

Decision 93492 SEP 1 1981

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and	)	
Investigation on the Commission's	)	(I&S)
own motion of tariff filed by Advice	)	Case 10994
Letter No. 26 of Big Basin Water	)	(Filed June 2, 1981)
Company, Big Basin in Santa Cruz	)	
County.	)	

ORDER MODIFYING DECISION 93205  
AND DENYING REHEARING

A petition for rehearing of Decision (D.) 93205 has been filed by Gary A. Patton, a member of the Board of Supervisors for the County of Santa Cruz. In addition a petition for modification has been filed by the San Lorenzo Valley Water District (SLVWD).

We have carefully reviewed each and every allegation in said petition for rehearing and are of the opinion that good cause for granting rehearing has not been shown. Moreover, our review of the matter leads us to conclude that Supervisor Patton lacked standing to file a petition for rehearing since, pursuant to Public Utilities Code § 1731, he does not qualify as a party to the proceeding.

However, after reviewing Supervisor Patton's filing and the petition for modification filed by the San Lorenzo Valley Water District, we are of the opinion that D.93205 contained certain misstatements of fact.

In the fifth sentence of the second paragraph on Page 3 of that decision, we describe how the Santa Cruz Local Agency Formation Commission (LAFCO) would like to have the Commission act on the request of Big Basin Water Company (BBWC) to expand its service territory, as follows:

"However, they (LAFCO) too did not want the Commission to act until they themselves acted upon the deannexation."

Actually, it appears more accurate to say that what LAFCO wanted was that the Commission make any order it issued conditional on LAFCO having approved deannexation, i.e., the Commission's order would not become effective until after LAFCO granted deannexation. Although we decline to issue such a conditional order, we do wish to accurately describe LAFCO's position. Therefore,

IT IS ORDERED that the above sentence be modified to read as follows:

"However, they too wanted the Commission to make any order approving the advice letter to be conditional on they themselves approving the deannexation."

On Page 5 of D.93205, the type of order desired of the Commission is imprecisely described. Also, the lapse of time since Galleon Properties, Inc. received a tentative subdivision map for its Units 2 and 3 is overstated and it is asserted that securing adequate water service for the units is the final approval needed from the County Board of Supervisors. We since have been informed that at least one other approval is needed. Accordingly, we will revise the first two paragraphs on Page 4.

IT IS ORDERED that said paragraphs be modified to read as follows:

"The protests by SLVWD and LAFCO do not appear to have substance. Neither is opposed to BBWC extending service to Units 2 and 3, the subject matter of the pending advice letter. Neither wants a hearing during which their opposition to the advice letter would be considered. Both merely want the Commission to condition any approval of the advice letter on LAFCO's having approved the deannexation of Units 2 and 3 from SLVWD, which, given the public on-the-record attitudes of the members of the SLVWD Board of Directors and the Commissioners of LAFCO, may be considered as an eventual certainty.

"Time appears to be an extremely critical factor in resolving the water supply problems of Big Basin Water Company. Galleon received tentative subdivision maps (TSM) in 1979 to construct homes in Units 2 and 3. By operation of law, the TSM for Unit 2 expires on June 24, 1981, and the TSM for Unit 3 expires on August 11, 1981. One of the matters preventing the finalization of these TSMs has been Galleon's inability to convince the County Board of Supervisors that adequate water service exists for Units 2 and 3. Approval of the advice letter would settle one of the finalization requirements and permit Galleon to fulfill its obligations under the abovementioned stipulation. Failure to receive a final subdivision map due to any uncertainty in obtaining water service for Unit 2 would relieve Galleon of providing the numerous improvements guaranteed to BBWC at no cost under the staff-initiated stipulation. This would leave BBWC and its ratepayers back in the situation of full water rationing and return DHS, WPA, BBWC, Galleon, Nagilluc, and the Commission staff to the courtroom."

Also, IT IS ORDERED that the second sentence of Conclusion of Law No. 3 be modified to read as follows:

"This matter constitutes an unforeseen emergency in that if Advice Letter No. 26 does not become effective before the expiration of the TSM for Unit 2, Galleon Properties, Inc. would no longer be under a written obligation to transfer the ownership of a well and other plant facilities to Big Basin Water Company."

Finally, we note that on August 5, 1981, during the pendency of the two petitions addressed herein, LAFCO did issue its approval of the deannexation of Units 2 and 3 from SLVWD's service area, applied for by developer Galleon Properties, Inc. This action authorizes SLVWD to conduct a public hearing, the next step in the process of deannexation. This public hearing has been scheduled for September 17, 1981, and a final SLVWD order, which would accomplish the deannexation, could be issued in October 1981.

We also take note of other difficulties with which Galleon is faced. In August a Superior Court ruling held that the tentative subdivision maps for Units 2 and 3, issued to Galleon in 1979, to be

void ab initio due to an inadequacy in the environmental assessment upon which the issuance of the maps was based. ~~Moreover, Gallegos has suffered consequences on other, already constructed units.~~

*K*

Rehearing of D.93205, as modified herein, is denied.

This order is effective today.

Dated SEP 1 1981, San Francisco, California.

I dissent:

Rather than assist development proposal, in controverted sites decisions, as a means of bailing out a water utility provider inadequate service, this Commission should require the utility itself to improve the service to adequate levels. To do otherwise is to acquiesce to irresponsible recalcitrance on the part of the utility.

*John Bryson*

*Richard D. Swartz* President  
*Donald J. ...*  
*Victor ...*  
*Prudence ...* Commissioners