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ORIGINAL

Decision No. 91332 FEB 13 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ROY E. LOMPA, an individual, for a Certificate of Public Convenience and Necessity to Construct Public Utility Water and Sewer Systems near the City of Hollister in San Benito County and to Establish Rates for Service.	Application No. 58763 (Filed March 23, 1979; amended June 21, 1979)

Richard H. Hargrove, Attorney at Law, for Roy E. Lompa, applicant.
John S. Kupiec, for the Commission staff.

INTERIM OPINION

The application of Roy E. Lompa (Lompa) seeks a certificate of public convenience and necessity under Public Utilities Code Section 1001 to construct public utility water and sewer systems in the County of San Benito near the City of Hollister. A public hearing was held on August 27, 1979, before Administrative Law Judge Robert T. Baer and the matter was submitted subject to the filing of late-filed Exhibit 3 by the staff and Exhibit 6 by Lompa. The staff filed Exhibit 3 on August 28, 1979, and Lompa filed Exhibit 6 on November 6, 1979. The proceeding is now ready for decision.

The Applicant

Lompa is a farmer who was born in San Benito County and who has lived there all of his 52 years. He is married and has five children, all of whom are living at home. Home to Lompa is a house, newly built three or four years ago, situated on the point of a bluff overlooking a valley of orchards and farmland, some of which belongs to and is farmed by him. Lompa was raised in the orchard business, majored in animal husbandry at U.C. Davis, and now farms truck crops in San Benito County and cotton and truck crops in the San Joaquin Valley. Lompa testified that, assuming he is able to develop the subject property, he will still be in the farming business in the vicinity since he has been doing very well with truck crops and orchards on his other land near the subject property.

The Property to Be Developed

The property subject to Lompa's development is 81.8 acres, of which 22.0 acres (Lot 170) is zoned AB-225 and 59.8 acres is zoned R-1.[1/] Lot 170, a 22-acre parcel, is prime agricultural land, a small part of which is to be used for the sewage treatment plant. The 59.8-acre parcel is in large part located on a plateau approximately 100 feet above, and across Southside Road from, Lot 170. Of the 170 lots to be developed, 120 are located on the plateau and 50 at the foot of the plateau.

Lompa testified that he has tried for four years to farm the plateau land. He planted cannery tomatoes one year, market tomatoes two years, onions, cucumbers, and sugar beets without success.[2/] He was finally able to make a small profit on a crop of barley hay and oat hay.

1/ City-size lots approximately 10,000 square feet on the average.

2/ "I absolutely lost my fanny on them..." (Tr. 17.)

In Lompa's opinion the plateau land is marginal ground, that is, not prime agricultural land, a fact which is supported by its R-1 zoning. The property has been zoned R-1 for 8-10 years, and was zoned R-1 before Lompa acquired it. No rezoning or changes in the county general plan were required to be made before Lompa's preliminary subdivision map was approved by the county. Lompa's property is the only undeveloped R-1 zoned property in the county. The other residential zones are limited to one-acre, five-acre, or twenty-acre lots.

Alternatives to Certification

When Lompa began exploring the idea of developing the subject property, he first approached the Sunnyslope County Water District (the District), the southern boundary of which is the northern boundary of the subject property. The District serves the contiguous Ridgemark Golf Course and the single-family residences and apartments adjacent thereto. The District was not interested in annexing Lompa's development, claiming it was out of their sphere of influence and "they weren't going to take the effort and time to go to LAFCO[3/] to ask to have their sphere of influence enlarged." (Tr. 7)

Lompa next sought the approval of LAFCO to form a county service district covering the development. A service district would allow the county to tax the property in the development to provide certain services such as police and fire protection, street lights and maintenance, garbage collection, and public water and sewer service. LAFCO denied Lompa's application reasoning that the development was "urbanizing a fringe area." (Tr. 8.)

Finally, Lompa explored the formation of a mutual water company to provide service to his development but was told by the District Attorney's Office that the county did not consider a mutual

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3/ Local Agency Formation Commission.

water company satisfactory, since it did not provide publicly owned or publicly regulated water service. Accordingly, a final subdivision map would not be approved if water service were provided by a mutual water company.

Lompa attributes his inability to employ one of the above alternatives to "local politics". (Tr. 13,30.) He stated that two members of the Board of Supervisors are big stockholders in the Ridgemark development, which is adjacent to his proposed development and which is provided sewer and water service by the District. Two other members of the Board of Supervisors are members of LAFCO. They are George Kincaid, the supervisor from Lompa's district and Ennis Silva, representing the San Juan Bautista District. Neither Mr. Silva nor Mr. Kincaid own stock in the corporate developer of Ridgemark. However, "Ridgemark did put on a big barbecue...for the supervisor in my district [Kincaid], and they kind of ran his campaign for him this last election. It was held there at Ridgemark..." (Tr. 35.)

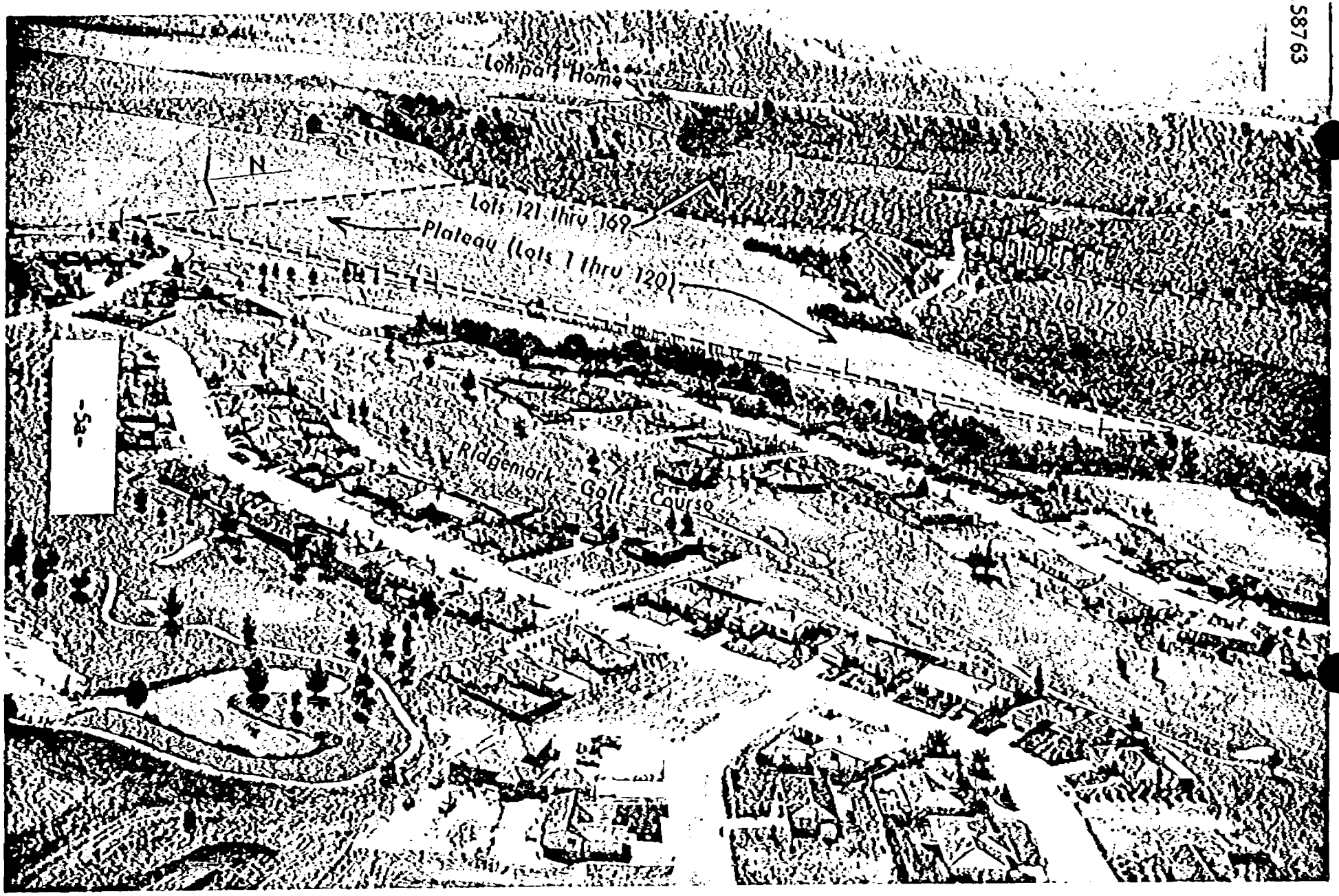
Lompa reported some parts of a conversation he had with Mr. Kincaid the very day Lompa was to appear before Kincaid and other members of LAFCO. Lompa said:

> "George, I am coming up before LAFCO tonight, and I understand you are on the board, and I just thought I would like to give you a little finer detail of what we are trying to do down there, so that you have a better understanding of the thing.
>
> "So I told him exactly how we propose to dispose of the waste, and about our water situation...
>
> "And at the conclusion of the discussion, about 30 minutes,...he says to me, 'What do you want to worry yourself with this thing for? Why don't you just sell it to somebody like Ridgemark, or somebody, and forget about it?'
>
> "And I says,...'I would like to try it myself.'

> "And then, we talked a little bit more about the duties of LAFCO. And he says, 'Well, I will tell you what I will do. I will go down and check with Sonny Pallis', and anyhow he is Chairman of the Board, I think, of Ridgemark." (Tr. 33.)

Lompa asked with some frustration why his supervisor must "go down and ask the Chairman of...the Ridgemark Country Club, whether what I am asking LAFCO to do is right or wrong?" (Tr. 33.) Perhaps the answer is that Ridgemark is the logical competitor for the right to develop the subject property since it shares a common boundary with the subject property 2124 feet long. (Exhibit 1.) The Ridgemark development occupies a portion of the same plateau whereon lies the subject property, as the aerial photo plainly shows.

(See photograph)



Proposed Scenic Southside Subdivision - San Benito County

The Proposed Development

The development, as proposed by Lompa, will involve only the sale of lots with houses and with front yards landscaped. Lompa's real estate consultant estimated that total revenues from sales of lots with houses should exceed $20,000,000, at $120,000 per unit in 1979 dollars. He also estimated that it would take a minimum of 5 years and a maximum of 10 years to improve, develop, and sell the property. He stated that it would be very likely that Lompa would find it necessary to participate in the financing of the sales of the developed units by subordinating a note and second deed of trust to the primary financing. Thus, his involvement in long-term financing of the completed units would commit him to a concern for the development for a period well beyond the date of sale of the last unit.

Technical Feasibility

The technical feasibility of the proposed water and sewer systems was not challenged.[4/] The water supply is from established wells within the area of the subdivision. The water will first be pumped to a 100,000-gallon storage from which it will be delivered by gravity to 49 customers at static pressures of 55 to 60 psi. The remaining lots will be served by a hydropneumatic pressure system, consisting of a 6,000-gallon pressure tank and three booster pumps and designed to maintain a minimum of 40 lbs. pressure in the system and a fire flow from a hydrant of 1,000 gallons per minute.

The sewage collection system will discharge by gravity into a package treatment facility with a 60,000-gallon-per-day capacity. The level of treatment is designed to meet discharge requirements for secondary treatment as established by the Central Coast Region of the California Water Quality Control Board. The

4/ The Hydraulic Branch of the Commission staff was not a party to the proceeding.

sewage will be treated by an extended aeration process followed by an oxidation/percolation pond with supplemental usage as irrigation water for tree crops. There are no wells within 500 feet of the discharge point and the depth to ground water is 56 to 70 feet.

Financial Feasibility

Lompa estimated that his water operation would produce a minus 1 percent return during the first full year of operation, a .1 percent return during the fifth year and a .5 percent return during the tenth year. Similarly, he estimated that his sewer operation would produce a minus 2 percent return the first year, a 3.1 percent return the fifth year, and a 1.8 percent return the tenth year. Yet even these minimal returns may be overstated. Lompa estimated his depreciation expense for the water system at $1,000 the first year, $2,000 the fifth year, and $3,000 the tenth year. He estimated his depreciation expense for the sewer system at $200 the first year, $850 the fifth year, and $1,200 the tenth year.

His witness testified that small water companies use a percentage depreciation rate of 2 to 3 percent. However, at a 3 percent depreciation rate, the sewer and water depreciation expense should be:

	1st Year	5th Year
Water system	$3,881	$5,701*
Sewer system	$5,677	$8,772*

* May be overstated because of understatement in years 1 through 4.

Lompa's witness conceded that the depreciation expense was understated in the application, based upon the calculations using a 3 percent depreciation rate. He did point out, however, that actual or physical depreciation does vary considerably from depreciation for accounting or tax purposes.

The Commission staff was represented in this proceeding by the Revenue Requirements Division. The staff's report (Exhibit 2) recommended that the application be denied because the proposed system would be too small to be economically viable. The staff, pointing to the minimal estimated returns, contended that: "If actual construction costs exceed estimates or if fewer than 170 customers are using the system, or if expenses are higher than estimated by Mr. Lompa, the company could be in a net loss position at the end of ten years."

The staff report remarked repeatedly on the economic unfeasibility of a 170-customer water system. However, those same water customers are also sewer system customers. The same personnel would manage, operate, and maintain both systems, providing some economy to the operation as a whole.

The staff also testified that the system, with only $42,066 in total revenues, could not support one full-time employee. Lompa proposed, however, to contract out the operation and maintenance of the system to a certified operator with employees available 24 hours a day, seven days a week. They would provide regular maintenance and inspections three times weekly and would be available within 3-5 hours to take care of emergencies. In addition, Lompa would provide backup to his contractor. Because of his long experience with farming and irrigation, he is familiar with the operation of pipelines, pumps, and wells. His availability is assured by his residence and farms in the area.

Proposed Rates

The water rates proposed to be charged are flat rates based on lot size, as follows:

Rates	Per Service Connection Per Month
7,500 sq.ft. or less	$ 7.50
7,500 to 10,000 sq.ft.	9.00
10,000 to 15,000 sq.ft.	11.25

The sewer charge proposed is $11.40 per residential unit per month.

The proposed rates also include an optional[5/] metered service schedule of rates, as follows:

"Rates:

"Service Charge:	Per Meter Per Month
For 3/4-inch meter	$ 4.60
For 1-inch meter	$ 6.20
For 1 1/2-inch meter	$ 8.70
For 2-inch meter	$11.30
All above 2-inch shall be set at time of application.	

"Quantity Rate:

For all water delivered per 100 cu.ft.	$ 0.22

"The Service Charge is a readiness-to-[serve] charge applicable to all metered service and to which is to be added the monthly charge computed at the Quantity Rate." (Schedule No. WM-1.)

The bill for a customer with a 3/4-inch meter using 1,800 cu.ft. per month under the proposed rates would be $8.56 ($4.60 plus (18 x $.22)). The bill for a customer of the District with identical service would be $6.10, $6.92, or $8.30, depending upon the schedule to which he is subject. The District's sewer service rate is $7.00

5/ "...if the utility or the customer so elects, a meter shall be installed at the electing parties' [sic] expense..." (Schedule No. W-1.)

compared to Lompa's rate of $11.40. A typical customer's composite sewer and water rate for one month would be:

	Lompa	District		
Water	$ 8.56	$ 6.10	$ 6.92	$ 8.30
Sewer	11.40	7.00	7.00	7.00
Total	$19.96	$13.10	$13.92	$15.30

This comparison ignores, however, the impact of property taxes on the customers served by the District. Exhibit 6(d) is a schedule of tax rates in San Benito County for 1977-1978. It shows that the District levies a property tax of $.03 per $100 of assessed valuation. A home with a fair market value of $120,000 in the proposed subdivision, if it were served by the District, would pay $9.00 annually to the District in property taxes, or an additional $.75 per month for sewer and water service. Some of the areas served by the District are subject to additional improvement district levies of either $.09 or $.53 per $100 of assessed valuation, which rates produce additional taxes of $27.00 and $159.00 per year, respectively.[6/] A hypothetical District customer, owning a $120,000 home may pay $13.85, $15.35, or $27.10 for water and sewer service, depending upon the property taxes to which he is subject.[7/]

6/ The assessed value of property subject to the District's $.03 levy is $99,112,847. Only 2.3 percent of that sum is subject to the additional $.09 levy, while 1.4 percent is subject to the additional $.53 levy. (Exhibit 6(d).)

7/ If Lompa's subdivision were annexed to the District, it is possible that an improvement district could be formed and that the residents of the subdivision would pay the capital costs of their water and sewer services through the property tax.

The comparison of rates made heretofore also ignores the District's $600 connection charge (Exhibit 6(c)) and the economic costs of plant contributed by developers.

It is difficult to make reliable comparisons between the rates proposed by Lompa and those assessed by the District, first, because of the uncertain effects of the property taxes, and second, because Lompa does not propose to meter his customers, while the District does meter its customers. Nevertheless, Lompa's proposed rates and the District's rates are not grossly dissimilar. Lompa's hypothetical metered customer would pay $19.96 per month for water and sewer service. A customer served at Lompa's proposed flat rates would pay a maximum of $22.65 for water and sewer service. Neither figure is shocking in comparison either to the range of rates (including taxes) apparently paid by District customers or in comparison to the carrying costs (principal, interest, taxes, and insurance) home buyers expect to pay. In fact, a rate in the high 20's or low 30's would not be unreasonable in our opinion.

Discussion

By its Resolution No. M-4708, dated August 28, 1979, the Commission formally adopted a policy on the certification of Class D water companies. After finding that lack of economies of scale often results in a limited return on the owner's investment and poor service to the customer, the Commission resolved to:

> "(a) deny certificates for operations which are likely to be unviable or marginally viable or provide inadequate service, whether or not an existing entity can provide service to the subject area;
>
> "(b) deny certificates for a potentially viable system if another entity, such as a public utility or public district, is able to serve the proposed area;"

* * *

"(e) grant certificates for proposed water systems only when (1) need for the utility is demonstrated by applicant showing that no other entity is willing and able to serve the development and concrete present and/or future customer demand exists, and (2) viability is demonstrated, ordinarily through the following tests:

" - proposed revenues would be generated at a rate level not greatly exceeding that set for comparable service by other water purveyors in the general area;

" - the utility would be self-sufficient, i.e., expenses would be supported without their being allocated between the proposed utility and other businesses;

" - the applicant would have a reasonable opportunity to derive a fair return on its investment, comparable to what other water utilities are currently being granted."

From the foregoing recitations of fact it is obvious that: (1) Lompa has demonstrated a need for a certificate to operate a public utility water company, (2) no other entity is willing and able to serve the development, and (3) concrete present and/or future customer demand exists.[8/]

8/ In addition to Lompa's property, there is a 320-acre parcel contiguous both to Lompa's property and to the Ridgemark development, which is likely to be developed. It is owned by a large construction corporation, and, while it is now zoned for 5-acre parcels, its contiguity to the country club and golf course and the absence in the county of other R-1 zoned property suggest that the parcel may in the future be rezoned and developed into city lots and homes. (Tr. 22-23.)

The primary disputed issue in this proceeding is the viability of the proposed water and sewer system. According to Resolution No. M-4708, subsection (e), viability is demonstrated by a three-factor test, the first of which is rate level. The rate level of the public utility must not greatly exceed those of other water purveyors in the general area. Upon reflection it is abundantly clear that a public utility water company would rarely if ever be able to pass this test if the other water purveyors were publicly owned. The rates of public districts and municipally owned water systems do not recoup property taxes, income taxes, return on equity, or interest costs at market levels, as do the rates of public utilities. In addition, the rates of publicly owned systems do not usually recover all operating expenses, since some increment thereof is typically recovered through the property tax. Thus, the rate levels of a public utility will generally suffer in comparison to the rate levels of a public district providing a similar service in the same general area.

On the other hand, if the rates do not significantly exceed the rates of publicly owned purveyors, then those rates are not likely to defray all operating expenses without allocation to non-utility businesses (the "self-sufficiency" test) nor are they likely to produce a fair rate of return (the comparable earnings test). Thus, at one stroke our adopted policy would in practice deny certification to virtually every applicant near a publicly owned water system, even if that system is unable or refuses to annex the applicant's development. The result is that the publicly owned system is the only game in town. Such a situation, if it is allowed to persist, could lead to the kind of abuses of which this record is so suggestive. We believe that our policy on certification of water companies, while it is in general sound, should be flexible enough to allow for

exceptions where special circumstances are demonstrated, as in this case. Accordingly, a certificate of public convenience and necessity should be granted, subject to the terms and conditions hereinafter discussed.

Further hearings should be held in this proceeding. It is quite probable that a combination of higher, but still reasonable, rates and increased contributions[9/] to the proposed utility could result in revenues that would defray all operating expenses and provide a reasonable return on equity. We will require the Hydraulic Branch and Lompa to introduce into evidence alternatives to the rates and results of operations proposed in the application when further hearings are held in this proceeding.

In the meantime Lompa should be required to formally request that California Water Service Company, San Jose Water Works, and any other large public utility operating in the areas surrounding San Benito County operate and maintain the proposed system. It may be that one or more of such entities may be willing to operate the proposed system as a noncontiguous district if a part or all of the plant is contributed. Evidence of such formal, written requests and replies thereto should be introduced into evidence during public hearings to be held subsequently.

Lompa should also renew his efforts to convince the members of the Board of Directors of the District that they should annex his development. Lompa should make a detailed report of his appearances before the Board and of his contacts with each Board member during the hearings to be held subsequently. We believe it likely that once

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9/ Both Lompa (Tr. 29-30) and his counsel (Tr. 57) expressed a willingness to increase the level of contributed plant in order to make the proposed operations more feasible. Lompa noted specifically that if his development were annexed by the District, he would be required to contribute the whole of the facilities to the District.

the members of the Board of Directors learn that the Commission has issued a certificate of public convenience and necessity to Lompa, they will be more favorably disposed to annexation.

One other matter requires our attention. By letter to the Commission dated August 20, 1979 (Exhibit 5) the executive officer of the California Regional Water Quality Control Board - Central Coast Region (WQCB-CCR) informed the Commission:

> "Because of a long history of problems with private sewer companies, it is this Board's policy to require a public agency with taxing authority to own, properly operate, and maintain such proposed sewage treatment and disposal systems. This requirement was indicated to the applicant in a comment letter dated June 9, 1978 on the draft EIR (copy enclosed). As a result, the applicant proceeded to establish a public agency to satisfy our requirements. However, the Local Agency Formation Commission denied formation of the agency, therefore the project could not be implemented. The project has since been in abeyance and recent communication with San Benito County Planning staff indicated the EIR remains uncompleted. Accordingly, waste discharge requirements have not yet been established by this Board. When or if waste discharge requirements are adopted, a public agency will be required to own, operate, and maintain the wastewater collection, treatment, and disposal system. A privately owned sewer company is unacceptable to the Board."

Legal counsel for Lompa took the position that ownership, operation, and maintenance of wastewater collection, treatment, and disposal systems by a privately owned, Commission-regulated sewer corporation is not prohibited as a matter of law. He did not concede that there was no possibility that the WQCB-CCR would allow his client to own and operate such facilities.

We are not inclined to make any jurisdictional determinations for the WQCB-CCR, to determine the extent of its legal authority, or to speculate whether or not it will follow the policy statement quoted heretofore in Lompa's case. However, since Lompa cannot lawfully operate a sewer system until the WQCB-CCR has established the discharge requirements for that system, it is not necessary to make the exercise of the authority granted herein conditional upon the establishment of such discharge requirements.

Findings of Fact

1. Lompa lives with his wife and five children within sight of the proposed development. He has lived in San Benito County for 52 years and plans to stay there and farm his remaining property after the proposed development is completed and the last lot with house is sold. He plans to retain a financial interest in each of the developed lots through notes and second deeds of trust. He will do all billing and accounting for the water and sewer system and will provide emergency backup for the contractor hired to operate and maintain the system.

2. All 170 lots will be sold with homes and front yards landscaped.

3. Lompa plans for the water and sewer system to be operated by contract with Jose Ramirez, a licensed water and sewer (Class III) operator whose company operates a number of private and public water and sewer systems. Service personnel are available at all times and will conduct regular and extraordinary maintenance.

4. The District provides water and sewer service to the Ridgemark development which is adjacent to the proposed subdivision. The District refuses to annex the proposed subdivision.

5. LAFCO refuses to allow the establishment of a county service area to provide water and sewer service.

6. The County of San Benito will not allow a mutual water company to provide service to a subdivision.

7. The proposed subdivision is largely zoned R-1, is ripe for development, and the County has approved Lompa's tentative subdivision map.

8. There is abundant water, supplied by established wells, on the property to be developed.

9. The water and sewer systems are technically feasible.

10. No reason appears of record to prevent the annexation of the proposed subdivision to the District or the establishment of a county service area, other than certain nonlaudatory motives suggested by the testimony quoted and discussed heretofore.

11. Lompa is a fit person, with the qualities of character and pertinent experience to operate a public utility water and sewer company.

Conclusions of Law

1. While it is the policy of the Commission to discourage the creation of small water and sewer companies, and to encourage their annexation or consolidation to existing publicly owned entities or public utilities, an exception should be made where the contiguous district refuses without good cause to serve the proposed development, where the proposed utility is likely to be financially viable, where the owner has longstanding ties to the area, where his contact with and interest in the area and the development are likely to continue after the units are completely sold, and where the certification of the utility may induce the neighboring public entity to reconsider annexation.

2. Lompa should formally request in writing that major public utilities in Santa Clara, Santa Cruz, and Monterey Counties consider operating and maintaining the development's water and sewer systems. Copies of the letters making such requests, and replies thereto, should be introduced into evidence during further hearings in this proceeding.

3. Lompa should continue to appear before and to contact the members of the Board of Directors of the District regarding his request to annex his subdivision to the District. Lompa should introduce into evidence at future hearings a detailed written report of both past and future contacts and appearances.

4. Lompa should investigate in more detail the status of the adjacent 320-acre parcel and its readiness for development and report thereon in future hearings.

5. Lompa's acceptance of certificates of public convenience and necessity to operate water and sewer systems should constitute a waiver of any right to receive more than the value of utility plant for rate base purposes in any proceeding to condemn or value, or in any negotiated sale of, his water and sewer systems to a public entity or public utility.

6. The Commission should retain jurisdiction to modify, or revoke the following order, in whole or in part, should circumstances warrant such changes.

7. Lompa and the Hydraulic Branch of the Commission staff should submit alternative results of operations and rate proposals in further hearings.

8. Further hearings should be held in this proceeding on a date or dates to be set for the purposes of receiving the evidence referred to heretofore and for the purpose of implementing Conclusion of Law No. 6, if necessary.

INTERIM ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Roy E. Lompa, an individual doing business as G.P.&E. Utilities Company, authorizing him to construct a water system, as defined by Section 240 of the Public Utilities Code, and to operate a water corporation, as defined by Section 241 thereof, subject to the terms and conditions specified in the Conclusions of Law.

2. A certificate of public convenience and necessity is granted to Roy E. Lompa, an individual doing business as G.P.&E. Utilities Company, authorizing him to construct a sewer system, as defined by Section 230.5 of the Public Utilities Code, and to operate a sewer system corporation, as defined by Section 230.6 thereof, subject to the terms and conditions specified in the Conclusions of Law.

3. The Commission hereby retains jurisdiction of this proceeding for the purposes specified in Conclusion of Law No. 6.

4. Further hearings shall be held in this matter at a time and date to be set and for the purposes specified in the Conclusions of Law.

5. Within thirty days after the effective date of this order, Roy E. Lompa shall file a written acceptance of the certificates granted. Acceptance of the certificates shall constitute a waiver of Roy E. Lompa's right to receive more than the rate base value of his utility plant, as determined by the Commission, in any subsequent condemnation or negotiated sale of his plant. Acceptance of the certificates shall also signify his willingness to comply with

all statutes and Commission General Orders applicable to the operation of water or sewer systems.

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

Dated FEB 13 1980, at San Francisco, California.

President

Commissioners

I dissent.

JOHN E. BRYSON, Commissioner

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

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D.91332

Commissioner John E. Bryson, Dissenting

I dissent. This is the first time we have been faced with a developer who wishes to start a small water and sewer utility in clear violation of our recent policy statement, Resolution M-4708, adopted on August 28, 1979. If this system is built we can foresee long-range problems for both the consumer and the taxpayer. Nevertheless, despite Resolution M-4708 and twenty years of frustration with the problems of small water companies, we have granted authority to build. I am sympathetic to the developer's apparent problems with local public entities. Nevertheless, this Commission should not allow itself to be used as a means to review or reverse the decisions of local government, particularly when this result can only be achieved at the expense of applicant's future customers.

February 13, 1980
San Francisco, California

JOHN E. BRYSON
President