

Decision No. 91422 MAR 18 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition of Citizens Utilities Company of California for authorization to institute a temporary moratorium to the provision of new water service in its Montara District.

Application No. 59321  
(Filed December 6, 1979)

Jack H. Grossman, Attorney at Law (New York),  
for Citizens Utilities Company of California, applicant.  
William S. Heaslet, for Montara Sanitary District, interested party.  
Eugene M. Lill, for the Commission staff.

INTERIM OPINION

By its application filed December 6, 1979 Citizens Utilities Company of California (Citizens) seeks authorization to hold in abeyance for a period of one year all pending and new applications for water service in its Montara District, except for 61 applications that have been received and accepted by Citizens. Citizens requests the moratorium on new water service connections pending development of new wells and completion of a revised analysis of its ability to serve new customers.

Citizens serves water to 1,271 customers in its Montara District, which includes the areas of Montara, Marine View, Farallone City, Moss Beach, and adjacent areas in San Mateo County.

History on Moratorium

By Decision No. 86193<sup>1/</sup> dated August 3, 1976, we ordered:

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<sup>1/</sup> In Application No. 55538, general rate increase filed March 6, 1975 and Case No. 10093, general service investigation instituted May 4, 1976.

- "1. Respondent shall acquire new sources of water for its Montara service area capable of producing at least 200 gallons of water per minute and within thirty days after the effective date of this order, and every thirty days thereafter until such new sources of water are in operation, shall file with this Commission a progress report.
- "2. Within sixty days after the effective date of this order respondent shall file a water management plan for the interim period from the date hereof until the time that the water supply has been increased as required by Ordering Paragraph 1. Such plan shall give priority to conservation of water and to assurance of continuity of service in an emergency.
- "3. Respondent shall make no new connections until such time as it can demonstrate a sufficient water supply to provide for additional customers without adversely affecting service to existing customers. Respondent shall exempt therefrom all applicants for service having a building permit issued prior to August 3, 1976.
- "4. Respondent's demonstration of a sufficient water supply shall be based upon data taken from a well testing program, including existing wells and new wells, giving consideration to such factors of production as drawdown occurring with the simultaneous pumping of nearby wells or transmission pipeline limitations, and shall be conducted under the supervision of a registered engineer."

Our 1976 decision held that no new water service connections<sup>2/</sup> could be made until Citizens could demonstrate a sufficient water supply to provide for additional customers without adversely affecting service to existing customers in its Montara District.

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<sup>2/</sup> All applicants for water service having a building permit issued prior to August 3, 1976 were exempted from the moratorium on new water service connections.

By Decision No. 88618<sup>3/</sup> dated March 21, 1978, we ordered:

- "1. Citizens Utilities Company of California shall continue its efforts to acquire new sources of water for its Montara service area capable of producing at least 200 gallons of water per minute and shall continue to file with this Commission a progress report every thirty days until such new sources of water are in operation as was ordered in Decision No. 86193.
- "2. On and after the effective date of this order, applicants for water service having a valid sewer permit may be connected to the Montara District water system of Citizens Utilities Company of California.
- "3. Citizens Utilities Company of California shall continue to emphasize and encourage conservation of water in its Montara District."

Our 1978 decision held that applicants for water service having a valid sewer permit may be connected to Citizens' Montara District. This decision relaxed our 1976 moratorium against new connections, for those holding sewer permits.

We found in the 1978 decision that: "There are 55 valid sewer permits outstanding with imminent expiration dates." In our opinion we stated: "The Montara Sanitary District advises that there are presently 55 valid sewer permits outstanding, issued prior to the December 1977 order of the Regional Water Quality Control Board (Quality Board). Most of these permits are reported to expire in April, May, or June, and cannot be renewed." On December 20, 1977 the Quality Board ordered the Montara Sanitary District (Sanitary District) to cease permitting additional sewer

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<sup>3/</sup> In Case No. 10093, general service investigation reopened February 7, 1978.

connections subject to certain exclusions. Early in 1976 the Quality Board placed a moratorium on new sewer permits and then removed it in April 1977.

Citizens now states that the Sanitary District has only recently issued new sewer permits. Persons holding these permits qualify for water service pursuant to Decision No. 88618. Citizens further states that it cannot continue to extend water service to the large number of new applicants that have recently been issued sewer permits without adversely affecting service to existing customers.

Hearing

After notice and publication, public hearing was held before Administrative Law Judge J. J. Doran in Half Moon Bay on January 30, 1980 and in San Francisco on January 31, 1980. The matter was submitted upon the receipt of late-filed exhibits due February 11, 1980. Complaint Case No. 10821, Bruce R. Johnson, et al. v Citizens Utilities Company of California, had been consolidated for hearing with this application but is being decided by a separate decision.

Sanitary District

A director of the Sanitary District stated that the Quality Board authorized the Sanitary District to issue 237 sewer permits in October 1979 and that the Sanitary District has issued 201 permits to date. He estimates that the sewer permits will come on line in one to three years. The director stated that the Sanitary District needs to complete sewer improvements by July 1, 1983 and finances its capital improvements through the sewer permit fees, currently \$1,000. The fee is nonrefundable and terminates in three years if not used. Further, within the last 30 days, the Sanitary District determined by lot count that there are 1,022 buildable lots in the area. The Sanitary District director estimated that they could handle 675 permits over the 237 now authorized based upon their authorized capacity.

The Sanitary District states that the area they serve basically is the area Citizens serves and that the area has been under a building ban for over three years except for a short period in 1977 when 55 permits were issued.

The Sanitary District expects the Quality Board's approval to issue additional permits as soon as a contract to build the pumping facilities for the Midcoast Regional Sewer Project has been awarded (estimated to be in the next few months). The Sanitary District expects to finance its share of the project to meet wastewater discharge requirements by sewer permit fees.

The Sanitary District sent a letter dated March 12, 1979 to Citizens stating:

"The Montara Sanitary District covering Montara and Moss Beach, is currently under a Cease and Desist order imposed by California Regional Water Quality Control Board. We are accepting applications on a waiting list which now numbers 131 applications.

"If the Cease and Desist order is lifted in the near future would these applications for sewer permits be able to get water permits for hook-up? We would appreciate a reply to be read at the regular public meeting on March 29, 1979."

Citizens reply dated March 16, 1979 stated:

"This is in reply to your inquiry of March 12, 1979 with regard to the availability of water service connections in our Montara-Moss Beach service area. Under the currently effective California Public Utilities Commission Order we can provide service to any one with a sewer permit. I cannot anticipate, however, what future requirements the Commission may place upon water service connections.

"We cannot maintain a 'waiting list' for future water connections. We have no reason to believe, however, that there will be a change in the PUC directive that is currently effective."

The Sanitary District obtained the Quality Board authorization for 237 new sewer permits in September 1979, started issuing permits in October 1979, and issued 201 as of January 30, 1980. The Sanitary District established a list of applicants for a sewer permit for a parcel of land by time of filing and went down the list and issued the permits after receipt of the \$1,000 fee.

The Sanitary District by letter dated March 7, 1980, with copies to all parties, states that they had issued 225 permits by January 31, 1980 and that the remaining 12 applicants had been heretofore approved, and permits will be issued when the extension requirements for the 12 have been completed.

The coordination between Citizens and the Sanitary District has not been satisfactory. Citizens should be required to establish effective liaison through a management employee with the Sanitary District.

Public Witnesses

Numerous public witnesses recommended that Citizens' request for a moratorium on new water service connections be rejected. Generally, these members of the public owned vacant lots and had purchased or represented those that purchased sewer permits for \$1,000 each in the fall of 1979. These witnesses included individual lot owners, builders, and real estate agents. Two existing customers stated that they were concerned about a shortage of water supply to existing customers and were in support of a moratorium until the supply increased.

Generally, the public opposing the moratorium wanted the opportunity to build on vacant lots, stating that moratoriums and delays would postpone the time when their homes would be completed, would result in increased costs, and cause hardships. No building, other than residential, was discussed.

The permit sequence to build is generally as follows:

1. Sewer permit from Sanitary District.
2. Citizens' letter that it will connect water service, only after receipt of sewer permit.

3. Plan check by San Mateo County Building Department, only after sewer permit and water connection letter.
4. California Coastal Commission authorization, only after plans filed for check with San Mateo County Building Department.
5. Building permit, only after plan check and only used after California Coastal Commission authorization.

Citizens states that its water service connection letter (mentioned above) is effective for 60 days. Afterwards, Citizens follows up with another letter asking holder of its 60-day letter to advise Citizens within 15 days of what progress is being made to obtain a building permit and starting building.

Citizens further stated that it has issued letters promising 61 water connections as of December 6, 1979, the date of filing the moratorium application.

Ten of these 61 services had been connected as of the time of the hearing. There were many complaints about the current procedure. A new water connection procedure should be considered herein and adopted.

#### Water Supply

Citizens' Water Department manager testified that the Montara District's minimum production capability was 313 gallons per minute (gpm) and 228 gpm when the largest source was deleted. He testified that the district has 710,000 gallons of storage. The witness also presented typical or average production data as follows: typical production capability of 375 gpm and 275 gpm when the largest source was deleted. Further, he testified that since Decision No. 86193 dated August 3, 1976, increased water production has been developed as follows: a minimum production of 80 gpm or a typical production of 115 gpm.

Both Citizens and the staff testified that combined production and storage capacity should be adequate to meet the requirement of four maximum days of the present customers. Both used 228 gpm of production and 123 gpm of storage for the four

days. The staff reduced the 228 gpm to 217 to reflect losses when staff compared the supply with customer use. Further, the staff stated that the supply should be adequate to meet the peak demand for four hours and that the dependable daily production should be greater than the average annual daily usage and the refilling of storage as required.

Water Demand

Citizens testified that the average demand per customer is 273 gallons per day (gpd), based upon the year 1979 production and that the maximum demand is 393 gpd, based upon the year 1979 peak production week which occurred in November. The staff testified that the average demand per customer is 250 gpd and that the maximum demand is 347 gpd. The staff's average demand was based upon the year 1978 sales and the maximum demand upon sales in July and August in 1978. Further, Citizens use per customer is at the production level, and the staff data is at the customer use level or after system losses.

There were 1,271 customers connected at the end of 1979. Citizens' data based upon 1979 usage showed that after 1,286 customers (or 15 customers above year-end 1979) were connected, the maximum demand would be as great as the current reliable four-day supply. The staff witness showed 33 gpm capacity in excess of the four-day requirement for the year-end 1979 customers or capacity for an additional 137 customers. He also showed that there was excess capacity after meeting the four peak-hour requirement.

Further, the staff witness stated that the average demand (based upon 1978 data) is 221 gpm. He concluded that an adequate water supply by definition is not available at present, but in actuality an adequate supply has been available for existing customers.



New Production

Citizens' witness testified that they have been negotiating for one and one-half years with Half Moon Bay Properties to obtain water production from four wells in its service area and owned by Half Moon Bay Properties. The witness stated that the contract should be signed within the week following the hearing. The signed contract has been submitted as a late-filed exhibit. Citizens is to receive a two-thirds undivided interest in each well. The witness states that the wells have been estimated to produce 210 gpm; typically 140 gpm will be available to Citizens or 100 gpm minimum production. Citizens states it needs approval from the State Department of Public Health for water supply and from the Commission for the contract and, in particular, on the arrangements for the purchase and resale of the remaining one-third interest. Citizens proposes to file the contract by advice letter. After the approvals Citizens proposes to equip the wells and have them in operation in three to four months. Citizens should be required to report monthly on the progress it is making in placing the wells in production.

New Water Connections

Citizens proposes a moratorium on all new water services for one year except for 61 applications received and accepted (ten of the 61 have been connected), pending development of the four new wells discussed in the section under New Production and completion of a revised analysis of their ability to serve new connections.

The status of requests and connections since the lifting of the moratorium on water connections by Decision No. 88618 dated March 21, 1978, which authorized water service for applicants with valid sewer permits, is as follows:

March 1978 - August 1979	47 new customers
Sept. 1979 - Oct. 21, 1979	61 requests received and accepted <sup>4/</sup>
Oct. 22, 1979 - Dec. 6, 1979	32 requests received
Dec. 7, 1979 - Feb. 11, 1980	82 requests received

The aforementioned requests for water service total 175 compared to the 237 sewer permits approved since October 1979. Ten out of the 61 requests received and accepted had received a water connection at the time of the January 31, 1980 hearing. There are 114 sewer permit holders who have applied for a water connection and would be unable to obtain water service if Citizens' request for a moratorium for one year is authorized. In addition, there appears to be 62 sewer permits approved who have not applied for water service.

The staff witness stated that upon connection of four new wells<sup>5/</sup> at a total of 130 gpm, the water supply will be adequate for connections, existing customers, plus outstanding sewer permits. The witness then stated that additional water supply capability, either additional storage or new sources, is required for additional expansion.

The staff witness recommends that Citizens continue to connect services which were applied for before December 6, 1979, and to those applicants suffering hardship due to their inability to secure water service, even though service was not applied for prior to December 6, 1979. In a late-filed exhibit, the staff states that hardship refers to the emotional trauma and financial loss caused applicants for water service who, accepting assurances of Citizens and others that water service was available to holders of valid sewer permits, had paid or secured loans obligating themselves to pay, expenses for building a residence, and possibly

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<sup>4/</sup> Received Citizens' water service connection letter. The remaining requests after the 61 are now being held by Citizens' own imposed moratorium under Tariff Rule 14C, Apportionment of Supply During Times of Shortage.

<sup>5/</sup> See section on New Production.

had signed contracts calling for such construction, prior to requesting water service; and then, upon application, being advised it was not available.

Citizens' and the staff's water production and use data show that some additional customers over the year-end 1979 level can be added. Citizens proposes adding 61 customers. The staff proposes those 61, plus 32 other requests by December 6, 1979, plus those suffering hardships out of the 82 requests received after December 6, 1979. Citizens has just contracted for four new wells estimated to aggregate 130 gpm typical production and 100 gpm minimum production to augment Citizens' supply. Citizens estimates that these wells should be in service three to four months after regulatory approvals. This indicates that significant added production should be on the line by summer and enable additional customers to be served.

The water supply data used herein has not been developed on the basis that we specified in Ordering Paragraph 4 of Decision No. 86193. Citizens, with the staff's concurrence, is delaying complying with our decision until the four new wells are added. When Citizens files the water supply data on our decision basis, the results used herein may be modified; however, they should reflect the added production from the four new wells.

It is recognized that there is a risk of the demand becoming greater than the supply if all of the applicants with new sewer permits are added to the water system, as presently required by Decision No. 86193. However, this risk can be reduced by limiting the number of new connections to 120 per year and by requiring Citizens to stress conservation and, in particular, reducing the nonconsumptive use of water. Further, this risk must be balanced against the risk to the holders of new sewer permits should they not be able to obtain water service.

All new sewer permittees do not become water customers overnight. The evidence shows that the new sewer permit holders could be coming on the line in one to three years time from the issuance of the permit.

On balance, Citizens' request for a one-year moratorium of new service connections, except for 51 accepted but not yet connected, shall be denied. All applicants presently having approved sewer permits may be connected. However, this should not result in an immediate increase of 227 customers (the 237 authorized permits less the 10 recent connections). Rather these new customers should be spread over the three-year time limit of the sewer permits during which time building and coastal zone permits must be obtained and construction started and completed. A ceiling of 120 new connections per year should also control the rate of adding new connections and be within the capability of Citizens' construction force.

Citizens should be required to furnish water service to applicants having sewer permits approved by the last day of hearing on January 31, 1980, a total of 227 applicants (237 sewer permits approved less ten new connections) at the rate of 120 new connections per year.

A moratorium on new service connections should apply to any other applications for water service at this time. Citizens should be required to file its recommendation and basis therefor of lifting the limited moratorium being authorized when the new wells are in production and it files its water supply report.

New Connection Procedure

It is important, in view of the limited water resources in the Montara area, to allocate new water service to only those applicants who now have valid sewer permits and who are also ready to be connected--to those ready to start construction--subject only to obtaining the necessary building and coastal zone permits.

Therefore, we should adopt a procedure similar to that adopted last year in the Inverness Water Company service area for new services<sup>6/</sup> in order to assure that water service is available to those applicants that currently have sewer permits and are building.

Findings of Fact

1. Decision No. 86193 in 1976 placed a moratorium on new water connections in Citizens' Montara District, except those applicants having a building permit on the date of decision.

2. Decision No. 88618 in 1978 relaxed the 1976 moratorium and required that applicants having a valid sewer permit may be connected to the water system. There were 55 valid sewer permits at that time.

3. The Sanitary District was next authorized 237 new sewer permits in September 1979 and approved 237 by January 31, 1980.

4. Citizens has received and accepted 61 new applications for water service. Ten of these applicants are now receiving service.

5. There are an additional 176 out of the 237 applicants who would not receive service if Citizens' moratorium is authorized.

6. Sewer permit holders come on the sewer line in one to three years from the issuance of the permit.

7. After meeting the requirement of four maximum days for year-end 1979 customers with only minimum daily production and, further, with the largest single source deleted, Citizens' data showed 15 customers could be added and the staff showed 137 customers.

8. Citizens has contracted for two-thirds of the supply from four new wells estimated to add 130 gpm typical production or 100 gpm minimum production to Citizens' system.

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6/ Res. No. W-2461 adopted January 4, 1979.

9. These wells should be in production by summer and enable additional customers to be served.

10. Adding all applicants with approved sewer permits as of January 31, 1980 is a risk of the demand becoming greater than the supply, which can be reduced if limited to 120 new connections per year and reduced further if Citizens is required to continue to promote conservation.

11. When the risk to supply is balanced against the hardship resulting to current sewer permit holders not being connected to the water system, it is reasonable to allow the new connections to the extent set forth in Finding No. 10.

Conclusions of Law

1. Citizens should be required to furnish water service to applicants issued valid sewer permits by January 31, 1980 at the rate of 120 new connections per year.

2. Citizens should be required to establish a new water connection procedure in order to assure that water service is available to sewer permit holders who are building.

3. Citizens should be required to report monthly on the progress it is making in placing the four new contracted wells in production.

4. Citizens should be required to promptly comply with Ordering Paragraph 4 of Decision No. 86193 in order that we can verify the area water supply data now being used, as soon as the new wells are in production.

5. A moratorium of new service should apply to any other applications for water service pending evaluation of the water supply report that Citizens should file together with its recommendation and basis therefor of lifting the limited moratorium being authorized herein.

6. Citizens should be required to continue to promote conservation of water use and, in particular, to stress the elimination of nonconsumptive uses.

7. Citizens should be required to establish effective liaison through a management employee with the Sanitary District to promote effective coordination.

8. Since it is important for the new procedures and work to be undertaken as soon as possible, the following order should be made effective on the date of signing.

INTERIM ORDER

IT IS ORDERED that:

1. Ordering Paragraph 2 of Decision No. 86193 is changed as follows:

"On and after the effective date of this order, applicants for water service having a valid sewer permit issued by January 31, 1980 may be connected to the Montara District water system of Citizens Utilities Company of California (Citizens) in accordance with the procedure set forth in Appendix A, attached hereto."

2. Citizens shall proceed on a priority basis to take all steps necessary to place the four new contracted for wells in production as soon as possible and furnish monthly progress reports.

3. Citizens shall promptly thereafter comply with Ordering Paragraph 4 of Decision No. 86193 and file the water supply report.

4. Citizens shall file its recommendation and basis therefor of lifting the limited moratorium being authorized herein at the time of filing the water supply report.

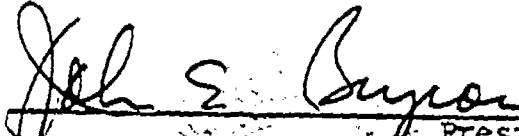
5. Citizens shall continue to emphasize and encourage conservation of water in its Montara District.



6. Citizens shall, by mail, inform all of its customers of the necessity of eliminating the nonconsumptive uses of water on the customers' premises. Citizens shall also concurrently provide its customers with suggestions for eliminating such nonconsumptive uses.

7. Citizens shall establish liaison by a management employee with the Montara Sanitary District.

The effective date of this order is the date hereof.

Dated MAR 18 1980, at San Francisco, California.

  
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President

  
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Commissioners

Commissioner Clairo T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.



APPENDIX A

Citizens Utilities Company of California  
Procedure for New Customer to Obtain Water Service

The addition of 227 customers at the rate of 120 customers per year will be on a first come, first serve basis.

New service connections shall be limited to those persons with approved sewer permits as of January 31, 1980 who intend to build soon and have submitted plans and specifications to be checked and approved by the San Mateo County Building Department and have applied to the California Coastal Commission for any necessary authorization to build.

In order to obtain water service, the new customer must provide Citizens with a notice received by the San Mateo County Building Department, which indicates that authorization for a water service connection is the last item required for the final approval for a building permit from the County.

Further, the new customer must furnish Citizens approval from the Coastal Commission as necessary.

Finally, the customer must provide the utility with an affidavit which states that construction will commence within 90 days of the date of the last approval (Coastal or Building).

If construction does not commence within said 90 days, such customer will lose his position on Citizens' list established pursuant to the above conditions.

A moratorium shall apply to any other application for a new service connection at this time.