

Decision No. 29706

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

JOHN BRATTON, EARL E. VAN NESS,
E. DAHLMAN and R. SMITH,
Complainants,

vs.

VISITACION WATER COMPANY, and
MARGARET C. LINDE and THEODORE LINDE,
Managers,

Defendants.

Case No. 4155

ORIGINAL

BRISBANE WATER COMPANY,
Clyde Henry, Owner

vs.

VISITACION CITY WATER COMPANY,
Mrs. Margaret Linde, Owner.

Case No. 4160

Earl E. Van Ness, complainant in
Case No. 4155.

Kirkbride and Wilson, by E. A. Wilson,
for Brisbane Water Company and
Clyde Henry, complainants in
Case No. 4160.

W.L.A. Calder, for Margaret C. Linde
and Visitacion City Water Company,
defendants.

BY THE COMMISSION:

O P I N I O N

Complainants John Bratton, et al., allege that Visitacion
City Water Company,¹ owned by Mrs. Margaret Linde, has refused

1. This water plant will be referred to as the "Linde System"
hereinafter.

to extend water service to their homes in Brisbane, San Mateo County, and the Commission is requested to compel the defendant to furnish water to their respective premises. Defendant filed a statement to the effect that, since the original formal complaint was made, service has been extended to complainants who are now receiving water at ample and sufficient pressure.

A petition in intervention in the complaint of Bratton, et al., was filed by Clyde Henry, owner of the Brisbane Water Company,² a public utility serving in territory adjoining and adjacent to the Linde System, in which it is alleged that the complainants are located within the service area of the Clyde Henry System and that he was prevented from installing a water main to serve these complainants by Margaret Linde or her agent. It is further alleged by Clyde Henry that he is still willing and ready to supply complainants and demands that Margaret Linde be ordered to cease and desist the furnishing of water to said consumers.

In Case No. 4160, Clyde Henry alleges that the Clyde Henry System received its certificate of public convenience and necessity from the Railroad Commission in Decision No. 24857 and that, when he attempted to install a water main to supply certain consumers along the Sierra Point Road, he was interfered with by or through the instigation of Margaret Linde and, as a result, was prevented from installing the main.

A public hearing in these two cases was held before Examiner W. R. Williams at Brisbane, at which time the matters were combined for hearing and decision.

2. Hereinafter referred to as the "Clyde Henry System."

Case No. 4155 may be disposed of readily. Only one of the complainants appeared, namely, Mr. Van Ness who testified that he is now receiving water from the Linde System after a wait of several months and that, although the pressure is often low, he is otherwise satisfied. Similarly, the other complainants are now served by the Linde System. The request of complainants for water may therefore be considered as satisfied. There remains then the main issue in Case No. 4160, the determination of the upper limitation of the service area of the Linde System.

Brisbane is situated along the steep hillside slopes of Visitacion Valley and presents a rather difficult service problem, not only by reason of the terrain but also because the forty-four-inch transmission main of the San Francisco City Water Department, which is the source of water supply, is located along the lower elevations of the community. Recently, new building activity has been concentrated largely at the higher areas. It was to stabilize its service obligations along the line of maximum gravity delivery provided by the city transmission main that the Linde certificate was applied for and granted in Application No. 16722, Decision No. 23400, dated February 16, 1931.

Difficulties and disputes, however, continued to arise between Mrs. Linde and various real estate operators over the extension of service above the gravity flow line of her system. Certain of these real estate operators made arrangements with G. G. McDaniel to supply water in the upper section of Brisbane and he was given a certificate to operate a water works therein in Decision No. 24857, dated June 13, 1932. However, the said McDaniel later filed a petition for rehearing which was granted

and upon his showing that neither he nor his financial backers were able to raise the funds necessary for the new construction required, and at the request of McDaniel, the certificate was revoked and cancelled in Decision No. 25305, dated October 31, 1932. Paul Margolis, the principal real estate operator in this upper section of Brisbane, acquired and transferred all water works facilities in this upper territory to Clyde Henry, authorized by the Railroad Commission in its Decision No. 25431, dated December 10, 1932. The service area of the Linde System was established in said Decision No. 23400 as follows:

"* * *in the territory now being supplied by her" (Mrs. Linde) "bounded by Alvarado Road and Street, Mono Street, Sierra Point Road and San Francisco Avenue, together with the properties bordering on the extension of San Bruno Avenue from Alvarado Street to the point of intake, as more particularly described on the map filed in this proceeding and identified as applicant's Exhibit '2,' and furthermore applicant will be permitted to make extensions of mains to supply territory immediately adjacent thereto under proper rules and regulations approved by the Railroad Commission."

The record shows that no lower boundary was ever fixed by the Commission for the Clyde Henry System and that Mrs. Linde has served and is now serving water to various users along the upper tier of lots bordering Alvarado Street, Klamath Street, Mono Street and Sierra Point Road, from said Klamath Street north, along which streets runs the uppermost main of the Linde System. It appears to be unnecessary duplication of mains and distribution facilities for both utilities to install water mains in the same streets, namely, Alvarado Street, Mono Street, a portion of Klamath Street, and Sierra Point Road. Mrs. Linde therefore will be given as

within her service area the tiers of lots bordering the upper side of said streets or roads. The evidence indicates that with her existing facilities, which now include a new pressure system, Mrs. Linde may not be able to serve a very large number of new consumers in these lots in an adequate volume, or at proper pressure, or for fire protection purposes. In the event she is either unable or unwilling to furnish satisfactory service throughout the said upper tier of lots for domestic or for fire protection purposes, the Commission reserves the right to modify this decision to provide from the Clyde Henry System the class of service for the residents of this borderland area to which they are rightfully entitled. In the event Mrs. Linde is unwilling to install facilities along Alvarado Street, Klamath Street from Mono Street to Lassen Street, Mono Street and Sierra Point Road, or any of them, to provide fire protection acceptable to the county authorities and/or the local fire district within sixty (60) days from the date of the Order following, the Commission hereby reserves the right to approve the installation of such a fire main by Clyde Henry along said streets and roads, or any of them, for such use and for system circulation purposes.

O R D E R

Complaints having been filed with this Commission as above entitled, a public hearing having been held thereon, the matters having been submitted and the Commission being now fully advised in the premises, now, therefore,

IT IS HEREBY ORDERED that Case No. 4155 be and it is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that Mrs. Margaret Linde be and she is hereby authorized to supply water to consumers residing on the tier or row of lots upon the upper or higher side of Alvarado Street from San Bruno Avenue westerly and similarly upon the upper or higher side of Mono Street, Klamath Street and Sierra Point Road, in Brisbane, San Mateo County, subject, however, to the reservations more particularly set out in the Opinion which precedes this Order.

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

Dated at San Francisco, California, this 26th day of April, 1937.

Walter H. Hays
Leon O. Whitman
Spencer A. Allen
Karl A. Hays
Ray & Hays
Commissioners