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Decision No. 10907

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
GERBER TERMINAL TOWNSITE COMPANY, )  
a corporation, and H. K. SEARS, for )  
an order authorizing the sale of )  
properties used to supply water. )

ORIGINAL  
Application Number 7875.

George, Hinsdale & Pigott, by John T. Pigott,  
for Gerber Terminal Townsite Company.  
H. K. Sears, in propria persona.

BY THE COMMISSION:

O P I N I O N

In this application, as amended, the Railroad Commission is asked to make its order authorizing GERBER TERMINAL TOWNSITE COMPANY to sell and convey its water properties and business, located at Gerber, Tehama County, to H. K. SEARS, such sale and conveyance to be made in accordance with the terms and conditions of the contract of sale filed with the petition as Exhibit "C".

The Commission is also asked to ratify, approve and confirm the transfers of property heretofore made by Tehama Investment Company and E. A. Brown without authority from the Commission.

A public hearing was held before Examiner Satterwhite at Red Bluff on June 29, 1922. Since the hearing, additional information has been filed and the matter is now ready for decision.

Gerber Terminal Townsite Company is engaged primarily in the realty business. Incidental thereto, it has acquired and is operating a water system in the town of Gerber, serving about 100 consumers. It has reported its gross revenues from water

operations as \$2,116.00 in 1921, \$1,917.60 in 1920 and \$1,614.15 in 1919. At the same time, operating expenses were reported as \$1,821.08 in 1921, \$1,979.94 in 1920 and \$1,614.20 in 1919.

The company now proposes to dispose of its utility water properties, which were installed and constructed at a reported cost of \$20,000.00, to H. K. Sears for \$15,000.00. Of this latter amount, H. K. Sears has agreed to pay \$6,000.00 upon the execution of the agreement of sale and purchase, \$1,000.00 on or before three years after date of said agreement, \$1,000.00 on or before four years after date, and \$7,000.00 on or before five years after date. Deferred payments bear interest at the rate of 6 percent. per annum.

At the hearing it was developed that the water properties were installed in 1911 by Tehama Investment Company to assist in the sale of real estate. Tehama Investment Company operated the system until December 30, 1915, on which date it was transferred to E. A. Brown, as trustee. Thereafter, on October 7, 1916, E. A. Brown transferred the properties to Gerber Terminal Townsite Company, by whom they have since been owned and operated. Neither the transfer from Tehama Investment Company to E. A. Brown, nor from E. A. Brown to Gerber Terminal Townsite Company, was authorized by this Commission. It appears, however, that such transfers were made through inadvertence and with no intent to evade the provisions of the Public Utilities Act. The Commission is now asked to ratify these conveyances made without its order.

The transfer of properties made by Tehama Investment Company on December 30, 1915 and that <sup>by</sup> E. A. Brown on October 7, 1916, are void under the terms of the Public Utilities Act. As the Commission cannot validate or approve such unauthorized transfers after they have been made, it will be necessary for new in-

struments of conveyance to be executed.

O R D E R S

Application having been made to the Railroad Commission for an order authorizing the sale and conveyance of properties and approving the transfers of properties heretofore made without an order of the Commission, a public hearing having been held and the Commission being of the opinion that the application should be granted as herein provided;

IT IS HEREBY ORDERED that TEHAMA INVESTMENT COMPANY be, and it is hereby, authorized to transfer to E. A. Brown and E. A. Brown be, and he is hereby, authorized to transfer to Gerber Terminal Townsite Company the properties described in this application and referred to in the foregoing opinion;

IT IS HEREBY FURTHER ORDERED, that Gerber Terminal Townsite Company be, and it is hereby, authorized to sell and convey and H.K. Sears be, and he is hereby, authorized to receive and acquire, the properties referred to in the foregoing opinion, such sale and conveyance to be in accordance with the contract of sale filed in this proceeding as "Exhibit C."

The authority herein granted is subject to the following conditions:-

- 1..... Gerber Terminal Townsite Company within ten days after relinquishing control and possession of the properties herein authorized to be transferred, shall file with the Commission a verified statement indicating the exact date upon which it relinquished such control and possession.
- 2..... The consideration to be paid for the properties herein authorized to be transferred shall

not be urged before this Commission or other court or public body as a measure of value in fixing rates, or for any purpose other than the transfer herein authorized.

3... The authority herein granted shall not become effective until H. K. Sears has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.00.

DATED at San Francisco, California, this 24<sup>th</sup> day of August, 1922.



H. K. Sears  
Irving Martin  
J. B. ...

Commissioners.