

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the Operations and Practices of the Yermo Water Co. (U-354-W), and its Owner/Operator, Donald Walker; Notice of Opportunity for Hearing; and Order to Show Cause Why the Commission Should Not Petition the San Bernardino County Superior Court for a Receiver to Assume Possession and Operation of the Yermo Water Co. pursuant to the California Public Utilities Code section 855.

FILED
PUBLIC UTILITIES COMMISSION
APRIL 24, 2008
SAN FRANCISCO OFFICE
I.08-04-032

ORDER INSTITUTING INVESTIGATION**I. INTRODUCTION**

Pursuant to section 855 of the California Public Utilities Code, the California Public Utilities Commission (“Commission”) issues this Order Instituting Investigation (“OII”), Notice of Hearing, and Order to Show Cause (“OSC”) regarding the Yermo Water Company (“Yermo”) and its sole owner, Donald Walker, which hereafter are jointly and/or severally referred to as “the Respondents.” Since 1993, the Respondents have been of concern to the Commission and the California Department of Public Health (“CDPH”).¹ Despite efforts by the Commission in Resolution (Res.) W-3812, its Water Utility Branch (“WUB”) in 1995, and then the Water Division (“WD”) in 2006, to require Yermo to improve its operations and comply with Commission requirements, the Respondents continue to flout not only the Commission’s but also CDPH’s regulatory mandates.² Further, according to WD records, customer complaints have included

¹ CDPH was formerly known as the California Department of Health Services.

² The CDPH was formerly known as the Department of Health Services.

inadequate water pressure, malodorous and potentially unsafe water supplies, service interruptions, contamination, inadequate fire protection equipment, and other operational problems. These violations are not merely regulatory *faux pas*, but have also imperiled the health and safety of all of Yermo's customers.

Moreover, it appears that Yermo's owner has *de facto* abandoned this water system. At the present time Yermo's owner resides in the state of Florida, and attempts to manage Yermo from that location. Under Section 855, the Commission has an obligation to petition the San Bernardino County Superior Court for appointment of a receiver to assume possession and operation of Yermo.

Section 855 states:

Whenever the commission determines, after notice and hearing, that any water or sewer system corporation is unable or unwilling to adequately serve its ratepayers or has been actually or effectively abandoned by its owners, or is unresponsive to the rules or orders of the commission, the commission may petition the superior court for the county within which the corporation has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon such terms and conditions as the court shall prescribe. . . . The court shall provide for disposition of the facilities and system in like manner as any other receivership proceeding in this state.

This statute requires the Commission to institute this investigation to protect Yermo's customers from the continuing hazards caused by the Respondents' negligent operation of Yermo and to address their unwillingness or inability to comply with Commission and CDPH rules and regulations. The discussion below details the Commission's interactions with the Respondents, and since 1993 how their violations of Section 855 warrant this investigation.

II. BACKGROUND

A. Location, size, water supply, last general rate case increase in 1993.

Yermo is located ten miles north of Barstow in San Bernardino County and serves approximately 350 metered customers in Tracts 6593 and 6598 which are near the Township of Yermo, and Tracts 2459 and 2195 in Yermo. Most of the connections serve single family residences. The customer base of Yermo has not significantly increased since 1993. According to Yermo's 2005 Annual Report, it had 350 connections in 2005 compared to 343 in 1993.

Yermo's only source of water are three wells located adjacent to or in close proximity to the service area. Within that area, Yermo maintains two stand-alone pressure zones: (i) the "Main Zone," where Yermo operates Marine Wells Nos. 1 and 2; and (ii) the "Hel Bro Zone," where the Hel Bro Well No. 1 is operated. The total capacity of all three wells is approximately 450 gallons per minute. Three hydro-pneumatic tanks comprise Yermo's only water system storage as follows: in the Hel Bro Zone, a 10,000 gallon tank and in the Main Zone, two tanks having a total combined capacity of 15,000 gallons. The water system has no transmission lines. Instead, two- to four-inch distribution mains and laterals serve Yermo's customers. On November 23, 1993, the Commission issued Res. W-3812, which increased Yermo's gross annual revenue requirement 137% or \$76,019 for Test Year 1993, and a 13.4% rate of return was authorized. Donald Walker has been the sole owner and operator of Yermo since 1993. For the past several years, he has been residing in Florida and attempts to manage Yermo from his Florida residence. Despite a record of deferred or non-existent maintenance, unmet regulatory mandates, and continuing problems with water quality and service, Yermo has not filed another general rate case ("GRC") application since 1993.

B. Yermo fails to respond to and comply with Commission orders, rules, and regulations.

Res. W-3812 ordered Respondents to develop a plan of action for infrastructure improvement and to periodically report on its progress in implementing the plan. The pertinent ordering paragraphs of that Resolution are quoted below:

- Yermo Water Company shall maintain a customer complaint log and shall comply with the provisions of GO 103 with respect to customer complaints. [Ordering Paragraph (“OP”) 6.]
- Within ninety (90) days of the effective date of this order, Yermo Water Company shall file a plan of action with the Water Utilities Branch, detailing the repair work, system upgrading, new personnel hired and/or equipment purchases to be made as a result of this rate increase. Such plan shall be made available to any customer, upon request. [OP 7.]
- Commencing July 1, 1994, and once every six months thereafter, until relieved by the Branch, Yermo Water Company shall file a report with the Water Utilities Branch showing the progress completed on the above plan of action and the remainder left to be accomplished. Such report shall also be made available to any customer, upon request. [OP 8.]

To a large extent, Yermo has failed to comply with all of the above OPs. In a letter dated January 19, 1995, the WUB Program and Project Supervisor, Robert E. Penny, wrote and asked Yermo to explain its failure to comply with OP 7 and to provide a date for compliance. Regarding OP 8 above, on January 24, 1995, Mr. Penny again wrote and asked Yermo to explain its failure to comply with that order and for a date when Yermo would comply. Yermo has never responded to WUB’s inquiries and to WUB’s knowledge has not substantively complied with that Order. Thus, since Res. W-3812 was issued in 1993, Yermo appears to have disregarded and has been unresponsive to Commission orders, rules, and regulations

C. Yermo fails to comply with Commission requirements to file Commission Annual Reports and pay annual fees.

In 2006, WD sent one of its engineers to Yermo to inspect its facilities and report on his findings. According to an August 18, 2006 memo by Mohsen Kazemzadeh, a WD Senior Engineer, Yermo did not file Annual Reports with the Commission for the period 2001–2005 and since 2003 has also failed to pay its annual PUC Reimbursement Fee. It took WD Staff eight months to persuade Yermo to file an Annual Report in 2006. However, that filing was incomplete because the Respondents omitted completing Schedule G, a description of supply sources and developed wells; Schedule I, a listing of employees and their compensation; Schedule K, the total number of meters and services; Schedule M, the number and description of the service connections by end of year; and Schedules N and O, respectively, the number and description of Yermo’s storage facilities and footage of pipes.³

D. The Respondents have disregarded Commission directions to improve infrastructure; employed experienced, trained, and licensed water operators; and appear to have attempted selling Yermo without prior Commission approval.

According to Mr. Kazemzadeh’s July 2006 field visit, Yermo has inadequate storage capacity; has a faulty distribution system with frequent leakages; is relying on old equipment; and half or more of its 25 fire hydrants are inoperable, placing much of the Yermo community in immediate peril. As a result of Mr. Kazemzadeh’s investigation, WD concluded that for the short-term, Yermo needs to repair pipes and valves at four well sites; install chlorinators at two wells; and coordinate with CDPH to avoid water outages and lift boil-water orders. For the long-term, WD recommended that Yermo file a GRC; build additional storage facilities; repair the leaks; and replace its obsolescent distribution system.

³ M. Kazemzadeh, WD, Memo to Gen. Corresp. File no. 602, dated Aug. 18, 2006, p. 1-2, on file with DRA.

On July 27, 2006, WD Staff was scheduled to meet with Marvin Hardy, the manager and operator of Yermo at the time, but Mr. Hardy missed this appointment. Instead, Mr. Kazemzadeh met with Sheryl Johnson, Yermo's meter reader, while she was performing her rounds. Ms. Johnson volunteered to give Mr. Kazemzadeh a tour of the facilities.

When Mr. Kazemzadeh asked Ms. Johnson for Yermo's books and records, Ms. Johnson stated that a certain Jeff Bentow had signed an agreement to purchase Yermo two years ago and had removed the computer containing the Yermo records, as well as other files. The custodian of the customer records and billings, a certain "Diane," was unavailable during this office inspection. Commission records show that Yermo never applied under Sections 851 and 854 for prior Commission approval of the sale of Yermo to Jeff Bentow.

According to Ms. Johnson, Mr. Bentow fired Marvin Hardy and put Ms. Johnson in charge of operating the water system. However, she had no technical or operational knowledge, training, experience, or California state certification in running a water utility. She had to hire a "handyman named 'Mike'," who also had no technical knowledge, training, experience, or state certification in operating a water utility.

Mr. Kazemzadeh further learned that during the first week of July 2006, the largest pump at Well No. 1 and an electrical panel malfunctioned causing water outages for a week or more. None of Yermo's employees could repair the breakdown. Mr. Walker, who was living in Florida at the time, had to intercede and reinstate Marvin Hardy and hired a contractor to replace the damaged pump and electrical panel at Well No. 1.

According to Mr. Kazemzadeh's field inspection of all four Yermo wells, Well No. 4 was out of service; no meters were installed on the pumps for Well Nos. 2 and 3; and no chlorinators were installed at Well Nos. 3 and 4. Water pressure at Well Nos. 1, 2, and 3 ranged from 30 to 40 PSI, and several customers complained of low water pressure and poor water quality.

Mr. Kazemzadeh discovered that Yermo has not had a State certified water operator for some time. Marvin Hardy, Yermo's water operator for the past several years, does not have the requisite Water Operator D-1 California certification. As mentioned above, Sheryl Johnson and "Mike," the handyman, do not have the requisite State certification, or any prior knowledge, training, or experience in running a water system. WD also found that Yermo was not maintaining records of customer complaints, system maps, and tariff schedules or making them available to the public in compliance with General Orders ("G.O.") 96-B and 103.

E. The Respondents have been unable or unwilling to adequately serve its ratepayers.

On the evening of July 27, 2006, WD Staff participated in a panel discussion at a local public meeting, which was organized by the Yermo Community Services District ("YCSD"). Also on the panel were Marvin Hardy and representatives from CDPH, the Local Agency Formation Commission, and San Bernardino County. Yermo's owner, Donald Walker, did not attend.

Approximately 90 customers attended the public meeting. Among their complaints were frustration and dissatisfaction with Yermo's water quality and service: e.g., the water outages, malodorous and bad tasting water, broken water meters, inadequate water pressure to fight a fire or for washing, poor water quality, leaks in the distribution system, poor service, a lack of response to customer complaints, and an absentee owner residing in Florida. Some customers claimed that for years they have had to drink bottled water. A local school official expressed safety concerns for the students when a school was scheduled to open in August 2006, because of the unsafe drinking water. According to Marvin Hardy, only 75 out of the more than 300 Yermo meters and 50% of the fire hydrants are operational.

Mr. Kazemzadeh's July 2006 field inspection shows that in apparent violation of Section 855, the Respondents have done little if anything since the issuance of Res. W-3812 in 1993 to address ratepayers' complaints, make needed infrastructure

improvements, or comply with Commission or CDPH regulatory requirements such as employing State certified water operators.

F. The Respondents have failed to fulfill their promises to Commission Staff to provide plans for remedying Yermo operational problems.

On August 15, 2006, Mr. Kazemzadeh met with Donald Walker and Marvin Hardy at the Commission's San Francisco Office to discuss Yermo's water quality, service, and operational problems. Donald Walker agreed to submit proposals for remedying Yermo's short-term and long-term operational problems, respectively, by September 4 and October 3, 2006.

On August 22, 2006, Kevin P. Coughlan, WD's Director, wrote Donald Walker memorializing the August 15 meeting. Among the short-term improvements that WD requested were installation of chlorinators and flow meters at well pumps; replacement of deteriorated valves at well sites; and hiring qualified personnel to operate the water system. According to the same letter, Yermo's long-term proposals had to include an engineering study of needed improvements to the water system and a firm date within the next 90 days when Yermo would file a GRC.

According to the August 22 letter mentioned above, Yermo had to submit its short-term proposals by September 4, 2006, and complete the implementation of these improvements by November 15, 2006.⁴ The long-term proposals had to be submitted to WD by October 3, 2006.⁵ Also, WD reminded Yermo of its agreement to verify with supporting records the revenues and expense amounts presented by its Annual Reports for the period 2003–2005. WD warned that if Yermo failed to submit and implement its short- and long-term proposals, it could result in an Order to Show Cause as to why a receiver should not be appointed to take possession of and operate Yermo.

⁴ Letter by K. P. Coughlan to D. Walker, dated Aug. 22, 2006, on file with DRA.

⁵ *Id.*

The Respondents met none of the deadlines mentioned above for submitting short- and long-term proposals. On October 23, 2006, Fred L. Curry, Program Manager and Chief of the WD Water Branch, wrote Yermo stating that its short- and long-term proposals were overdue. Mr. Curry also reminded Donald Walker that on September 13 and 28, 2006, he promised Mr. Kazemzadeh to fax an explanation for failing to meet the September 4 deadline and “hand-deliver” Yermo’s short- and long-term proposals.

On October 30, 2006, Donald Walker in Florida wrote to Mr. Kazemzadeh, claiming a number of “Short-Term Solutions” were performed, such as “three chlorinators [were] installed,” and “parts [are] on order for flow meter.”⁶ Mr. Walker included some job invoices, estimates, and a “short term solution proposal,” and promised: “Tomorrow we will overnight you the package for your Short-Term Solution Proposal.” Mr. Walker did not deliver the promised “Short-Term Solution Proposal.” WD has never received that information or any other written proposal as requested. Further, the Respondents have not provided any documentary support for Yermo’s Annual Reports despite WD’s requests.

G. The owner has apparently abandoned Yermo

According to a letter from Michael Henderson, Chairman of the Yermo Community Services District, to Mr. Walker, dated July 20, 2007, Donald Walker is having Yermo customer water billings, bookkeeping, and accounting performed in Florida. Further, Marvin Hardy continues to manage and operate the water system even though he lacks adequate equipment to do so and he continues to have no State certification, a violation of CDPH requirements. The water storage and other infrastructure improvements agreed to by Yermo during meetings with staff during August 2006 remain undone.

In the last fifteen months, Yermo’s ratepayers have organized a group called the “Yermo Citizens for Solutions” (“YCS”). YCS supplied Commission Staff with a

⁶ Letter from D. Walker to Mohsen Kazemzadeh dated Oct. 30, 2006, on file with WD and available upon request.

copy of complaint affidavits from sixty-seven customers among other documents. The YCS and the Yermo Community Services District have complained to the Commission regarding Yermo's poor water supply and quality, water outages and service quality. They have demanded that the Commission take appropriate action against Yermo.

H. The Respondents have persistently failed to comply with CDPH orders, rules, and regulations.

On December 23, 1997, in Citation No. 03-13-97C-007 CDPH cited Yermo for failing to comply with the requirements of the California Safe Drinking Water Act ("SDWA").⁷ Specifically, Yermo failed to notify customers that it had violated bacteriological quality standards, i.e., the Total Coliform Rule. The Citation further stated that Yermo had failed to comply with prior Citation No.03-13-97C-004 and fined Yermo \$1,500 for all the violations.

In an enforcement letter dated May 14, 1998, CDPH found Yermo failed to comply with Citation Nos. 03-13-97C-004 and 03-13-97C-007. Subsequently, on August 14, 2000, in March 2000 according to Citation No. 03-13-00C-004 CDPH found Yermo failed to comply with the primary drinking water standards for total coliform.

On June 28, 2004, in Citation No. 03-13-04C-009, the CDPH cited Yermo for noncompliance with requirements of the SDWA. Specifically, Yermo failed to conduct any lead and copper tap monitoring following the completion of the first round of the two six-month monitoring dated November 1995.

From July 3 to August 10, 2006, Yermo's customers experienced water outages depriving them of tap water. Under a CDPH Boil Water Advisory, Yermo had to provide customers with bottled water. Yermo did not have qualified personnel to run the water system which prolonged the water outage. During this period, Donald Walker was living in Florida where he has been residing for the past several years prior to 2006.

On October 3, 2006, CDPH issued Citation No. 05-13-06C-010 and fined Yermo \$250 for failing to comply with its advisory letter dated July 27, 2006, which

⁷ The CDPH Citations mentioned in this Motion are on file with DRA and available on request.

required immediate bacteriological monitoring to lift the boil water restrictions. Because of Yermo's failure to comply with CDPH's July 27 advisory letter, the boil water restrictions remained in effect for approximately six more weeks. According to the Citation mentioned above, since 1993 *inter alia* Yermo has failed to submit water quality monitoring report and has been operating without a certified distribution operator since 2003.

On January 23, 2007, CDPH wrote to Yermo, that its December 2006 Annual Inspection found many deficiencies in operations, maintenance, and management of the water system that required remediation. For example, Yermo had not provided customers with an annual Consumer Confidence Report by July 1 of each year, which is required by CDPH administrative regulations. CDPH directed the Respondents to formulate a plan of action and schedules to correct the deficiencies and violations specified in its Annual Inspection Report, which had to be submitted to CDPH by February 9, 2007. CDPH warned Yermo that if it failed to respond to the CDPH findings as directed, CDPH may seek a court appointed receiver for Yermo to ensure adequate public health protection of the public.

In Citation No. 05-13-07C-015 dated April 20, 2007, CDPH cited Yermo for failing to comply with Citation No. 05-13-06C-010 (issued on October 3, 2006), and for violating Safe Drinking Water regulations in Title 22 of the California Code of Regulations. In a letter to Yermo dated June 29, 2007, CDPH listed the following eight violations of Citation No. 05-13-07C-015:

- Absence of source production records and well pump tests;
- Lack of Technical Managerial and Financial ("TMF") capacity assessment including a five-year budget projection and capital improvement plan;
- Absence of any annual budget projection and capital improvement plan;
- Overdue or omitted sampling results for all wells;
- Lack of any engineering evaluation of water system hydraulics;

- No water system schematic;
- Failure to submit 2006 Customer Confidence Report due by July 1, 2007 and certification of distribution; and/or
- Failure to provide action plan and schedules to correct deficiencies noted in CDPH Annual Inspection letter of January 23, 2007.

In a written response to CDPH dated July 19, 2007, Donald Walker stated:

[CDPH's directives would] require inordinate amount of time and labor that I am unable to expend the additional funds to accomplish....[Further] according to the Annual Inspection Report conducted on December 5, 2006, there has been significant improvement made in the system.

In an e-mail dated July 19, 2007 to Commission Staff, Sean McCarthy, CDPH's District Engineer for the San Bernardino District, concluded:

[Yermo is] unwilling to submit any TMF documentation or additional response to our survey in December and citation directives in April to correct the physical and operational deficiencies of the water system other than water quality monitoring. . . . [CDPH has] given Donald [Walker] more than enough opportunities to work with us and comply with the directives in two citations and the survey deficiencies over the last twelve months.

On July 19, 2007, CDPH imposed another "Boil Water Advisory" on Yermo, because a routine water sampling on July 18, 2007 indicated positive for coliform. This Advisory was cancelled on August 14, 2007. The Respondents' apparent failure to comply with CDPH orders, rules and regulations in turn violates Commission rules and regulations, according to G.O. 103.⁸

I. Violations

If proven at an evidentiary hearing, the information discussed above would constitute the following violations of Section 855 and thus warrant appointment of a receiver:

⁸ See G.O. 103, sec. II, subsec. (1) *et seq.* ("Quality of Water").

1. The Respondents have been or are unable or unwilling to adequately serve its ratepayers, because:

- a. The Respondents have not responded to customer complaints and dissatisfaction with Yermo's water quality and service: e.g., the water outages, malodorous and bad tasting water, broken water meters, inadequate water pressure to fight a fire or for washing, poor water quality, leaking distribution system, poor service, a lack of response to customer complaints.
- b. The Respondents have failed to maintain complaint logs in compliance with G.O. 103, section I, subsection 8, showing dates, times, and nature of the complaints, including the identity of the complainant, and the actions taken to resolve the complaints.

2. The Respondents have actually or effectively abandoned the Yermo water system, because:

- a. Respondents have failed to file a plan of action detailing the repair work, system upgrading, new personnel hired, and/or equipment purchases made as a result of the rate increases granted in Res. W-3812.
- b. Since the effective date of Res. W-3812, the Respondents have failed to file (once every six months) a report showing the progress completed and work remaining unaccomplished in the above plan of action.
- c. Several years ago, Donald Walker, the owner/operator of Yermo, moved his domicile from California to Florida from where he has conducted customer billings, accounting, hiring or firing of employees, supervision, and otherwise (mis)managed and controlled Yermo and its water system.
- d. Based on a Staff field inspection on July 27, 2006, the Respondents have inadequate storage capacity, a leaking and obsolescent distribution system, and half or more of its 25 fire hydrants are inoperable thereby placing the Yermo community in immediate peril.

- e. Since Res. W-3812 was issued, the Respondents have not filed a GRC as directed by Commission Staff, to increase rates for the needed infrastructure improvements.
- f. The Respondents have not employed for several or more years a qualified and State certificated water operator maintaining, operating, or testing the Yermo water system.

3. The Respondents have been and/or are unresponsive to the rules or orders of the Commission, because:

- a. Since the issuance of Commission Res. W-3812 on November 23, 1993, Respondents have failed to comply with that Resolution's Ordering Paragraphs 6, 7, and 8.
- b. Contrary to G.O. 103, section I, subsection 10, and other Commission rules and regulations, Respondents have failed to pay the annual PUC Reimbursement Fee since 2003 and to file Annual Reports with the Commission for the period 2001 – 2005. The Report for 2006 was incomplete.
- c. In 2004, Respondents attempted to sell Yermo and its water system to Jeff Bentow without having complied with Section 851 which requires prior Commission approval for such sale.
- d. Respondents failed to report to the Commission any interruptions of service, such as the water outages occurring in July 2006 at Well No. 1, contrary to the requirements of G.O. 103.⁹
- e. The Respondents have been and/or are unresponsive to CDPH rules or orders from 1997-2007, as described above at section 2.8 *et seq.* of this OII. Violations of CDPH requirements in turn represent a violation of corresponding Commission rules or orders according to G.O. 103.¹⁰

⁹ *Id.* at sec. II, subsec. 2(d) (“Reports to Commission”)

¹⁰ *Supra* note 9 above.

- f. The Respondents' failure to comply with Commission orders, rules and regulations, such as Res. W-3812's OPs 6 – 8, are violations under Sections 2107 and 2108, for which fines and sanctions may be imposed either severally or jointly.¹¹

Therefore, **IT IS ORDERED** that:

1. An investigation on the Commission's own motion is instituted into the operations and practices of the following Respondents: the Yermo Water Co., a water corporation, and Donald Walker, Yermo's owner.
2. The Respondents are directed to show cause why the Commission should not petition the San Bernardino County Superior Court for the appointment of a receiver to assume possession and operation of Yermo and its water system pursuant to section 855 of the California Public Utilities Code, based on the above stated information and described violations.
3. The Respondents are further directed to show cause why an order imposing fines, penalties, or other remedies should not be issued for their violations of Commission rules, regulations, or orders, as stated herein.
4. A hearing will be held as soon as practical after an assigned Administrative Law Judge (ALJ) convenes a Prehearing Conference pursuant to Rule 7.2 and calendars a date, time, and location for a hearing in a subsequent ruling or order. The ALJ will determine the findings of fact and conclusions of law regarding the issues stated herein.
5. The Respondents must provide the Chief ALJ (within 30 days after the date of this order) a written statement indicating whether the Respondents will appear at the hearing and present evidence in response to the issues stated herein. If the Respondents fail to file the written statement within the time specified above, the Respondents will be deemed to have waived their right to a hearing. In that event, the assigned ALJ (or the Chief ALJ if no ALJ has yet been assigned) will schedule no hearing. Instead, the

¹¹ In general, Secs. 2107 and 2108 imposes fines in the range of \$500 to \$20,000 per violation and for each day that the violation continues.

allegations in this OII will be deemed admitted and constitute this proceedings record of evidence. A proposed order based on such record of evidence will be prepared to include findings of fact and conclusions of law of record, as well any fines and penalties to be imposed on the Respondents, and directing the General Counsel of the Commission to apply to the San Bernardino County Superior Court for judicial appointment of a receiver to assume possession and operation of Yermo and its water system.

6. The Respondents must also submit in writing to the Director of the Water Division within 30 days after the date of this Order, the following:

A full and complete verification of any and all financial data stated in its Annual Reports for the period 2003 – 2005;

A listing of the name, billing address, classification (e.g., residential, commercial), type of service (i.e., meter or flat-rate), and date and amount of last billing;

A copy of Yermo's customer complaint log and a copy of each and every customer complaint received by Yermo, including all complaint data required by General Order 103, section I(8) ("Complaints") and regarding the period 2002 – 2007.

7. The Respondents must obtain the Commission's prior written approval before executing any agreement for the sale, transfer, or encumbrance of any ownership interests in Yermo or its water system.

8. This OII constitutes the Notice of Opportunity for Hearing pursuant to Section 855.

9. During the pendency of this proceeding, Respondents must comply with and cease and desist from any and all violations of any Commission order, rule, or regulation and any pertinent Public Utilities Code statutory provision.

10. Staff may propose amending this OII to include additional Respondents or charges. Any such proposal must be presented to the Commission in the form of a motion to amend the OII.

11. The Water Division, if it elects to do so, may present additional evidence either by testimony or through documentation, bearing on the operations and/or practices

of the Respondents. The additional evidence may show whether the Respondents continued to engage in improper conduct after the issuance of the OII, which may affect the type and level of fines or sanctions imposed in this proceeding. Any additional information that Staff wishes to advance as evidence in this proceeding must be provided to the Respondents in advance of any hearings in accordance with the schedule established by the assigned Administrative Law Judge or Commissioner at a Prehearing Conference. Staff need only respond to discovery regarding the issues stated above in this order.

12. All applications submitted by Respondents after today and while this proceeding is open will be consolidated with this proceeding for consideration.

13. The Respondents, and any agent, representative, employee, consultant, or other individual or person acting on behalf of the Respondents, are ordered to cooperate with the Water Division Staff in accordance with Section 314 and provide access to the Yermo's accounts, books, records, and other papers (whether in electronic or paper form), which the Respondents must preserve until further orders by the Commission.

14. This ordering paragraph suffices for the "preliminary scoping memo" required by Rule 5.2 of the Commission Rules of Practice and Procedure (Rule). This proceeding is categorized as an adjudicatory proceeding and will be set for evidentiary hearing. The issues of this proceeding are framed in the above order. A Prehearing Conference shall be scheduled for the purpose of setting a schedule for this proceeding, including dates for the exchange of additional written testimony, determining which of the Staff's witnesses will need to testify, and addressing discovery issues. As to categorization of this proceeding, this order is appealable pursuant to Rules 7.1(c) and 7.6. Any person filing a response to this Order Instituting Investigation, Notice with Opportunity to be Heard, and Order to Show Cause must state in any response the objections to such orders and notice regarding the need for hearings; the issues to be considered; or the proposed schedule. However, objections must be confined to jurisdictional issues that could nullify any eventual Commission decision adjudging the

merits of the alleged violations and may not address factual allegations that an evidentiary hearing will decide.

15. The Executive Director will send by certified mail, return receipt requested, a copy of this Order to the Respondents at the following addresses:

Donald Walker, Owner
Yermo Water Co.
1275 Spring Garden Ranch Road
Delon Spring FL 32130

Donald Walker, Owner
Yermo Water Co.
P.O. Box 14
Apple Valley CA 92307

Donald Walker, Owner
Yermo Water Co.
P.O. Box 910
Yermo CA 92398

This Order is effective as of the date shown below.

Dated April 24, 2008, at San Francisco, California

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners