RYAN RANCH INDUSTRIAL PARK
CITY OF MONTEREY
11/30/77

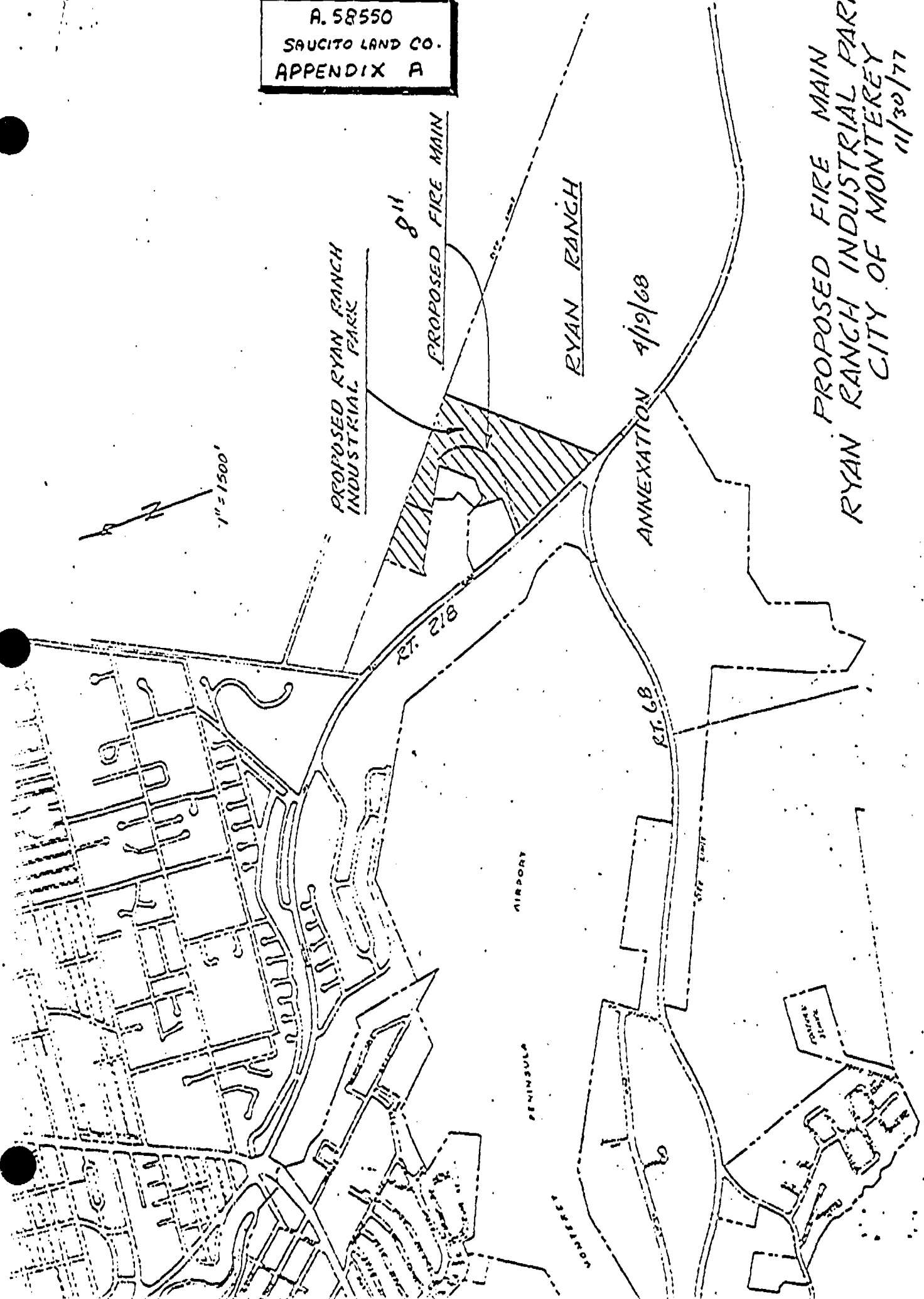


Exhibit B

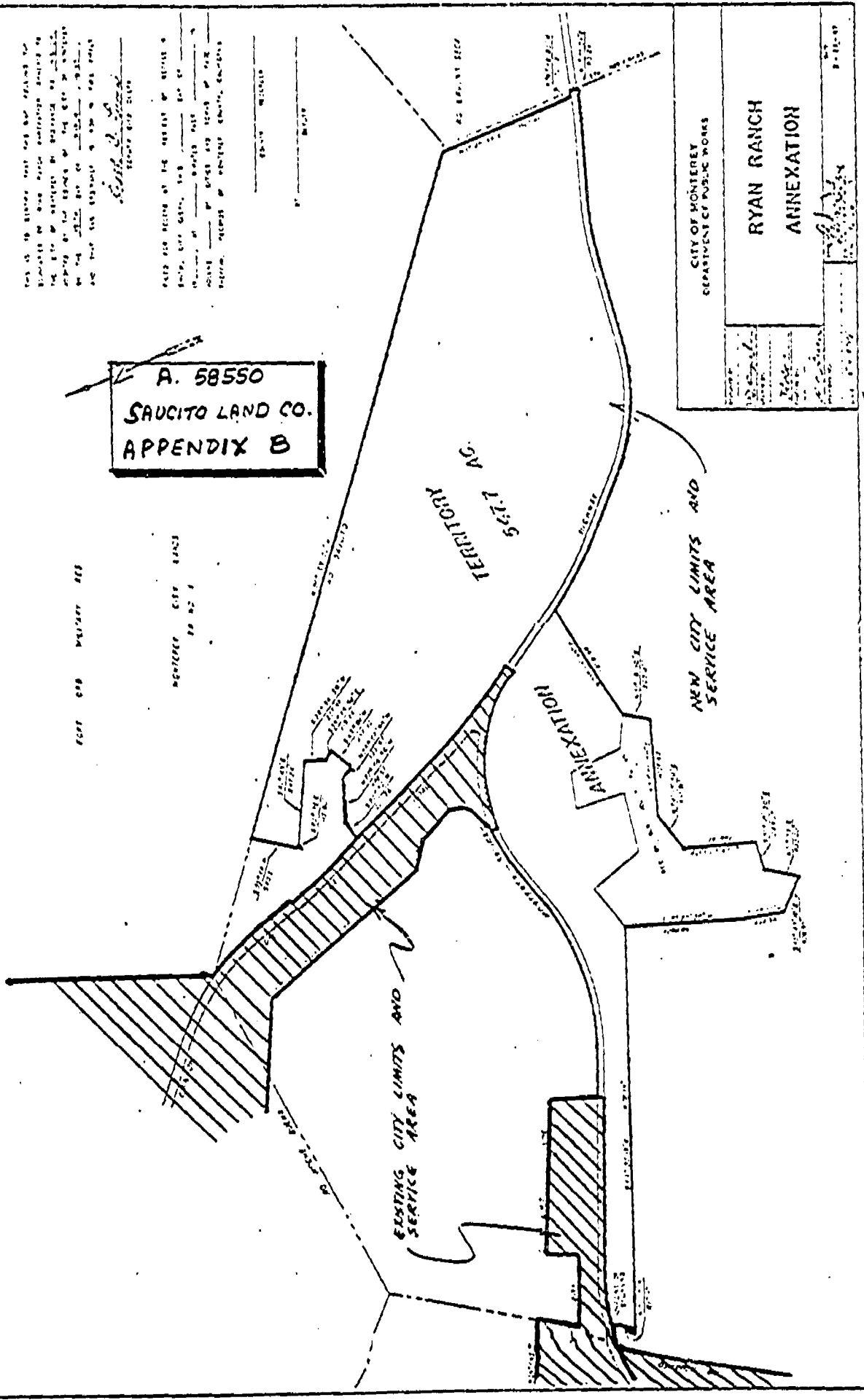
VOL. 9 OCT. PG. 57

THIS IS TO CERTIFY THAT THE SEVERAL PARCELS OF LAND HEREIN DESCRIBED ARE THE PROPERTY OF SAUCITO LAND CO. AS SHOWN ON THE MAP OF SAUCITO TERRITORY ANNEXATION OF THE CITY OF MONTEREY, CALIFORNIA, AS APPROVED BY THE BOARD OF SUPERVISORS OF SAUCITO TERRITORY, CALIFORNIA, ON THE 15TH DAY OF OCTOBER, 1911, AND THAT THE SAID SEVERAL PARCELS ARE NOT SUBJECT TO ANY OTHER CLAIM OR INTEREST.

Edith J. ...
Recorder

THIS IS TO CERTIFY THAT THE SEVERAL PARCELS OF LAND HEREIN DESCRIBED ARE THE PROPERTY OF SAUCITO LAND CO. AS SHOWN ON THE MAP OF SAUCITO TERRITORY ANNEXATION OF THE CITY OF MONTEREY, CALIFORNIA, AS APPROVED BY THE BOARD OF SUPERVISORS OF SAUCITO TERRITORY, CALIFORNIA, ON THE 15TH DAY OF OCTOBER, 1911, AND THAT THE SAID SEVERAL PARCELS ARE NOT SUBJECT TO ANY OTHER CLAIM OR INTEREST.

A. 58550
SAUCITO LAND CO.
APPENDIX B



CITY OF MONTEREY
DEPARTMENT OF PUBLIC WORKS

RYAN RANCH
ANNEXATION

REDUCED SCALE

DB-339

PRINT 2166

A. 58550
 SAUCITO LAND CO.
 APPENDIX C

LEGEND FOR SHADING

	B+G-I	407 ACRES
	A	215 ACRES
	A	407 ACRES

THE MONTERRA

