

Mailed
JUN 27 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Order to Show Cause why Grand Oaks Water Company's owners Brit O. Smith and Phillip L. Shirley, should not be fined for failure to comply with Commission order.

FILED
PUBLIC UTILITIES COMMISSION
JUNE 25, 1997
SAN FRANCISCO OFFICE
1.97-06-037

ORDER TO SHOW CAUSE

Introduction

The California Public Utilities Commission (Commission) regulates water companies pursuant to the California Constitution, Article XII, Public Utilities (PU) Code §§ 701 and 2701 et seq., and General Order (GO) 103. Statutory law and Commission orders require water companies under the jurisdiction of the Commission to use good public utility practices, and to encourage efficiency, economy, and safety in the operation of water works facilities.

Regulatory History of Grand Oaks Water Company

Grand Oaks Water Company (Grand Oaks) (U-290W) was granted a certificate of public convenience and necessity by Decision (D.) 62519 on April 16, 1963. Grand Oaks provides water service in Grand Oak Estates near Tehachapi.

On June 20, 1990, the Commission issued D.90-06-052 in Application (A.) 89-11-005 which authorized Brit O. Smith and Phillip L. Shirley to purchase Grand Oaks. In D.90-06-052, the Commission ordered Grand Oaks not to serve additional customers without an order from the Commission authorizing such expansion. At the time of acquisition of Grand Oaks by Brit O. Smith and Phillip L. Shirley, Grand Oaks was serving 38 customers.

On January 2, 1997, C. J. Villalobos et al. (complainants) filed a complaint (Case (C.) 97-01-003) against Grand Oaks contending that the quality of service provided by Grand Oaks was below normal standards. Specifically, complainants stated that the quantity (flow rate), quality, and pressure of water provided by Grand Oaks were

unacceptable to them. Complainants also stated that Grand Oaks is in violation of Compliance Order No. 005-92 of the Kern County Environmental Health Services Department.

In response to the complaints, Administrative Law Judge (ALJ) Sheldon Rosenthal conducted a mediation meeting in Tehachapi which was attended by complainants and Phillip L. Shirley. While Brit O. Smith did not attend the mediation meeting, he informed ALJ Rosenthal, by a letter dated January 22, 1997, that he no longer was an owner of Grand Oaks Water Company.

ALJ Rosenthal's effort at mediation was unsuccessful. Accordingly, the matter was set for an evidentiary hearing in Tehachapi on March 19, 1997 before ALJ Garde.

During the evidentiary hearings it became evident that Grand Oaks not only needed to make certain system improvements immediately, but that Grand Oaks was also in violation of several orders of the California Department of Health Services (DHS). DHS has imposed fines of approximately \$6,000 on Grand Oaks which Grand Oaks has not paid.

Phillip L. Shirley agreed to make the needed improvements within 30 days and to provide the needed water samples to DHS for testing.

The ALJ directed the Water Division project manager Daniel Paige to prepare and present, at a subsequent hearing, a report on the progress of system improvements that Phillip Shirley agreed to put in place.

A second evidentiary hearing was held on May 8, 1997 in Tehachapi at which Daniel Paige presented his report (Exhibit 2). The report by Daniel Paige is included as Appendix A to this order.

According to Daniel Paige, other than fixing a few minor leaks, Grand Oaks has not made any improvements to the system. Daniel Paige stated that Grand Oaks had added four more customers in violation of Commission's order in D.90-06-052. Daniel Paige recommended that Grand Oaks be fined pursuant to PU Code § 2107 for violating Commission orders.

Phillip Shirley admitted (Tr. Vol. 2, p. 85) that he had added new customers in violation of Commission order in D.90-06-052. Phillip Shirley also testified that he had acquired Brit Smith's portion of Grand Oaks in exchange for some land (Tr. Vol 2, pp. 93-94). He was unable to specify the value of the land exchanged. PU Code § 851 prohibits the transfer of ownership of utility property without prior approval of the Commission.

Discussion

The Commission has broad powers to supervise and regulate every public utility in the state, and may do all things "necessary and convenient" in exercise of its power and jurisdiction (PU Code § 701). PU Code § 2107 empowers the Commission to impose a fine of not less than \$500, nor more than \$20,000 for each violation of a Commission order or any provision of the PU Code.

Grand Oaks' co-owner has testified that Grand Oaks had added customers in violation of a Commission order. Also, according to the testimony provided by Grand Oaks' co-owner, Grand Oaks' owners have apparently violated the provisions of PU Code § 851.

For these reasons, we believe that owners of Grand Oaks should be required to show cause why they should not be fined for each violation in accordance with the provisions of PU Code § 2107.

O R D E R

IT IS ORDERED that:

1. Owners of Grand Oaks Water Company, Brit O. Smith and Phillip L. Shirley, shall show cause why they should not be fined in accordance with the provisions of Public Utilities (PU) Code § 2107 for adding new customers in violation of the Commission's order in Decision 90-06-052, and for violating the provisions of PU Code § 851.
2. An evidentiary hearing shall be held in Tehachapi within 45 days of the effective date of this order before an administrative law judge to allow respondents an

opportunity to show cause why the fine proposed in Ordering Paragraph 1 not be imposed.

3. The Executive Director shall cause a copy of this order to be personally served upon respondents Brit O. Smith, 44847, North 10th Street, Lancaster, CA 93534 and Phillip L. Shirley, P. O. Box 188, Little Rock, CA 93534-0188.

This order is effective today.

Dated June 25, 1997, at San Francisco, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners

Exhibit	2
CPUC Proceeding	C. 97-01-003
Source/Title	WATER DIV./PAIGE
Date Recd.	5/8/97
	5/8/97

APPENDIX A

State of California
Public Utilities Commission
Water Division
Large Water Branch

Los Angeles
May 7, 1997

SUBJECT: Report on the complaint of C. J. Villalobos vs. Grand Oaks Water Company (GOWC) alleging unhealthful water and unreliable service

Introduction

GOWC is a small water utility serving 40 customers in Kern County near the City of Tehachapi. The Commission granted a certificate of public convenience and necessity to GOWC by Decision No. 65219 on November 9, 1963. Later, the Commission in D.90-06-052 (June 20, 1990), authorized the sale and transfer of GOWC to the present owners, Brit O. Smith, and Philip L. Shirley.

One of the co-owners of GOWC may have changed, but the Commission has not granted any authority for any change of owners since the decision in 1990

The subject complaint is signed by nine customers who claim they have been without water on numerous occasions and the system is in violation of orders of the California Department of Health Services (DHS) to prevent contamination and repair leaks.

Investigation

At the Commission hearing held in Tehachapi on March 19, 1997, testimony confirmed that three or four new customers have been added to GOWC's system in violation of the Commission's order in D.90-06-052. One of the new customers added is a very large user of water who maintains a lawn and garden sprinkler system. Serving this new customer with large quantities of water may have placed such a strain on GOWC's supply system that it caused the widely varying water pressures and service outages about which other customers have complained.

At the hearing, one co-owner of GOWC testified that GOWC would take certain corrective actions within 30 days from the hearing. The following is a list of the actions GOWC was to have been taken and the results as of today.

<u>Item</u>	<u>Compliance</u>
Repair leaks in water mains	Some repaired
Establish DHS Grade 1 Water Treatment and Maintenance Personnel in Tehachapi	None
Pay DHS Regulatory Fees	None
Supply Inorganic Water Testing Results	None

Recommendation

By GOWC's performance, it appears that compliance with commission orders and complying with assurances made to the Commission do not carry a high priority. Based on this, the Large Water Branch makes the following recommendations:

1. Under the authority of Section 2107 of the Public Utilities Code, GOWC should be ordered to pay an immediate fine of \$2,000 for each occurrence for its action of adding additional customers in violation of the Commission's order in D.90-06-052. The total fine for adding the three customers as testified to would be \$6,000.
2. If full compliance with the requirements of the DHS as outlined above is not met in 20 days, an immediate fine of \$20,000 should be imposed on GOWC under the authority of Section 2107 of the Public Utilities Code.
3. As provided for under Section 2113 of the Public Utilities Code, if the fines are not paid, the Commission should order that GOWC's owners, Mr. Smith and Mr. Shirley, be imprisoned for contempt to comply with its order.

(END OF APPENDIX A)