

Decision No. 29030.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
Parr-Richmond Terminal Corporation,
Ltd., a corporation, for an order
authorizing the lease of certain
property to Richmond Fisheries, Inc.

Application No. 20228.

Morrison, Hohfeld, Foerster, Shuman & Clark,
by F. C. Hutchens and E. W. Hollingsworth,
for Applicant.

Markel C. Baer and W. Jones, for Port of Oakland.

S. M. Graham, for Encinal Terminals.

John P. Ventre, for Howard Terminals.

DEVLIN, COMMISSIONER:

O P I N I O N

Applicant herein seeks an order, under Section 51(a) of the Public Utilities Act, authorizing it to lease certain property to Richmond Fisheries, Inc., a California corporation, hereinafter sometimes referred to as the Lessee.

A public hearing was held in this matter at San Francisco on March 17, 1936, at which time the matter was submitted and is now ready for decision.

Parr-Richmond Terminal Corporation, Ltd., is a California corporation engaged in the public utility wharfing business, operating docks, wharves and other facilities on San Francisco Bay at Richmond, Contra Costa County. Its public utility properties consist of separately located units known as Parr-Richmond Terminals Nos. 1, 2, 3 and 4, respectively.

The lease involved herein deals with a proposed operation at Parr-Richmond Terminal No. 4, where it is desired to devote certain public utility property to the use of canning and processing of fish. The property proposed to be leased from Applicant is described in the application as follows:⁽¹⁾

"Thirteen Thousand (13,000) square feet, more or less, as shown outlined in red on that certain drawing attached hereto marked Exhibit "A" and hereby made a part hereof, together with the improvements thereon, reserving to Lessor the full use of the railroad track running through said premises."

Terminal No. 4 has an area of approximately ninety thousand (90,000) square feet. The premises sought to be leased are partitioned off from the remainder of the terminal and do not include any portion of the open-dock.

The record shows that the portion of the terminal sought to be leased is not needed by applicant in the performance of its public utility functions and that the leasing of said premises will not interfere with the operation of the remainder of this terminal for public utility purposes. The rental to be paid under the terms of the lease is two hundred and twenty-five dollars (\$225.00) per month, which appears to be reasonable.

A careful review of the record leads to the conclusion that the proposed lease agreement should receive the Commission's approval, provided the following changes are made therein:

- (1) In paragraph 2, page 3, omit the sentence:

"It is agreed by Lessor that it will not during the period of this lease conduct or permit any canning or processing operations on its said terminal wharf which shall be competitive with Lessee."

(1) Exhibit "A" attached to the application is a copy of the lease involved herein, which describes the property and conditions and terms of the proposed transaction.

(2) In paragraph 5, page 4, omit that portion of the second sentence reading:

"provided that on shipments of raw fish inbound, Lessor will not voluntarily provide in its tariffs for tolls in excess of twenty cents (20¢) per ton on the first five thousand (5,000) tons during any season, and ten cents (10¢) per ton on additional quantities during any season."

(3) In paragraph 5, pages 4 and 5, amend the fifth sentence reading:

"Lessee agrees to accord to Lessor the exclusive privilege of performing all car-work on goods owned or controlled by Lessee, except bulk fish oil, moving by rail to or from the demised premises during the period of this lease, so long as Lessor's charge for such work shall not exceed forty cents (40¢) per ton, and except at such time or times as Lessor may fail or be unable to perform the work after adequate notice from Lessee."

to read as follows:

"Lessee agrees that the Lessor shall perform all of the car loading or unloading of goods or property within the demised premises and upon the portion of said terminal operated as a public utility, except bulk fish oil in railroad tank cars, subject to rates, rules and regulations in accordance with Lessor's tariffs on file with the Railroad Commission of the State of California for such services."

(4) Amend paragraph 5, page 5, by adding the following sentence:

"Lessee further agrees that no goods or property shall be moved directly between the demised premises and ships or other water craft by stevedores or barge-men, but all such shipments shall be delivered to Lessor into that portion of said terminal operated as a public utility."

The changes indicated above will not impair or adversely affect in any way the operations of applicant as a public utility wharfinger, nor will it give to Lessee a privileged position over other shippers.

O R D E R

Basing its Order on the statements and findings of fact

in the preceding Opinion, which is hereby adopted by this Commission,

IT IS HEREBY ORDERED that applicant be and it is hereby authorized to enter into the said lease agreement (Exhibit "A" attached to the application), provided the changes indicated in the foregoing Opinion are made therein and a certified copy of this revised lease, duly executed, is filed with this Commission within sixty (60) days from the date of this Order.

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.

The effective date of this Order shall be the date hereof.

Dated at San Francisco, California, this 7th day of August, 1936.

Wm. A. Linn
Walter Wilson
Francis P. Kelly
Commissioners.