

ORIGINAL

Decision No. 41261

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 E. DEL CIELO, individually and doing)
 business as FESCADERO FARMS ASSOCIATION)
 DRAYAGE to sell, and TESEO TESI, JOHN)
 MAINZ, HECTOR P. PUCCINELLI and MARIO)
 GIOVANNINI, as copartners, doing business)
 as TESI DRAYAGE COMPANY, to purchase an)
 automotive freight line operated between)
 San Francisco Bay Points and San Mateo)
 County Points.)

Application No. 29087

OPINION AND ORDER

By this application, E. Del Cielo, doing business as Pescadero Farms Association Drayage, seeks authority to sell, and Teseo Tesi, John Mainz, Hector P. Puccinelli and Mario Giovannini, copartners, seek authority to acquire, (a) certain operating rights to engage in business as a highway common carrier of property generally, subject to certain limitations, between Ano Nuevo Point, Half Moon Bay and intermediate points in San Mateo County, on the one hand, and Colma, San Francisco, Oakland, Emeryville and San Leandro, on the other hand, and (b) operative property used in connection therewith.

The operating rights which it is proposed to transfer were acquired by Del Cielo pursuant to Decision No. 40497, dated July 8, 1947, in Application No. 28544. The proposed consideration is \$13,500, to be paid in cash. Of this amount, it is claimed that \$13,350 represents the value of equipment, and the balance the value of the operating rights.

It is asserted that Del Cielo desires to retire from business, due to ill health. A verified statement accompanying the application sets forth that the proposed purchasers — doing business

as Tesi Drayage Company — are engaged in the operation of an automotive freight line between Tunitas, Salada Beach and intermediate points, on the one hand, and San Francisco and Colma, on the other hand. According to applicants, the acquisition of Del Cielo's operating rights by Tesi and his copartners will result in eliminating some duplication of operations and provide the area served with a more efficient service than presently conducted..

The Commission is of the opinion that a public hearing is not necessary in this matter and that the application should be granted, as herein provided. However, the action taken herein shall not be construed to be a finding of the value of the properties authorized to be transferred.

Teseo Tesi, John Mainz, Hector P. Puccinelli and Mario Giovannini are hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

IT IS ORDERED:

(1) That E. Del Cielo may, after the effective date hereof and on or before May 31, 1948, sell and transfer, and Teseo Tesi, John Mainz, Hector P. Puccinelli and Mario Giovannini, copartners,

may purchase and acquire the operative rights, property and business to which reference is made in this decision. Such sale and transfer shall be made pursuant to the terms and conditions set forth herein.

(2) That applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within 60 days from the date hereof and on not less than 1 day's notice to the Commission and to the public.

(3) That the authority herein granted shall become effective 20 days from the date hereof.

Dated at San Francisco, California, this 2nd day of March, 1948.

R. J. [Signature]
Justin F. [Signature]
Frank A. [Signature]
Harold P. [Signature]
Samuel [Signature]
COMMISSIONERS