

Decision No. 22112

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

W.E. CORRIGAN  
GODFREY MACRET  
T.H. KRUTSCHENITT  
O.B. PERRY  
D.L. REYNOLDS  
E. ROBINSON  
Dr. R.B. SCHEIER,

Complainants,

vs.

OAKS WATER COMPANY  
W.O. LANG  
HILLSBOROUGH WATER COMPANY,

Defendants.

ORIGINAL

Case No. 2715.

In the Matter of the Application of  
W.O. LANG, operating under the firm  
name and style of OAKS WATER COM-  
PANY, for a certificate of public  
convenience and necessity authoriz-  
ing him to distribute and sell  
water to the inhabitants residing  
in Brewer Tract No. 3, in the City  
of Hillsborough, California.

Application No. 16117.

Cleveland R. Wright, for Complainants.

W.F. Williamson, Wallace & Vaughan,  
by Reginald L. Vaughan, for Defendant  
and Applicant.

Arthur H. Redington, City Attorney, and  
J.C. Nowell, City Manager, for Town of  
Hillsborough, Intervener.

BY THE COMMISSION:

O P I N I O N

Complainants herein alleged that defendant W.O. Lang  
owns and operates, under the fictitious name and style of Oaks

Water Company, a water works supplying water for domestic purposes in Brewer Tract No. 3 in the Town of Hillsborough; that said defendant has been collecting monthly for the water used and has unlawfully charged consumers for service connections; that the service has been subject to many and frequent interruptions and that defendant has not provided adequate pumping equipment or sufficient water storage capacity to meet normal demands for either domestic service or fire protection. It is further alleged that said defendant Lang has never received authority from the Railroad Commission to sell and distribute water. Complainants ask that said defendant Lang be adjudged a public utility, that he be required to file his rates with this Commission and that he install improvements necessary to give proper domestic and fire protection service. Defendant Lang in his answer admits the essential facts alleged by complainants but contends that he is not only preparing to improve the water supply but is also preparing the necessary petition to file with the Railroad Commission seeking to receive a certificate of public convenience and necessity, together with the establishment of a schedule of rates.

Although Hillsborough Water Company was named in the complaint as a party defendant herein, no allegations were made by complainants against this company, which in its answer declared that it has not and never has at any time supplied or undertaken to supply complainants, or any of them, with water. Complainants conceded that said Hillsborough Water Company was and is under no obligation to serve any of them with water and that said company was improperly joined as party defendant in this proceeding. This complaint therefore will be dismissed as to said company.

Subsequent to the filing of the complaint and the answer, defendant Lang filed the above entitled application asking for a certificate of public convenience and necessity and for the fixing of a schedule of rates. The Town of Hillsborough, a municipal corporation of the sixth class, filed a petition in intervention in connection with the application herein alleging that applicant Lang had in or about the year 1927 installed certain fire hydrants connected to his water system; that, by so doing, said applicant has dedicated his system to the furnishing of water for fire protection purposes in Brewer Tract No. 3, and that said fire protection service now rendered is wholly inadequate. Intervener further states that it is ready and willing to pay a reasonable charge for fire protection service provided said service is adequate and proper.

By stipulation of all parties, the two matters were consolidated for hearing and decision at hearings conducted thereon by Examiner Williams at Burlingame.

In 1927, W.O. Lang subdivided a tract of land in the northwestern portion of the Town of Hillsborough into ninety-six lots of rather large dimensions and constructed thereon a water distribution system consisting of mains four and six inches in diameter, including nine fire hydrants. The water supply was and is now obtained from Hillsborough Water Company under a temporary contract. There are no independent storage facilities on this system and no storage available except from the tanks of the Hillsborough Water Company. At present the tract is improved by twenty-six houses, either constructed or in the course of construction, in various parts of the area and, of these, seventeen are now consumers of water.

The testimony shows that this subdivision was laid out in large lots containing approximately two-fifths of an acre and that building restrictions in the tract require a rather high and expensive type of construction for the homes and buildings erected therein, resulting in a large demand for water for lawn and garden sprinkling and irrigation. This class of use is generally accomplished through installations of permanent fountain sprinkler heads, which require the delivery of large volumes of water. There is no dispute over the fact that the water supply and pressures in the past have been and now are insufficient and unsatisfactory and that proper service requires the installation of pumping equipment and storage facilities of larger capacities, together with a larger and more dependable source of supply. Applicant Lang has agreed to install, without delay, the necessary improvements and has already made arrangements with the City of Burlingame to procure water from its new reservoir of one and one-half million gallons capacity, which reservoir has recently been constructed on a portion of the Brewer Tract No. 3. Said Lang has filed plans for the construction of a new 50,000-gallon storage tank at a high point on the tract and also for the installation of new pumping equipment, automatically-controlled, which, according to the testimony, should be capable of maintaining a reasonable reserve supply in storage. It appears that the installation, in a proper manner, of the improvements as proposed should result in remedying the present causes of complaint and should also provide for the additional demands of considerable more consumers than are now served, although it is also apparent that additional facilities undoubtedly will be required to serve properly the entire tract under ultimate development.

The evidence indicates that defendant Lang has been selling for compensation water to consumers in this subdivision for at least the two years last past and, as such, has been operating as a public utility. Said Lang has charged each consumer sums ranging from \$30.00 to \$50.00 for service connections. As such charges by public utilities are not permitted by the general practices of this Commission, all such amounts so collected from the consumers should be refunded by the utility either in cash or by way of credits on future water bills.

The water to be procured from the City of Burlingame will be paid for by the utility at the regular city rate of 40 cents per 1,000 gallons. Applicant Lang desires to charge the following quantity rates:

0 to 50,000 gallons, per 1,000 gallons--\$0.42  
Over 50,000 gallons, per 1,000 gallons--\$0.40

and also an additional service charge varying from 50 cents per month for 5/8-inch meters to \$6.00 per month for 4-inch meters.

Under existing circumstances, these rates are reasonable and will be authorized in the order set out below.

#### O R D E R

Complaint and application as above entitled having been filed with this Commission, public hearings having been held thereon, the matters 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 that W.O. Lang, doing business under the fictitious firm name and style of Oaks Water Company, operate a water system for the purpose of supplying water

for domestic and other purposes in Brewer Tract No. 3, Town of Hillsborough, County of San Mateo, subject, however, to the following condition:

1. That within sixty (60) days from the date of this order W.O. Lang shall install, in a proper manner acceptable to this Commission, a pumping unit, automatic-control equipment and storage facilities substantially equal to or greater than the size and type thereof as shown by defendant's Exhibit No. 3, Application No. 16117 herein; and said W.O. Lang shall furthermore inform this Commission, in writing, within ten (10) days of the date the above installations have been completed.

IT IS HEREBY ORDERED that W.O. Lang be and he is hereby directed to refund, within six (6) months from the date of this order, to each consumer entitled thereto all amounts collected as charges for meter and/or service connections, either by cash repayments or by way of credits on monthly water bills, or both, and said W.O. Lang shall file with this Commission on or before six (6) months from the date of this order a certified statement setting forth the name of each consumer charged as above, the amount of each such charge and the date or dates each such repayment has been made.

IT IS HEREBY FURTHER ORDERED that, as to the Hillsborough Water Company, the complaint herein be and it is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that W.O. Lang be and he is hereby authorized and directed to file with this Commission, within thirty (30) days from the date of this order, the following rates to be effective for all water service rendered subsequent to the 28<sup>th</sup> day of February, 1930.

METER RATESMonthly Service Charge to apply to all Metered Services:

5/8-inch meters-----	\$0.50
3/4-inch meters-----	0.75
1-inch meters-----	1.25
1 1/2-inch meters-----	1.75
2-inch meters-----	3.00
3-inch meters-----	4.50
4-inch meters-----	6.00

Quantity Rate to apply to all Water Used:

From 0 to 50,000 gallons, per 1,000 gallons-----	\$0.42
Over 50,000 gallons, per 1,000 gallons-----	0.40

MUNICIPAL USE

Fire hydrants owned and installed by W.O. Lang, each per month-----	\$1.50
Fire hydrants owned and installed by the Town of Hillsborough, each per month-----	1.00

All other municipal service charged for  
at the regular meter rates.

IT IS HEREBY FURTHER ORDERED that W.O. Lang be and he is hereby directed to file with the Railroad Commission, within thirty (30) days from the date of this order, rules and regulations governing the distribution of water to his consumers, said 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 11<sup>th</sup> day  
of February, 1930.

Cl. James  
Zimmerman

Thos. S. Larkin

M. A. Lee  
Commissioners.