

Decision 07-12-057

December 20, 2007

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Lennar Corporation, LNR Property Corporation, LNR NWHL Holdings, Inc., Lennar Holmes of California, Inc., LNR Land Partners Sub, LLC, MW Housing Partners III, L.P., MW Housing Management III, LLC, MacFarlane Housing, LLC, MacFarlane Partners Investment Management, LLC, MacFarlane Partners, LLC, WRI CP Investments III LLC, Weyerhaeuser Realty Investors, Inc., LandSource Holding Company, LLC, and Valencia Water Company (U-342-W) for Authority for MW Housing Partners III, L.P., MW Housing Management III, LLC, MacFarlane Housing, LLC, MacFarlane Partners Investment Management, LLC, MacFarlane Partners, LLC, WRI CP Investments III LLC, Weyerhaeuser Realty Investors, Inc., Lennar Homes of California, Inc., LNR Land Partners Sub, LLC, and LandSource Holding Company, LLC to Obtain Indirect Control over Valencia Water Company.

Application 07-02-019  
(Filed February 16, 2007)

**ORDER DISMISSING APPLICATION**  
**FOR REHEARING OF DECISION (D.) 07-09-026**

In Commission Decision (D.) 07-09-026 (or “Decision”), we authorized MW Housing Partners III, L.P. (“MWHP”) to acquire a 50% indirect control over Valencia Water Company (“Valencia”) through a transfer of half of Lennar Corporation’s

and half of LNR Property Corporation's respective 50% indirect control over Valencia to MWHP. (D.07-09-026, p. 15 [Ordering Paragraph 1].) We approved the transfer of control over Valencia to MWHP subject to the same affiliate transaction rules and conditions imposed on Valencia and its affiliates by D.04-01-051, as modified by D.05-08-017, with one limited exception. (D.07-09-026, p. 17 [Conclusion of Law 7].) D.07-09-026 was issued on September 20, 2007 and mailed to all parties on September 21, 2007.

The Angeles Chapter of the Sierra Club and Friends of the Santa Clara River (collectively, "rehearing applicants") filed an application for rehearing of D.07-09-026 on October 22, 2007. In their rehearing application, they allege that they received insufficient notice in advance of the PHC in this proceeding, and also ask us to correct alleged internal inconsistencies in the Decision. On October 29, 2007, a response to the rehearing application was filed by Lennar Corporation and the other proponents of the transfer of control.

Upon review of the application for rehearing, it appears that rehearing applicants failed to meet the requisite deadline under Public Utilities Code Section 1731(b) for the reasons stated below. Accordingly, we dismiss the rehearing application without resolving the substantive issues raised therein.

In relevant part, Section 1731(b) provides: "No cause of action arising out of any order or decision of the commission shall accrue in any court or to any corporation or person unless the corporation or person has filed an application for rehearing . . . within 10 days after the date of issuance in the case of an order issued pursuant to . . . Article 6 (commencing with Section 851) of chapter 4 relating to . . . the transfer or encumbrance of utility property." (Pub. Util. Code § 1731, subd. b.) As noted in the Decision, Sections 851 to 854 govern the transfer of control at issue in this proceeding. (See D.07-09-026, p. 2.) These statutory provision fall within Article 6 of the California Public Utilities Act. As such, rehearing applicants were required to file their rehearing application within 10 days of September 21, 2007, the date D.07-09-026 was mailed to parties. As noted above, rehearing applicants did not file their rehearing application until

October 22, 2007. Since the rehearing application was not timely filed, Section 1731(b) bars consideration of the rehearing application, and therefore the rehearing application must be dismissed.

**IT IS THEREFORE ORDERED that:**

1. The application for rehearing of D.07-09-026 filed by the Angeles Chapter of the Sierra Club and Friends of the Santa Clara River is dismissed as untimely.

2. The proceeding, Application (A.) 07-02-019, is hereby closed.

This order is effective today.

Dated December 20, 2007, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners