

ORIGINAL

Decision No. 50166

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Muir Enterprises, Inc., a corporation,)	
for a certificate of public convenience)	
and necessity, authorizing it to oper-)	Application No. 35425
ate a public grain warehouse in the)	
City of Oakland, County of Alameda,)	
State of California.)	

OPINION AND ORDER

By this application filed May 12, 1954, and as amended June 4, 1954, Muir Enterprises, Inc., seeks a certificate of public convenience and necessity authorizing it to operate 40,000 square feet of public utility warehouse space in Oakland for the storage of barley.

The application shows that there is a large carry-over of grain and that it is this emergency which requires additional warehouse space. It also shows that virtually all of the storage is expected to be under the federal loan and subsidy programs administered by the Commodity Credit Corporation. The proposed warehouse facility will meet the requirements of that program. Applicant is financially able to provide the proposed service.

The rates applicant intends to establish for storage under the loan and subsidy program correspond with the rates generally applicable to similar storage under that program. The rates for other storage service are higher than those maintained for service in rural areas. According to the application these higher rates are necessary because of the temporary nature of the storage demand and because of the location of the facility in a relatively high-cost metropolitan area.

The United States Department of Agriculture supports the granting of the application. Competing warehousemen have advised applicant that they have no objection.

It appears that this is a matter in which a public hearing is not necessary. We find that public convenience and necessity requires the establishment and operation by the applicant of the warehouse as proposed. Inasmuch as applicant's lease starts July 1, 1954, the order herein will be made effective on that date.

Muir Enterprises, Inc., is 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. 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.

Therefore, good cause appearing,

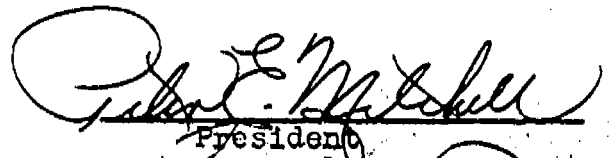
IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Muir Enterprises, Inc., a corporation, authorizing the establishment and operation of service as a warehouseman, as defined in Section 239(b) of the Public Utilities Code, at Building H 213, 9th Avenue Terminal, Port of Oakland, Oakland, and limited to the storage of barley and to not more than 40,000 square feet of warehouse floor space.

IT IS HEREBY FURTHER ORDERED that in providing service pursuant to the certificate herein granted applicant shall comply with and observe the following service regulations:

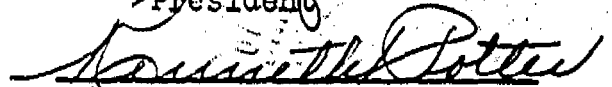
1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty days after the effective date hereof.
2. Within ninety days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 61, by filing in triplicate and concurrently making effective appropriate tariffs.

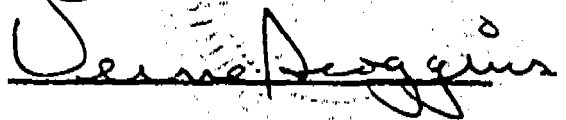
The effective date of this order shall be July 1, 1954.

Dated at San Francisco, California, this 18th day of June, 1954.



President





Commissioners