

Decision No. 34512

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
to Lease Property and Transfer)	
Warehouse Permit from Cardwell)	Application No. 24282
Grain & Milling Co. to J.E. Kirk-)	
man and Lyon McKinney.)	

BY THE COMMISSION:

ORIGINAL

OPINION AND ORDER

By this application Earl S. Cardwell seeks authority to lease to J.E.Kirkman and Lyon McKinney, copartners, with an option to purchase, certain property used in the operation of public utility warehouses located at Chowchilla and known as Cardwell Grain and Milling Company, Warehouses No. 1 and No. 2. Kirkman and McKinney propose to operate the warehouses as Chowchilla Warehouse Company Warehouses No. 1 and No. 2, to offer the public a service similiar to that now offered by Cardwell, and to adopt the rates, rules and regulations he has on file with the Commission for that service.

A copy of the agreement which applicants propose to execute is on file in this proceeding as Exhibit A. Thereunder, applicant Cardwell proposes to lease the warehouse properties for a term of five years, to begin June 1, 1941, at a monthly rental of \$100, and to grant to the lessees (applicants Kirkman and McKinney) the option to purchase the properties on or before June 1, 1942, for the sum of \$11,000, payable \$4,000 down and the balance in annual installments of \$2,000 on June 1 of each year thereafter until paid, with interest on deferred payments at the rate of 5% per annum.

It appears that this is a matter in which a public hearing is not necessary and that the request of applicants should be

granted, as provided herein. It should be stated that no request has been made, and no authorization is here given, for the execution of any instrument in connection with the lease and transfer of the properties other than the agreement filed as Exhibit A in this proceeding. In the event the option to purchase the property is exercised hereafter, and applicants find that the issue of notes, or other indentures, in addition, is necessary or desirable, they should at that time make an appropriate request to the Commission for authority to execute them.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that Earl S. Cardwell and J.E. Kirkman and Lyon McKinney, copartners, be and they are hereby authorized to execute an agreement similar to the agreement on file in this proceeding as Exhibit A and affecting the public utility warehouse property located at Chowchilla and known as Cardwell Grain and Milling Company, Warehouses No. 1 and No. 2, subject to the following conditions:

1. That the Commission reserves the right to consider de novo the reasonableness of the terms of the agreement herein authorized to be executed should said terms become an issue before the Commission and to modify said terms should such action be necessary;

2. That neither the terms of the agreement herein authorized nor the consideration to be paid for the property in the event applicants J.E. Kirkman and Lyon McKinney exercise their option to purchase shall ever be urged as a measure of the value of said property for rate-fixing purposes or any purposes other than the lease and transfer herein authorized;

3. That Earl S. Cardwell and J.E. Kirkman and Lyon McKinney, copartners, shall within sixty (60) days from the effective date of this order and on not less than five (5) days' notice to the Commission and to the public supplement the tariff now on file with this Commission in the name of Cardwell Grain and Milling Company, Earl S. Cardwell effecting a withdrawal therefrom and J.E. Kirkman and Lyon McKinney adopting and establishing said tariff as their own; and

4. That the rights and privileges herein authorized to be conveyed may neither be sold, leased, transferred

nor assigned, nor may service thereunder be discontinued in the absence of written authorization of this Commission for such sale, lease, transfer, assignment or discontinuance.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective when J.E. Kirkman and Lyon McKinney have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this 19th day of August, 1941.

[Handwritten signature]

Justin J. Calver
Francis D. Hayward

Commissioners.

\$ 25.00
RAILROAD COMMISSION
STATE OF CALIFORNIA
AUG 26 1941
[Handwritten signature]
SECRETARY