

Decision No. 24025

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THORVALD BROWN and NELL 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.

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

Defendants.

Case No. 2909.

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, E. L. PHINNEY, Wm. E. SCHOENING, C. SIEMS, E. E. SILVA, Wm. F. STEINMETZ, MORTIMER SWIFT, R. C. STAEDLER, W. E. THORNTON, ROSE VLAMIS, MRS. F. G. WIGHT, PAUL G. WOOLLEY,

vs.

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

OFFICERS OF THE BEN LOMOND REDWOOD PARK COMPANY

BEN S. COHEN, ISALAE HARTMAN, G. G. McDANIELS, J. E. PERRY, A. VAN VECKTEN.

ORIGINAL

Case No. 2913.

C. K. Grau, for Defendants.  
Thorvald Brown, for Complainants.

CARR, COMMISSIONER:

OPINION ON APPLICATION FOR MODIFICATION  
OF PREVIOUS ORDER

In these proceedings, the Commission issued its original Decision No. 23572 dated April 6, 1931, among other things requir-

ing Ben Lomond Redwood Park Corporation, a corporation, to install certain improvements to its water system near the Town of Ben Lomond, in Santa Cruz County. A petition having thereafter been filed by defendant requesting a modification of said decision, the Commission reopened the proceedings and further hearing thereon was held at Ben Lomond on the twenty-fifth day of June, 1931.

Set out below are the material portions of the Order issued by this Commission in said Decision No. 23572 as a result of the evidence and testimony presented at the original hearings herein:

"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 (1½) 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."

In compliance with the above Order, defendant has filed its rules and regulations, reconstructed the diversion structures and appointed a resident overseer of the system but now contends that compliance with the remaining terms of the Order will not only place an unreasonable burden upon it but is, in fact, unwarranted by existing conditions. Defendant alleges that it has attempted to develop all additional water available to it and has repaired leaking pipe lines, reducing the loss of water from this source to a reasonable minimum. G.G. McDaniels, engineer testifying in behalf of defendant, stated that, in his opinion, enlarging the distribution mains and providing increased storage as required by the Order of the Commission were neither necessary nor advisable in order to furnish proper service to the consumers, and stated further that the utility would provide facilities in the future which would insure proper service whenever conditions so demanded.

R.E. Savage, one of the Commission's hydraulic engineers, testified that the additional storage as ordered by the Commission was necessary and that, in order to give any satisfactory service, certain distribution mains must be increased in size to not less than two inches in diameter, although it appeared that the full replacement of mains as set forth in the Commission's Order could, without sacrifice to good service, be materially reduced, especially in view of the fact that the total available water supply

at this time is less than it has ever been in this territory for a great many years last past.

The consumers demand full compliance with the Order of this Commission, claiming that, although the present abnormally dry year may be so serious as to leave little or no water available for distribution, yet during any year of average or even a year of considerably below an average water supply, the existing facilities cannot possibly provide sufficient water deliveries for proper household uses and for necessary sanitary protection. The consumers also contended that the existing distribution facilities be rearranged to permit a more equitable distribution of water between the upper and lower zones.

The record here and in the prior hearings clearly indicates that the service rendered by this utility has been highly unsatisfactory. It also shows a utility in seriously straitened financial conditions. More important still, the evidence shows a water supply inadequate in periods of drought such as at present.

As to the facilities provided for handling the existing meager and, at times, inadequate water supply, a consideration of the record indicates that the requirements of the previous Order may properly be modified as to the enlargement of certain of the transmission mains. Compliance with the requirements as to provision of storage would have been unavailing because of insufficiency of supply during the present season but should be met before another season.

The real trouble is lack of water. While not in the record, it is known to the Commission that the mains of Public Util-

ities California Corporation pass along the highway on which Ben Lomond Redwood Park Tract abuts. The company should seek a standby service from this other utility not later than the first day of June, 1932, and thus solve the principal difficulty which has antagonized and aroused its consumers and called for the various hearings and investigations by the Commission.

The following form of Order is recommended.

ORDER ON APPLICATION FOR MODIFICATION  
OF PREVIOUS ORDER

Ben Lomond Redwood Park Corporation, a corporation, having filed a petition for a modification of the Order in the Commission's Decision No. 23572 in this proceeding, a public hearing having been held thereon, the matter having been submitted and the Commission now being fully advised in the premises,

IT IS HEREBY ORDERED that paragraph 3 of the Order of this Commission in Decision No. 23572 be modified to read as follows:

3. Plans for the rearrangement of the distribution facilities to permit a more equitable distribution of water between the so-called "upper" and the "lower" systems, or zones.

IT IS HEREBY FURTHER ORDERED that the plans for the installation of the storage facilities and for the rearrangement of the distribution system shall be filed by Ben Lomond Redwood Park Corporation with the Railroad Commission on or before January 1, 1932, subject to its approval, and that said improvements shall be installed and in operation in a manner satisfactory to this Com-

mission on or before the first day of June, 1932.

IT IS HEREBY FURTHER ORDERED that in all other respects the Order in said Decision No. 23572 shall remain in full force and effect except as modified by this Order on Application for Modification of Previous Order.

The effective date of this Order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1931.

CL Jolley

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M. J. Carr

M. B. Harris

Fred G. Stewart,  
Commissioners.