

Decision No. 20684

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
The Butano Land & Development Co.
for the issuance of a certificate of
Public Convenience and Necessity.

Application No. 15134.

William H. Bryan, for applicant.
J.E. McCurdy, for certain protestants.

BY THE COMMISSION:

O P I N I O N

This is an application by The Butano Land & Development Company, a corporation, asking the Commission for a certificate of public convenience and necessity to operate a water system in San Mateo County.

Public hearings in this matter were held at San Francisco before Examiner Gannon.

The applicant herein owns approximately 600 acres of land in Butano Valley which lies some five miles southeast of the Town of Pescadero, San Mateo County. Eighty acres of this land were subdivided into lots about the year 1913 and at the present time there are on the tract forty-one cottages which are occupied usually for only a few months in the summer and occasionally for week-ends during the balance of the year.

The water for the system is obtained from three groups of springs located on the company's lands and is delivered into small storage tanks from which distribution is made by gravity through 8,770 feet of pipe lines ranging from 2½ inches to 3/4 of

an inch in diameter. The system is unmetered and at the present time there are thirty-seven active consumers. Four residents in the subdivision now obtain water from private sources. The present mains were installed during 1926 and 1927 and replaced the original pipe lines which were wholly inadequate.

The evidence indicates that the investment of applicant in the structural properties of its water system is approximately \$4,000. and that the annual depreciation fund amounts to \$69. Up to the present time, applicant has conducted the water business as part of its real estate operations and has kept no separate records of the expenses incurred. The evidence, however, indicates that the annual costs of maintenance and operation should not be normally in excess of \$180. under existing conditions.

Protests against the granting of the application were made by and in behalf of certain of the residents and lot-owners upon the ground that at the time of the purchase of their lots this company had promised them free water service. Letters signed by the president of the company were submitted by certain of the lot-owners but no evidence was introduced showing any defined rights to free water from the present water works accruing to any of them through contract or in the deeds of conveyance or otherwise. For several years water was actually supplied to many of the residents by the company without cost and, until after the rebuilding of the system, no charge was made for service until the year 1928. The facts as presented indicate that some of the lot-owners may have valid claims to water rights acquired at the time of purchase of their properties. This Commission, however, is without authority to pass upon the extent of such claims arising through contractual obligations incurred as a result of representations made by or on behalf of the land company to the present lot-

owners during the negotiations for purchase, and clearly the establishment of such claims is not necessary in the determination of the issues involved in the proceeding herein. Whatever rights of a private nature the protestants have, may still be confirmed by submission thereof to a court of competent jurisdiction.

The streets and roads in Butano Falls Tract have not as yet been accepted by the County of San Mateo and a franchise for their installation therefore is not required at this time. It appears that the public interest and convenience will best be served by the granting of this application. The schedule of rates set out in the following order appears to be reasonable under present conditions of operation and service.

O R D E R

The Butano Land & Development Company, a corporation, having made application to this Commission as entitled above, public hearings having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that The Butano Land & Development Company, a corporation, operate a water system for the purpose of supplying water for domestic and other purposes in Butano Falls Tract, San Mateo County, and

IT IS HEREBY ORDERED that The Butano Land & Development Company be and it is hereby authorized and directed to file with this Commission, within thirty (30) days from the date of this order, the following schedule of rates to be effective for all water service rendered subsequent to December 31, 1928:

FLAT RATE SERVICE

Annual Charge:

For domestic use of water for calendar year for each cottage or residence, payable in advance-----\$8.00

The above annual charge is due and payable on the first day of June of each year of service, except, however, that water may be secured prior thereto at any time upon payment of said annual charge.

IT IS HEREBY FURTHER ORDERED that The Butano Land & Development Company be and it is hereby directed to file with this Commission for its approval, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 17th day of January, 1929.

Paul D. Loretto
Ed. S. ...
Emund ...
Leon ...
M. P. ...
Commissioners