

Decision No. 23572

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

THORVALD BROWN and NEEL M. BROWN, his wife, R. C. STAEDLER and MRS. R. C. STAEDLER, his wife, WILLIAM SCHOENING and MRS. WILLIAM SCHOENING, his wife, FRED W. WEISS and MRS. FRED W. WEISS, his wife,

Complainants,

vs.

Case No. 2909.

ESTATE OF BISHOP, BEN COHEN and G. G. McDANIEL,

Defendants.

C. D. ALVEY, R. M. CONDIT, J. L. CUNDALL, W. F. DAY, ELIZABETH DELANCIE, JAMES W. DOWNS, A. E. FALKNER, HARRY HALL, JACK HARRIS, S. O. HOLMES, ROSE K. IVES, CHARLOTTE IZANT, A. F. LINDEMAN, L. C. MacDONALD, M. K. MARTIN, T. J. McCORD, TED O'BRIEN, H. L. PHINNEY, WM. E. SCHOENING, C. SIEMS, E. E. SILVA, WM. F. STEINMETZ, MORRIMER SWIFT, R. C. STAEDLER, W. H. THORNTON, ROSE VLAMIS, MRS. F. G. WIGHT, PAUL G. WOOLLEY,

vs.

Case No. 2913.

BEN LOMOND REDWOOD PARK COMPANY - WATER SYSTEM - E. BISHOP ESTATE, OWNER

OFFICERS OF THE BEN LOMOND REDWOOD PARK COMPANY

BEN S. COHEN, ISAJAH HARTMAN, G. G. McDANIELS, J. E. PERRY, A. VAN VECKEN.

Thorvald Brown, for Complainants.  
 H. L. Phinney, in propria persona.  
 E. R. Davies, for Estate of E. Bishop.  
 O. K. Grau, for Defendants, including Estate of E. Bishop.

BY THE COMMISSION:

O P I N I O N

These two complaints were filed by consumers receiving water from a system now owned by the Estate of E. Bishop, deceased,

and operated by Ben Lomond Redwood Park Corporation, serving water for domestic use in a summer resort area located in and adjacent to the town of Ben Lomond, Santa Cruz County. Complainants allege that the water service rendered by defendants for several years last past during the months from June to October, inclusive, is inadequate and insufficient; that frequently during the seasons of 1929 and 1930 no water was available to consumers for periods lasting from one to six days; that the springs from which the water supply is obtained do not produce a sufficient supply of water to meet the requirements of the community and that by reason of the steep and hilly nature of the area served, together with the inadequate and leaky mains, there is an improper distribution of the available water. The Commission is asked to require the defendants to provide an adequate and continuous water supply and to make such repairs to the distribution mains as will insure a proper distribution of the available water without undue waste.

The answer of defendants alleges that the shortage of the water supply is due to the general drought condition that exists throughout the State; that with only a few exceptions the complainants are delinquent in the payment of the charges for water service for some years past, the sum due and unpaid amounting to more than One Thousand Dollars (\$1,000). Defendants allege that if the delinquent water bills are paid the entire amount will be expended in improving the water plant.

Public hearings in these proceedings were held at Ben Lomond and San Francisco before Examiner Williams.

The complaints were consolidated for hearing and decision by stipulation of all interested parties.

The water for this system is obtained by diversion from

a small mountain stream, variously called "Deam Creek," "Earl Creek" and "Lomond Glen Creek," and is delivered to the consumers by gravity with the exception of a higher zone which is supplied by pumping. The distribution system consists of approximately 15,000 feet of mains ranging from three-quarters of an inch to three inches in diameter. The storage consists of two wooden tanks having a combined capacity of 27,000 gallons. At present there are approximately sixty consumers, of whom forty are served by gravity, the remainder being supplied by pumping. All of the services are unmetered and the premises consist principally of summer homes which, however, are also frequently occupied from time to time throughout the entire year.

The evidence shows conclusively that the service rendered has been intermittent and inadequate and that there have been many days during the past few years when no water at all was supplied to the users. Apparently considerable water escapes at the diversion structures and through leaks in the mains. The defendants have no one on the ground regularly in charge of the system and have made no effort to repair and properly maintain the plant. The testimony shows that with a few minor improvements and repairs the existing water supply would be sufficient for the present demands of the consumers. Service is now unmetered, which permits a wasteful and unregulated use of water and results in an inequitable distribution of the available supply among the consumers. The installation of meters, as soon as financial conditions of the operators of this water plant may permit, will greatly conserve the water supply and for this reason is urgently recommended.

This water system originally was installed during the period from 1907 to 1909 by E. Bishop, now deceased, to furnish water to purchasers of lots in a subdivided tract of land situated

in the vicinity of Ben Lomond, in Santa Cruz County. On April 17, 1929, the Commission, in Decision No. 20982, authorized the transfer of this system to Public Utilities California Corporation, which sale, however, was never consummated. Before his death, Mr. Bishop had entered into an agreement to sell the water system, together with certain lands, to Nathaniel H. Spitzer, Isaiah Hartman and G. G. McDaniel, who in turn assigned their rights thereunder to Ben Lomond Redwood Park Corporation, a corporation, and one of the parties defendant in this proceeding. Although this agreement, together with the assignment thereof, was never presented to this Commission for its approval, nevertheless Ben Lomond Redwood Park Corporation took possession of the water system and assumed the obligations of operating it and supplying water to the consumers. As a result of the various transfers made or attempted to be made of this public utility property, together with the fact that owners or operators thereof had no responsible party locally in charge, the consumers had no means of knowing definitely who actually owned the property and was responsible for providing service, who had the right to make collections for water and to whom water bills should be paid. As matters stand at the present time, it is clear that the title to the public utility property involved herein is still vested in the Estate of Edgar Bishop, deceased. Accordingly and in order to clear up the rights of defendant Ben Lomond Redwood Park Corporation to conduct the affairs of this utility, Application No. 17182 was filed February 5, 1931, in which the Estate of Edgar Bishop, also known and sometimes called E. Bishop, deceased, and Ben Lomond Redwood Park Corporation ask the Railroad Commission for an order authorizing the sale and conveyance of this water system to the corporation. The authority requested in this application has been granted by this Commission in its Decision No. 23561, dated the 6th day

of April, 1931, and for this reason the order in this matter will be directed to the Ben Lomond Redwood Park Corporation.

Defendant corporation through its officers frankly admitted that the water service heretofore and now being rendered on this system has been and now is wholly inadequate and further stated its willingness to make whatever reasonable improvements may be directed by the Commission in the exercise of its jurisdiction. From the evidence it is clear that existing storage facilities are inadequate; that the existing structures used for collecting and diverting water are inefficient and ineffective and must be rebuilt in order to secure a proper water cutoff. It furthermore appears that the pipe lines are in a bad state of disrepair and in certain instances are of insufficient capacity to properly serve the number of consumers attached thereto. In addition to this there is no responsible party locally in charge of the operation of the system to whom complaints may be made or who can make necessary repairs in times of emergency. This company will be required to employ some person capable of operating the system and who may be available at all reasonable times during the summer season and the consumers should be notified of his name and address as soon as he is employed. The order herein will require the utility to file with this Commission plans to remedy the conditions noted above.

The present schedule of rates now being charged for service rendered by this utility is not on file with this Commission. Ben Lomond Redwood Park Corporation will be directed in the order following this opinion to file its rates within thirty (30) days from the date thereof.

#### ORDER

Formal complaints having been filed as entitled above, public hearings having been held thereon, the matters having been

submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that, within thirty (30) days from the date of this order, Ben Lomond Redwood Park Corporation, a corporation, operating that certain water system in and in the vicinity of Ben Lomond Redwood Park, in the County of Santa Cruz, shall file with this Commission, subject to its approval, plans for the installation of improvements to said water system, said improvements to be installed and in operation in a manner satisfactory to this Commission on or before the first day of June, 1931, and to be as follows:

1. Plans for the reconstruction of diversion structures on Dean or Earl Creek providing adequate cutoff walls therefor to prevent the loss of water through unnecessary seepage and percolation.
2. Plans for the installation of additional storage facilities of not less than 20,000 gallons capacity.
3. Plans for the replacement of all existing transmission mains of a diameter of one and one-half ( $1\frac{1}{2}$ ) inches or less with pipe of two (2) inches internal diameter or larger.

IT IS HEREBY FURTHER ORDERED that Ben Lomond Redwood Park Corporation, a corporation, be and it is hereby directed to maintain in Ben Lomond Redwood Park, or in the general vicinity thereof, a duly authorized representative who shall have supervisory authority over the said water system and its operation and to whom shall be delegated the authority to receive and remedy complaints regarding service, to receive payment for water bills and to make ordinary and emergency repairs; said representative shall be available to consumers at all reasonable times during the period commencing May 1st and ending October 31st of each year.

IT IS HEREBY FURTHER ORDERED that, within thirty (30) days from the date of this order, Ben Lomond Redwood Park Corporation, a

corporation, shall file with this Commission, in quadruplicate, the schedule of rates now being charged its consumers and shall also file within said thirty (30) day period rules and regulations governing the relations with its consumers, said rules and regulations to become effective upon acceptance thereof 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 6th day of April, 1931.

Cl. Sawyer  
Leon Williams  
W. H. C. C.  
W. B. Harris  
Frank G. Stewart  
 Commissioners.