

Decision No. 36558

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application of LATHROP HAY AND GRAIN COMPANY, a California corporation, for authorization to sell its hay and grain warehouse property, and application of WALTER WEIBE for authorization to purchase said property, and application of CLARENCE A. GARDNER and JOHN L. BEACH to lease said property and to engage in the hay and grain warehouseman's business.

Application No. 25731

BY THE COMMISSION:

O P I N I O N

The Commission, by Decision No. 35423, dated May 26, 1942, in Application No. 25000, authorized Lathrop Hay and Grain Company to lease for a term of one year, from June 1, 1942, to Clarence A. Gardner and John L. Beach its property known as Lathrop Hay and Grain Company's Hay Department. This property consists of land, a warehouse building, hay sheds, an office building, a truck garage and miscellaneous items of property. The original cost of the property is reported at \$25,077.29.

Under an agreement dated December 19, 1942, as amended by an agreement dated July 8, 1943, Lathrop Hay and Grain Company has agreed to sell the properties known as Lathrop Hay and Grain Company's Hay Department to Walter Weibe for the sum of \$20,000. He, in turn, under an agreement dated May 21, 1943, has agreed to lease the properties to Clarence A. Gardner and John L. Beach for a term of three years at a monthly rental of \$200. Copies

of the agreements are filed in this application as Exhibits A and B and a copy of the lease as Exhibit F.

It is of record that the stockholders of Lathrop Hay and Grain Company do not desire the corporation to continue in the warehouse business, and that the corporation is in process of liquidation. Several liquidating dividends have already been paid.

Walter Weibe, who is presently in the military service, has, as stated, agreed to lease said warehouse properties to Clarence A. Gardner and John L. Beach. They are presently operating the properties under rates now on file with the Commission. Upon the termination of the lease Walter Weibe intends to operate the properties.

It should be clearly understood by applicants that the authorization hereinafter granted is not an approval of the purchase price nor of the rental in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities or accounting. No examination has been made by this Commission nor by its authorized representatives of the physical assets involved in this transfer and lease as to their existence, value or ownership.

#### O R D E R

The Commission having considered applicants' requests and it being of the opinion that this is not a matter on which a hearing is necessary, and that this application should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED that Lathrop Hay and Grain Company be, and it is hereby, authorized to sell on or before October 1, 1943, to Walter Weibe the properties described in the agreements filed in this application as Exhibits A and B, said sale to be made in accordance with the terms of said agreements.

IT IS HEREBY FURTHER ORDERED that Walter Weibe be, and he is hereby, authorized to lease on or before October 1, 1943, said properties to Clarence A. Gardner and John L. Beach under the terms and provisions of the lease filed in this application as Exhibit F.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the condition that the consideration paid by Walter Weibe for said properties, or the rental received by him for said properties, shall not be construed by applicants, or any of them, as determining the value of said properties for any purpose other than the sale and lease herein authorized. The Commission reserves the right to determine in any rate proceeding how much, if any, of the rental paid for said properties should be included in operating expenses.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective upon the date hereof.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the transfer of said properties and the leasing of the same by Clarence A. Gardner and John L. Beach, said Clarence A. Gardner and John L. Beach shall file with the Railroad Commission a true and correct copy of the lease executed under

the authority herein granted.

Dated at San Francisco, California, this 17<sup>th</sup>  
day of August, 1943.

Francis D. Havenue

Justus F. Baker

H. B. Kamm

Richard G. Lachse

Commissioners