

ORIGINAL

Decision No. 92801

MAR 17 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DIAMOND INTERNATIONAL CORPORATION,
a Delaware corporation, and STIRLING
BLUFFS CORPORATION, a California
corporation, for an order authorizing
(1) the sale and transfer to Stirling
Bluffs Corporation of the water
system of Diamond International
Corporation serving the unincorporated
area of Stirling City in the County
of Butte, (2) the discontinuance of
water service by Diamond International
Corporation in the area now served
by the Stirling City water system and
(3) the commencement of water service
in said area by Stirling Bluffs
Corporation.

Application No. 60028
(Filed October 29, 1980)

O P I N I O N

Diamond International Corporation (seller) is a Delaware corporation engaged in the production and sale of a variety of lumber-based products. It also owns and operates a water system furnishing service to approximately 160 service connections (excluding fire hydrants) in unincorporated territory of Butte County known as Stirling City.

Stirling Bluffs Corporation (buyer) is a California corporation. Buyer was organized by seller for the purpose of acquiring the water system and is not now engaged in any business. Seller has paid to buyer \$500,000 in cash in exchange for 100 shares of buyer's stock, being all of its issued and outstanding shares.

Buyer and seller have entered into an agreement which, subject to Commission approval, will allow seller to cease its water utility operation and will allow buyer to acquire, own, and operate the water system for the sum of \$27,000. Seller has no refund obligations under main extension agreements, holds no franchise or permit, and, having owned the system since before the Railroad Commission was established, holds no certificate of public convenience and necessity.

The undepreciated book cost as of August 10, 1980, of the properties (except real property) to be sold to buyer is \$36,041.96. The purchase price of \$27,000 appears to be derived from the system's balance sheet as follows:

Water Plant in Service	\$36,041.19
Less: Reserve for Depreciation	<u>10,046.89</u>
Subtotal	\$25,994.30
Accounts Receivable - Customers	<u>666.65</u>
Total	\$26,660.95
Rounded to	\$27,000.00

The balance sheet includes none of the real properties presently used and to be used for utility purposes. Those properties, whose original cost is not known, are as follows:

- a. The right with a priority dating before February 8, 1904, to divert a year-round continuous flow of up to 465 miner's inches of water measured under a 4-inch pressure (9.3 cubic feet per second) of the natural flow of the West Branch of the Feather River for lumber mill operation and domestic purposes;
- b. Real property on which a flume and ditch are located which run from the diversion point described in the application

approximately four miles to the Stirling City distribution and storage reservoir;

- c. Real property on which the reservoir is located, one mile north of Stirling City, having a capacity of approximately 3 million gallons;
- d. Real property on which an 8-inch pipe line is located which runs from the reservoir, item (c), approximately one mile to, and connects with, the Stirling City distribution system.

All the above real properties were acquired by seller 75 or more years ago as part of its purchase of large acreages of lands in Butte County. No portion of the cost of any of the properties or of any improvements thereon are included in the system's balance sheet. All of said properties are owned in fee by seller. It proposes to convey the water right, item (a), to buyer outright and to convey to buyer easements for the other properties, items (b), (c), and (d).

The Stirling City distribution system is in reasonably good condition. However, the four-mile flume and ditch which transport water from the diversion point to the reservoir have required continuing maintenance in recent years. Such maintenance has at times been difficult and costly.

Owing in part to these maintenance problems, seller recently commenced negotiations with Pacific Gas and Electric Company (PG&E) to explore the possibility of entering into an agreement with PG&E under which, subject to Commission authorization, seller would convey to PG&E the water right described in item (a) above and in consideration thereof PG&E would agree to make substantial payments to seller therefor and to deliver to seller at a point in PG&E's Hendricks Canal near Stirling City

a maximum of 365 acre-feet of water per year without charge. If the authorization herein requested is granted and the Stirling City system is transferred to buyer, seller and buyer anticipate that such an agreement (if not theretofore executed by seller and assigned to buyer) will be executed by buyer and PG&E.

In the event the agreement is executed, seller and buyer anticipate that: (1) Buyer will thenceforth satisfy all system requirements with water obtained from PG&E, (2) buyer will construct in the vicinity of Stirling City, on a site to be made available by seller, a plant and storage facility for treating and storing all water obtained from PG&E, (3) buyer will construct transmission facilities necessary to transport such treated water to the 8-inch transmission main running from the reservoir to the Stirling City distribution system or to transport such treated water directly to the Stirling City distribution system, and (4) buyer will thereafter abandon the flume, ditch, and the unused portion of the 8-inch transmission main.

Seller and buyer believe that the aggregate of funds (a) heretofore paid to buyer by seller for 100 shares of buyer's stock and (b) to be paid by PG&E to buyer under the agreement, will be sufficient to enable buyer to accomplish the work outlined above necessary to take, treat, and deliver to customers in its service area the water obtained from PG&E.

Buyer proposes to operate the system subject to the same rules and rates, in the same manner, and with the same personnel as seller.

Notice to Customers

Notices of the filing of the application were mailed to customers on November 5, 1980, (Exhibit 1) and on November 14, 1980,

(Exhibit 2). The second notice invited customers to send any comments on the application to the Commission. A notice of the filing of the application also appeared in the Daily Calendar.

Protest

On November 21, 1980, the Commission received a letter of protest from Mr. and Mrs. L. L. Kinne of Stirling City. The letter states in part:

"We believe that there have been no lasting repairs made to the ditch which provides the water supply for our area for at least the last three years. We believe that in the event of heavy rain or snow, which is to be expected in this area throughout any winter, the ditch will fail. We believe the transfer is being made so that if this happens, there will be less corporate property behind any lawsuit which might be filed to collect damages for loss of water, or for other related reasons."

The proposed agreement with PG&E appears to be a reasonable solution to the problem of possible ditch failure, and the funding of buyer by seller with \$500,000 cash is sufficient protection to customers for liabilities resulting from possible ditch failure.

Findings of Fact

1. Only a single protest to the application has been received.
2. The protest does not raise matters of sufficient consequence to require a public hearing.
3. A public hearing is not necessary.
4. To expedite the completion of the transaction the effective date of this order should be the date hereof.

Conclusion of Law

The transfer is reasonable and should be authorized.

O R D E R

IT IS ORDERED that:

1. On or before April 30, 1981, Diamond International Corporation may sell and transfer the water system (and other assets) referred to in the application to Stirling Bluffs Corporation.

2. As a condition of this grant of authority, buyer shall assume the public utility obligations of seller within the area served by the water system being transferred.

3. Within ten days after completion of the transfer buyer shall notify the Commission, in writing, of the date of completion and of the assumption of the obligations set forth in paragraph 2 of this order.

4. Buyer shall either file a statement adopting the tariffs of seller now on file with this Commission or refile under its own name those tariffs in accordance with the procedures prescribed by General Order No. 96-A. No increase in rates shall be made unless authorized by this Commission.

5. On or before the date of actual transfer, seller shall deliver to buyer, and the latter shall receive and preserve all records, memoranda, and papers pertaining to the construction and operation of the water system authorized to be transferred.

6. On or before the end of the third month after the date of actual transfer buyer shall cause to be filed with the Commission, in such form as it may prescribe, an annual report covering the operations of seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

7. Upon compliance with all of the terms and conditions of this order, seller shall be relieved of its public utility obligations in connection with the water system transferred.

The effective date of this order is the date hereof.

Dated MAR 17 1981, at San Francisco, California.

John E. Snyo
President
Richard W. [unclear]
Samuel W. [unclear]
Victor Cabot

Commissioners