

WATER/FLC:jrb*

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
WATER ADVISORY BRANCH**

**RESOLUTION NO. W- 4154
AUGUST 5, 1999**

RESOLUTION

**(RES. W-4154), VALENCIA WATER COMPANY (VWC). ORDER
APPROVING ADVICE LETTERS 84 AND 85 FOR EXPANSION OF SERVICE
AREA AND ORDER TO FILE APPLICATION FOR APPROVAL OF WATER
MANAGEMENT PROGRAM.**

SUMMARY

By Advice Letter (AL) No. 84 filed on March 11, 1999 and AL No. 85 filed April 6, 1999, VWC requested authority to expand its service area to serve an additional 3,400 homes. These filings were protested by the Angeles Chapter of the Sierra Club claiming that there is insufficient water for the planned development due to overpumping of ground water, inadequate State Project water, and a lack of storage and a means of conveyance for imported water. This resolution determines that the proposed developments could be served with VWC's estimated supplies. The resolution notes that it has been over 5 years since the filing of Valencia's last Water Management Program and that a new analysis is warranted to ensure timely analysis of future filings. Therefore, VWC is ordered to file an application for approval of an updated Water Management Program as required by D.94-02-043.

BACKGROUND

VWC serves approximately 20,000 customers in the City of Santa Clarita and the Santa Clara River Valley in Los Angeles County. Approval of ALs for expansion of its service area have been routinely granted by the Water Advisory Branch (Branch) after VWC has shown through the Water Supply Questionnaire process that it had adequate pumping capacity, mains, and storage reservoirs. VWC can also purchase treated State Water project water from the Castaic Lake Water Agency (Castaic). Recently, the Sierra Club has started questioning the sustainability of the aquifers that supply pumped water and the area's ability to increase purchases of State water. In 1998, VWC filed three ALs for area expansions to serve approximately 800 new customers. These letters were protested by the Angeles Chapter of the Sierra Club. After an evaluation based on historical use of groundwater and

an estimate of the amount of State water that would be available, these three ALs were accepted and the protests rejected by letter by the Branch.

During the drought proceeding (I.89-03-005) the Commission in 1990 required that each Class A water company, such as VWC, prepare a Water Management Program (WMP) and that it be revised, filed and evaluated as a part of every general rate case (D.90-08-055, D.92-09-084, and D.94-02-043). This program evaluates the long-term demand for water and the water supplies and conservation programs available to meet that demand. The last WMP filed by VWC was the January, 1994 update. It projects adequate supplies through 2004. VWC does not plan to update its WMP until after it has filed its Urban Water Management Plan update with the Department of Water Resources. This plan update is due in December, 2000.

On September 16, 1998, the Sierra Club filed C.98-09-025 against VWC seeking an order of the Commission, pursuant to Public Utilities Code Section 2708, determining that Valencia had reached the limit of its capacity to supply new customers without "injuriously withdrawing the supply wholly or in part from [its current customers]." In D.99-04-061, the Commission denied the Sierra Club's complaint and request for a moratorium on all new connections, but stated that it will "adjudicate the capacity to serve new customers in individual advice letter proceedings when VWC seeks authorization to serve those customers." (Conclusion of Law 4)

On March 10, 1999 Branch accepted for filing VWC's AL 84 requesting approval of a service area extension to include an additional 1,239 homes.

On March 26, 1999 the Sierra Club protested AL 84 on the basis that:

1. It did not disclose the source of water. The Sierra Club claimed that the Santa Clara River (sic) is currently in overdraft and there is not enough water in the basin to serve the proposed units.
2. Some of these lots were not in the service area of Castaic. According to the Sierra Club, Castaic requires that all lots that are brought into this service area must bring with them twice the State Water entitlement that will be required to serve the project.

As evidence of this, the Club referred to staff's determination that 23,200 acre-feet per year (AF/y) of water was available and adequate to serve a demand increasing by 800 units per year through 2002. The Club stated that service to additional service proposed by this AL and other new developments would exceed that amount.

On April 6, 1999 Branch accepted for filing VWC's AL 85 requesting to expand its service area to include Decoro Highlands and Westridge. These developments will total 2,170 homes.

On April 20, 1999 the Sierra Club protested AL 85 on the grounds that:

1. The River was in overdraft.
2. The water from the well was contaminated with ammonium perchlorate.
3. Castaic's treatment plant does not have enough capacity to serve this development.
4. Inadequate storage.

As evidence, it cited Castaic's Integrated Water Resource Plan, noted that the 41,000 AF/yr of state water project water Castaic was planning on had not yet completed its final EIR, pointed to CPUC staff's determination that 23,200 AF/y is available and has already been exceeded, claimed that some of the units may not be with Castaic's service territory, and voiced concern that Newhall Land and Farming Company, the parent company of VWC, is developing most of the properties in the area.

VWC responded to the protest by stating that it does have an adequate supply of water. As evidence it cited the 1998 Santa Clarita Valley Water report issued February 1, 1999 (which the Sierra Club contends contains false information.) When asked to provide a follow-up response (received July 30, 1999) VWC noted that the well had never exceeded the provisional action level of 18 parts per billing for ammonium chlorate and should be considered as a source of supply. It noted that Castaic has a facilities improvement program for its filtration plant that provides for increased capacity three years in advance of expected need, and that storage is adequate in that fire flows can be met.

A draft of this resolution was mailed to VWC, the Sierra Club, other water utilities in the area and the County Local Area Formation Commission on June 8, 1999. Comments were received from Friends of the Santa Clara River (Friends) (for the Sierra Club) dated June 22, 1999; from the Santa Clarita Organization for Planning the Environment (SCOPE) dated June 25, 1999; from the United Water Conservation District (United) dated June 28, 1999; from Ventura County Supervisor Kathy I. Long, Third District (Long) dated June 28, 1999 and from VWC dated June 30, 1999.

Friends objected to the draft resolution because it claimed that the Commission has determined that VWC had only 23,200 AF/y of available supplies, that there was an inadequate supply of water for these expansions, that existing demand is higher than is being reported and that the state water project water availability is unreliable. As evidence it cited Decision 99-04-061 and recent staff reports from the Los Angeles County Regional Planning Department and a December 1986 report by Richard C. Slade, Consulting Groundwater Geologist. Friends recommends that the Commission halt all annexations until the EIR is updated and certified, all legal issues are resolved and verification of the current water use. As an option it would have the Commission freeze all annexations until January, 2000, when the state water plan transfer would go into effect.

SCOPE joined Friends in voicing concern that existing estimates of water use are too low. It also requested delay of approval until January, 2000. It noted that it and the Sierra Club have filed suit in the Los Angeles County Superior Court for injunctive relief against Los Angeles County, Newhall and VWC (under CEQA and the government code) to halt the development.

Long in her response pointed out that the area in question straddles the border between Los Angeles and Ventura counties and that a shell game is being played between the two counties with respect to water supply. She requests no further actions by the Commission until the court suit is resolved, and she also request similar attention be paid to Santa Clarita Water Company, which also serves in the valley.

United notes that State Water Project water is unreliable and that existing groundwater would have to be used if the state water were unavailable. It requests the Commission defer action until all issues have been resolved.

VWC responded to the draft resolution by agreeing with its order to submit an updated Water Management Plan by application by January 3, 2000. It mentions the lawsuit and its concern that the Sierra Club and SCOPE are using finding of fact 4 in D.99-04-061 to inaccurately claim that the Commission has adjudicated VWC's current supply as 23,200 AF/y. It requests a correction to clarify that this finding simply refers to a staff determination and is not a Commission-adopted figure. It also requests modifications that would force staff to use only its existing (1996) Water Management Program for water supply projections when evaluating any subsequent ALs for service territory expansion.

DISCUSSION

Branch analyzed the water availability in the basin and determined that, at VWC's current level of use, these supplies should be adequate for the needs of AL No. 84 and AL No. 85, which together would require approximately an additional 3,000 acre-feet per year. This determination is based on a factor of 0.9 acre-feet per customer per year as derived from VWC's 1998 annual report to the Commission. The annual report also shows that VWC purchased approximately 9,000 acre-feet from the State Water Project and pumped approximately 11,000 acre-feet from wells. In the past five years, the maximum pumping from wells was over 13,000 acre-feet per year. This demonstrated ability to pump additional water from wells, and the additional water that will become available from the State Water Project on January 1, 2000 of approximately 8,000 acre-feet per year, show that VWC's supply would be adequate for the proposed additions.

Water use in the Santa Clarita Valley is unajudicated. Therefore, there are no restrictions on water pumped from the valley aquifers. This analysis necessarily assumes no change in water use by the other three purveyors. Changes in use by these other purveyors could have an impact on water available to VWC. However, we have no information that such usage is expected to change. This area-wide use is analyzed in VWC's Water Management Program, which, as mentioned above, was filed most recently as a part of its January, 1994 general rate case. Since that time VWC has postponed filing further rate cases, probably due to customer growth, and Commission review of its water needs and supply has been consequently delayed. This delay has given rise, in part, to the uncertainty of water supply that the Sierra Club has used as the basis for its protests.

Branch analyzed the comments to the draft resolution and has determined that nothing in the comments received justify any changes to the recommendations in the draft. Staff is concerned that the Sierra Club and SCOPE have apparently misunderstood the meaning of Finding of Fact 4 in D.99-04-061. They represent that this is a finding that the Commission concluded that current supply is only 23,000 acre feet when actually this finding states: "The Commission Staff has determined the [sic, probably that] Valencia's current supply is 23,200 acre feet." This finding refers to a preliminary calculation, included in a letter from staff member Daniel Paige to Valencia Water Company (see D.99-04-061, page 7 and footnote 4). It is not a finding of the Commission that the current supply is 23,000 acre feet. Because this matter was never litigated, the 23,000 acre feet reference was never sponsored by staff, or testified to under oath. This is in contrast to Findings of Fact 1, 2 and 3 which clearly state conclusive findings of the Commission.

In addition, the Commission does not "adjudicate" the water supply in a basin. Where that has occurred in California, it has been done in court proceeding or by an act of the Legislature creating a water management district. The Commission only adjudicates the extension of a utility's service territory and assures itself (and the Department of Real Estate through the Water Supply Questionnaire process) that adequate water is available to meet demand.

And that function is what staff recommends the Commission perform in this resolution. The protest by the Sierra Club and SCOPE that adequate water is not available has not been adequately supported. There is good reason to believe that water is available to serve the demands of AL 84 and 85 and will be available in the future.

On the other hand, the action requested by VWC, that review of subsequent ALs be constrained to the adopted figures in its 1994 Water Management Plan, is inappropriate. The Commission must always have the best information and analysis that is available before it makes any decision.

The other protests and comments are outside the jurisdiction of this Commission. The concern that certain lots are not within the service area of Castaic needs to be resolved between VWC with that Agency. The Branch has also inquired of the Department of Health Services and has been advised that there are no water quality issues that require correction. By its own calculations the Sierra Club shows VWC can physically take over 18,000 AF/y from Castaic. Because staff is postulating a take of only 10,000 AF/y, and because a water system can use storage to meet demand peaks, the capacity limit of Castaic's treatment plant should not be significant. Concerns about water allocation between two California counties should be resolved by negotiation in good faith between the county governments and their agencies. The protestants and commentators raised no other issues that require Commission attention.

Clearly, however, the allegations made in the protests could impact long term water demand, and need to be litigated. Consequently, Branch recommends that, although ALs 84 and 85 should be approved, VWC should be ordered to prepare an updated Water Management Program to enable the Commission and all interested parties to evaluate the effects of further expansion of its service area on its water supply. Branch recommends that VWC be ordered to file an application for approval of this program update, and serve copies on the Sierra Club, the County of Ventura Board of Supervisors and the United Water Conservation District, by January 3, 2000. Although this is a year earlier than the date requested by VWC, Branch believes that an updated WMP will just as likely assist in the preparation of an updated Urban Water Management Plan as an updated Urban Water Management Plan will assist in the preparation of a WMP, and that the remaining issues of water supply should be resolved before any additional service territory extensions occur. Approval of ALs 84 and 85 should satisfy the current construction demand in Valencia's service territory. If they do not, Valencia is invited to submit its application early. By having Valencia update its Water Management Program in a formal proceeding, the Commission and staff will be able to properly analyze the long term outlook. Interested parties, such as the Sierra Club, may challenge VWC's position, and a proper resolution will be obtained.

NOTICE AND PROTESTS

A notice of the filing of ALs No. 84 and 85 was made pursuant to General Order No. 96-A by sending copies to adjacent water purveyors and parties which have requested copies. As discussed above, the Angeles Chapter of the Sierra Club filed protests to both ALs.

FINDINGS AND CONCLUSIONS

1. The supply of water needed to serve the additional service territory requested in VWC's Advice Letters No. 84 and 85 is adequate.

2. Advice Letters No. 84 and No. 85 should be approved.
3. VWC has delayed filing an updated Water Management Program when it postponed filing its general rate case.
4. VWC should be ordered to file an application for approval of a revised Water Management Program by January 3, 2000.

IT IS ORDERED THAT:

1. Authority is granted for Valencia Water Company to serve the territory defined on the revised service area maps filed with Advice Letters No. 84 and No. 85.
2. Valencia Water Company shall file by January 3, 2000, an application for approval of an updated Water Management Program as required in D.94-02-043, and, in addition to the normal service list, Valencia Water Company must serve copies on the Sierra Club, the County of Ventura Board of Supervisors, and the United Water Conservation District.
3. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on August 5, 1999. The following Commissioners approved it:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners