

WATER/FLC:jrb

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION

RESOLUTION NO. W-4464
March 16, 2004

R E S O L U T I O N

**(RES. W-4464), ALISAL WATER CORPORATION (ALCO).
ORDER RECOGNIZING DEAN J. EVANS AS THE COURT-
APPOINTED STATE RECEIVER OF ALCO'S SYSTEM.**

SUMMARY

The Monterey Superior Court has appointed Dean J. Evans receiver of ALCO Water Service (ALCO), a subsidiary of Alisal Water Corporation. This resolution recognizes Mr. Evans as the receiver for ALCO.

BACKGROUND

The State Receivership:

By order filed October 9, 2003, the Monterey Superior Court appointed a receiver, Dean J. Evans, and ordered the sale of ALCO assets in order to satisfy a judgement¹ against ALCO. The Superior Court ordered the sale to satisfy the judgment it had previously found for the plaintiff, Silverwood, over the defendant, Alisal Water System. An appraiser in the Federal Receivership proceeding estimated that the sale of the assets of ALCO would provide enough funds to satisfy that judgment. ALCO is a Class B Commission regulated water system that provides water service to 8,214-metered customers in and near the city of Salinas in Monterey County.

¹ Case 90665, in SILVERWOOD ESTATES DEVELOPMENT LIMITED PARTNERSHIP, a limited partnership, (Plaintiff) vs. ROBERT T. ADCOCK and PATRICIA ADCOCK, individuals: ALISAL WATER CORPORATION, a California corporation doing business as ALCO WATER SERVICE and DOES ONE through SEVENTY-FIVE, inclusive, (Defendants)

The Federal Receivership:

By Order received July 1, 2002, The United States District Court, for the Northern District of California, San Jose Division, appointed John W. Richardson as Equitable Receiver for some of Alisal's small water systems. Alisal's small systems consist of Toro Water Service, Inc., Moss Landing Water Service, Inc., North Monterey County Water Service, Inc., Blackie Road Water System #18, San Jerado Water System, Vierra Canyon Water System, Langley/Valle Pacifico Water System, and Buena Vista Water System (ALCO-Small). By Resolution W-4346, the Commission recognized John W. Richardson as the U. S. District Court-appointed receiver for ALCO-Small companies.

DISCUSSION

Section 854(a) of the Public Utilities Code² states:

“No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or *control either directly or indirectly* any public utility organized and doing business in this state without first securing authorization to do so from the commission. The commission may establish by order or rule the definitions of what constitute merger, acquisition, or control activities, which are subject to this section. Any merger, acquisition, or control without that prior authorization shall be void and of no effect. No public utility organized and doing business under the laws of this state, and no subsidiary or affiliate of, or corporation holding a controlling interest in a public utility, shall aid or abet any violation of this section.” (emphasis added)

Since the Superior Court of California, County of Monterey, has already ruled upon Mr. Evans' qualifications, the Commission's only concern is his suitability to act as receiver and to insure that Mr. Evans secures the consent and approval of the Commission for the sale of the ALCO assets, in compliance with Code Sections 851-854. .

² All references to the Code are to the Public Utilities Code.

Mr. Evans retired from the Commission in August 2003. He had served as the Water Division Director for six years and for the last two years of his 38 years state service was an Administrative Law Judge. He is a licensed professional engineer in the State of California. In his role as Director he was familiar with the operations of the ALCO Water Systems and the Court cases involving ALCO. Mr. Evans has taken the oath of office and filed a bond with a surety company in the sum of \$50,000 to secure his faithful performance of the duties of Receiver.

The Water Division (Division) provided Mr. Evans with copies of General Order (G.O.) 103 and G.O. 96-A. Division also provided a copy of all of ALCO's tariffs. Staff has been in verbal contact with Mr. Evans on various occasions. Based on his actions so far, Division believes that Mr. Evans has the expertise and capability to assume the duties conferred upon him by the Superior Court.

As the receiver, Mr. Evans is mainly responsible for the sale of the ALCO's assets and will likely rely upon ALCO's existing management to operate the system, as has Mr. Richardson for Alisal's small systems. Mr. Evans may need to file for rate increases in the future in order to compensate himself, his attorney and any accounting or other consultants that may be necessary to fulfill his duties and to meet the operating needs of the utility.

Although Mr. Evans, under court supervision, now controls ALCO, nothing in this resolution relieves the owners of ALCO of responsibility for their actions or transfers to Mr. Evans the burden of any liability of the company.

FINDINGS

1. ALCO Water Service is a public utility within the jurisdiction of the Commission.
2. The Superior Court, County of Monterey, has appointed Mr. Dean J. Evans as (State) receiver of ALCO Water Service excluding the Toro Water Service, Inc., Moss Landing Water Service, Inc., North Monterey County Water Service, Inc., Blackie Road Water System #18, San Jerado Water System, Vierra Canyon Water System, Langley/Valle Pacifico Water System, and Buena Vista Water System all of which are under the Federal Receivership.

3. Dean J. Evans should be authorized to sell the assets of the ALCO Water Service excluding the Small companies, in accordance with all regulations and requirements of the California Public Utilities Commission.
4. Any sale of the ALCO assets shall be contingent upon Commission approval.

THEREFORE IT IS ORDERED THAT:

1. Dean J. Evans shall assume the responsibility of receiver for the assets of the ALCO Water Service for the purpose of selling this system as ordered by the Superior Court, County of Monterey.
2. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 16, 2004; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director