

Decision No. 23561.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of the ESTATE OF EDGAR BISHOP, also known and sometimes called E. Bishop, deceased, and BEN LOMOND REDWOOD PARK CORPORATION, for an order authorizing the sale and conveyance of that certain water system situate near Ben Lomond, Santa Cruz County, California.

ORIGINAL

Application No. 17162.

O. K. Grau, for Ben Lomond Redwood Park Corporation.
Chapman, Trefethen, Richards and Chapman,
by E. E. Trefethen, for Estate of
Edgar Bishop.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Estate of Edgar Bishop, deceased, asks the Commission to authorize the transfer of a public utility water system supplying consumers residing in and in the vicinity of Rowardennan Redwood Park, also known as Ben Lomond Redwood Park, located in and near the town of Ben Lomond, in Santa Cruz County, to Ben Lomond Redwood Park Corporation, a corporation, which joins in the application.

A public hearing in this matter was held before Examiner Williams in San Francisco.

This water system was installed originally by one Edgar Bishop who supplied with water a subdivided tract of land located near Ben Lomond, then called Rowardennan Redwood Park. On or about the 10th day of June, 1926, the said Edgar Bishop entered into a written agreement with Nathaniel H. Spitzer, Isaiah Hartman

and G. G. McDaniel wherein and whereby said Edgar Bishop agreed to sell to Spitzer, Hartman and McDaniel, for a sum alleged to be Four Thousand Dollars (\$4,000), the above mentioned water system together with appurtenant water rights and certain necessary lands and rights of way and/or easements. Thereafter said Spitzer, Hartman and McDaniel, by assignment in writing dated the 3rd day of January, 1929, assigned and transferred to Ben Lomond Redwood Park Corporation all of their right, title and interest in and to said agreement, including said water system. Thereafter and in accordance with the terms of said agreement, Ben Lomond Redwood Park Corporation assumed control and possession of the water system.

No application was ever made to this Commission by or in behalf of Edgar Bishop asking for the approval of this transaction. However, on March 14, 1929, a petition was filed asking the Commission, among other things, to authorize the transfer of this water system to Public Utilities California Corporation which request was granted in Decision No. 20982, dated April 17, 1929. The above corporation having failed to acquire the water system under the authority so granted and said Edgar Bishop having died without making any conveyance or transfer of the real property and water system under the original agreement of June 10, 1926, the Administratrix with the will annexed of the Estate of Edgar Bishop, deceased, obtained, on the 6th day of August, 1929, an order granted and issued by the Superior Court of the State of California in and for the County of Alameda to specifically perform the provisions of the above mentioned agreement in so far as it concerned the water properties. It is for the purpose of clearing the title of this water system that the

present application has been filed. The consideration for the transfer of the water properties involved herein is alleged by applicants to be Four Thousand Dollars (\$4,000), payable in installments, the last of which under the terms of the original agreement was due and payable on or before July 10, 1928. This date has been extended from time to time and according to the testimony at the time of the hearing herein the purchaser had paid on account of the purchase price of said water properties only the sum of Fifteen Hundred Dollars (\$1,500). However, it appears from the above mentioned court order that Ben Lomond Redwood Park Corporation has made a tender to said Administratrix of the entire unpaid balance of principal and interest due under the terms of the agreement of sale. Such being the case, it appears that this transaction will not at this time create such an evidence of indebtedness as will necessitate the payment of a fee as prescribed by Section 57 of the Public Utilities Act. There was no protest against the granting of this application and it appears to the best interest of the public to authorize the transfer of this public utility water system as requested.

O R D E R

The Estate of Edgar Bishop, deceased, having applied to the Railroad Commission for permission to sell its property, a public utility water system situate in and in the vicinity of Ben Lomond, Santa Cruz County, to Ben Lomond Redwood Park Corporation, a corporation, and Ben Lomond Redwood Park Corporation having asked permission to purchase said property, a public hearing having been held thereon, the matter having been submitted and the Railroad Commission being of the opinion that this application should be granted, therefore,
IT IS HEREBY ORDERED that the Estate of Edgar Bishop,

deceased, be and it is hereby authorized to sell and transfer to Ben Lomond Redwood Park Corporation, a corporation, and that said corporation be and it is hereby authorized to purchase and acquire, that certain public utility water system serving consumers in and adjacent to Rowardennan Redwood Park, also known as Ben Lomond Redwood Park, situate in the County of Santa Cruz, as said system is more particularly set forth and described in the application herein and the exhibits attached thereto, said transfer to be substantially in accordance with the terms and provisions of that certain agreement entered into under date of June 10, 1925, by and between Rowardennan Redwood Park Company, a corporation, Edgar Bishop and his wife, Sophie C. Bishop, the parties of the first part, and Nathaniel H. Spitzer, Isalah Hartman and G. G. McDaniel, parties of the second part, a copy of said agreement being attached to the application herein and designated as "Exhibit 'A'."

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the following terms and conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before the 1st day of July, 1931, and a certified copy of the final instrument of conveyance shall be filed with this Commission by Ben Lomond Redwood Park Corporation on or before said date.
2. The consideration for the transfer of the properties herein authorized shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 10th day of April, 1931.

Cl. Sawyer
Leon Williams
W. H. Carr
W. B. Loring
J. G. Stewart
 Commissioners.