

ORIGINAL

Decision No. 92094 AUG 1 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Moon Meadow Utility Company  
Customers,

Complainants,

vs.

Mrs. Pearl Erlandson or  
Mrs. Ruth Denning,

Defendant.

Case No. 10848  
(Filed April 9, 1980)

Steven and Patti Larsen, for Moon Meadow Utility  
Company Customers, complainants.

Phillip M. Steinbock, Attorney at Law,  
for Coast County Development, defendant.

William P. Adams, for the Commission staff.

INTERIM ORDER PROVIDING  
FOR TEMPORARY INTERTIE

Statement of Facts

A short distance east of the town of Felton in the Santa Cruz range there is a small subdivision located on Bahr Drive. Bahr Drive in this area is a typical paved subdivision public street. At the eastern edge of the subdivision Bahr Drive abruptly narrows to one lane and is closed off by a picket fence with a pad-locked gate. Absent the locked gate Bahr Drive would continue eastward as Moon Meadow Lane and intersect further east with West Zayante. Moon Meadow Lane, privately owned, is a single-lane, well-maintained oil and gravel drive.

Running westward after crossing West Zayante, generally along Moon Meadow Lane, and thence up Bahr Drive, is a 6-inch water

main owned and operated by the San Lorenzo Valley County Water District (SLVCWD). This main provides water service to several of the homes on Bahr Drive and continues westward beyond the subdivision to serve other facilities beyond the scope of our interest here. SLVCWD also provides fire protection for the subdivision by means of fire hydrants in the area.

In the mid-1970 period a severe drought ravaged California and caused SLVCWD to impose a moratorium upon further service connections. A local resident, Paul Bahr, wanted to subdivide certain of his landholdings in the area. Unable to obtain water service from SLVCWD, but owning a well, he determined to develop his own water system to serve the projected subdivision area. With county approval he and his son, David P. Bahr, also a resident of the area, in 1976 constructed and thereafter operated their own water utility, known as Moon Meadow Utility Company (Moon Meadow). The subdivision homes were built, some by the Bahrs, and others by individual buyers, and, together with some existing homes in the area, almost all were connected to Moon Meadow.

Moon Meadow draws its water from a 384-foot deep well with 6 5/8-inch casing and a 3-hp submersible pump. The water from the well, approximately 8 gpm, is pumped into a nearby 15,000-gallon storage tank. From this tank water is distributed to 5 homes above it on the north side of Bahr Drive by means of a booster pump and a pressure tank. However, water also flows directly from this tank downhill to a second storage tank, a 6,000-gallon tank located in the backyard of a home on the south side of Bahr Drive at the eastern edge of the subdivision. Here again by means of a booster pump and pressure tank, water is distributed uphill to a half dozen or so homes on the south side of Bahr Drive, but above

the tank. In its turn this second tank also distributes water further downhill to several other customers on Moon Meadow Lane, and to a third storage tank of 2,000 gallons. This last tank distributes water to about eight more customers located downhill to the east off Moon Meadow Lane as far as West Zayante road.

During the several years that the system was operated by David P. Bahr the system was well maintained and apparently there were no problems. Allegedly the water was of good quality and taste, and the system was adequate for the demands made upon it. The system was metered and water was sold to approximately 26 customers.

In 1978 the system was sold by Paul Bahr to a Mrs. Ruth Denning of Scotts Valley. Apparently thereafter maintenance was minimal. On January 18, 1979 Mrs. Denning sold the system to a Mrs. Pearl Erlandson, who resided in a trailer camp in Watsonville. Mrs. Erlandson apparently believed she was purchasing an investment. The system deteriorated without regular maintenance. In March of 1980 that sale was rescinded as the result of a lawsuit settlement, and the system reverted to Mrs. Denning, who two months later quit-claimed to Coast County Development, the defendant of record herein. Mrs. Denning's son, Robert Denning, is president of Coast County Development.

In April of this year 31 residents, representing 20 of the customers involved, filed a verified complaint with the Commission alleging frequent water service interruptions (up to three days at a time), poor water quality, maintenance problems, and the unavailability of the owners or their agents. A duly noticed and substantially attended public hearing was held in Felton on July 21, 1980 before Administrative Law Judge John B. Weiss.

At that hearing a report on the utility was presented by the Commission staff, and evidence was presented by a number of customers, one unhappy would be customer, representatives of the utility's management, the district manager of SLVCWD, and the county's environmental health representative.

The evidence adduced showed, inter alia, an inadequate well source supply of water for the number of customers, a sadly neglected and mismaintained plant, water so turbid that it cannot be tested for bacteria, frequent service interruptions to all or part of the system - one lasting 8 days,<sup>1/</sup> and inept and amateurish management frequently unavailable or indifferent to customer complaints. The general manager of SLVCWD testified that the district has offered to provide an emergency intertie to provide water at a cost of \$600, plus 85 cents per 100 cubic feet used, to relieve the situation. All 25 Moon Meadow customers could switch to the district upon each paying the district's connection fee which is \$3,000 per connection.<sup>2/</sup> The district is not interested in acquisition of Moon Meadow's well, plant, or

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<sup>1/</sup> The Commission has since been informed that there have been three shutdowns since the July 21, 1980 hearing and that many of the customers on Bahr Drive continue to be frequently without any water at all during a severe heat wave with temperatures approximating 100 degrees.

<sup>2/</sup> The Commission has since been advised by SLVCWD that the situation became so critical that on July 29, 1980, 11 of the Bahr Drive customers petitioned SLVCWD for formation of an assessment district so that their connection fees to connect to SLVCWD service would be financed by bonding. The district will reportedly act on the petition August 7, 1980 and anticipates that the 11 will be connected to the district service by year's end.

distribution facilities. The Coast County Development's attorney questioned whether, under provisions of Section 851 of the Public Utilities Code, it really owned the utility, since the successive transfers of the utility plant and property from Bahr to Coast County Development had not been authorized by the Commission, and therefore under the Code were void. Moon Meadow management presented evidence of its efforts, using a local pump company and consultant services, to get the system operative. The efforts most recently had included "blasting" the well casing with dynamite caps to loosen encrusted mineral deposits from the casing perforations after the well flow had dropped and the pump failed in June 1980. At conclusion of the hearing the complaint was submitted.

Discussion

There is no question that Moon Meadow is a public water utility under the jurisdiction and regulation of this Commission. It is a privately owned firm delivering a commodity, namely water, to a portion of the public for compensation. As such it is a public utility (see Section 216(b) of the Public Utilities Code).

The immediate problem is that a number of customers of this utility are repeatedly without water for varied periods of time. It is clear that as presently constituted the system cannot equally distribute what water there is. It is equally clear that the water supply is not adequate for the demands made upon it. The upper tank cannot fill the others and still maintain a level of water sufficient to serve the needs of some of the Bahr Drive customers. The supply passes through to the lower level tanks and frequently is immediately consumed by those customers at the lower elevations, leaving nothing for those at the upper elevations. The solution would be were the system to be relieved of a number of the customers, particularly those on Bahr Drive. From the tenor at the hearing it would appear that some of these customers will shortly leave Moon Meadow for SLVCWD service, particularly if the problem of the individual \$3,000 connection fee can be resolved.

But, meanwhile, interruption of service, or a failure of the delivery system to provide a regular supply of water, particularly in the hot summer months, is a matter of grave concern and can cause irreparable harm. Water is an element virtually necessary to the very existence of life itself. In the instant situation it is clear that at the present time the water system operated by Moon Meadow cannot meet the reasonable requirements of the customers unless augmented supplies of water are obtained immediately. We will not order rationing of the available supply as a more reasonable alternative is readily at hand.

We will order Coast County Development to immediately intertie with SLVCWD on a temporary basis, as SLVCWD offered at the hearing. In that all Moon Meadow customers will benefit by being relieved of service interruption, and will be able to draw upon adequate supplies of acceptable water for all their needs, we will require Coast County to advance the \$600 intertie service charge and to recover this \$600 by means of a special surcharge of \$6.00 per month to the monthly bills of all Moon Meadow customers. Moon Meadow will pay the 85 cents per 100 cu.ft. quantity charge from SLVCWD and treat it as a cost for purchased water on its books.

Because of the urgent nature of the problem facing the customers of this utility we will make this order effective the date it is signed, and direct Coast County to proceed without delay to immediately make the intertie.

The more complex questions posed by the complaint and Coast County Development's response, particularly those pertaining to the ownership of the utility and its service practices, can await resolution in a subsequent order of the Commission.

Findings of Fact

1. Moon Meadow today is, and for a number of years past has been, providing water for compensation to a portion of the public.

2. As a consequence of a limited source supply of water, poor maintenance in recent years, and an inadequate distribution system, Moon Meadow today cannot supply all its existing 25 customers with adequate water.

3. Moon Meadow today is allegedly owned and controlled by Coast County Development.

4. Moon Meadow in the recent past has suffered frequent and at times extended service interruptions involving all or some of its customers. These interruptions continue today.

5. Consequently, a number of Moon Meadow customers have indicated their interest in obtaining service from SLVCWD.

6. SLVCWD is ready, willing, and able, for a reasonable price, to immediately provide an intertie to the Moon Meadow's system and to furnish needed water of good quality on a temporary basis for the immediate future.

7. Irreparable harm can result from continued interruptions in water service to the complainants.

8. As all Moon Meadow customers will benefit from an emergency temporary intertie with SLVCWD, all Moon Meadow customers should equally share in defraying the extraordinary one-time \$600 SLVCWD service charge.

Conclusions of Law

1. Moon Meadow is a public utility under the jurisdiction and regulation of this Commission.

2. Pending resolution of other issues in this complaint defendant should be directed to immediately effect a temporary intertie between the Moon Meadow and the SLVCWD water systems.

3. The following order is issued as an emergency measure, and as such can be issued by the Commission outside a regularly scheduled public conference as provided by the California Government Code.

4. Given the emergency nature of the following order it should be effective the date of signature.

IT IS ORDERED that:

1. Coast County Development (defendant) upon service of this order by registered mail, or upon notice and service in any other manner, shall, with immediate dispatch, effect a temporary intertie between Moon Meadow Utility Company and the facilities of the San Lorenzo Valley County Water District (SLVCWD), upon the terms and conditions offered by SLVCWD at the Commission hearing in Felton on July 21, 1980.



2. Defendant will advance the \$600 SLVCWD connection fee required, and thereafter will pay SLVCWD for all water received from SLVCWD.

3. Defendant will be authorized to add an emergency surcharge of \$6.00 per month to each customer's monthly bill to offset the cost of the SLVCWD \$600 connection fee.

4. Defendant will treat the SLVCWD quantity charge each month as a charge for purchased water.

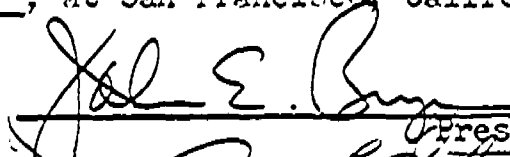
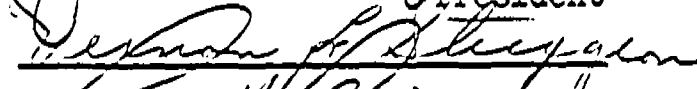
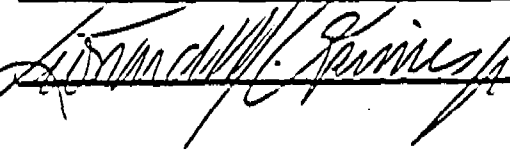
5. The Process Office shall serve a copy of the order on the defendant, by registered mail.

The effective date of this order is the date hereof.

Dated AUG 1 1980, at San Francisco, California.

Commissioner Richard D. Gravello, being necessarily absent, did not participate in the disposition of this proceeding.

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

  
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President  
  
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Commissioners