

ORIGINAL

Decision No. 73136

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 TRI-GRAIN, INC.
 for a Certificate of Public Convenience
 and Necessity Authorizing Operation as
 a Public Warehouseman at Artois and
 Corning, California.

Application No. 49574
 (Filed July 28, 1967)

O P I N I O N

Applicant seeks a certificate of public convenience and necessity to operate 41,764 square feet of public utility warehouse space at Artois and 15,300 square feet at Corning. At the direction of the Commission's Secretary applicant mailed notices to 34 warehouses in the affected area. More than ten days have elapsed since the notice was sent out and no protests have been filed.

Applicant has acquired two premises in Artois and one in Corning. One warehouse at Artois and the one at Corning have grain drying facilities and elevators.

At various times in the past these facilities were operated by Pacific Mill and Elevator Company, then by Lawrence Warehouse Company, then by North Valley Mill and Elevator Co. A prescriptive right was confirmed to Lawrence Warehouse Company in Case No. 6890. It is alleged that, as far as can be ascertained, no public warehouse operations were conducted and no annual reports were filed after North Valley Mill and Elevator Co. acquired the properties.

It is also alleged that there is no public warehouse for the storage of agricultural commodities in Corning. There is one at Artois which was notified of the application.

The application alleges that there is great need for additional public utility warehouse space for agricultural commodities in the Sacramento Valley. It further alleges that several growers have requested the services of applicant.

Applicant proposes to operate its facilities subject to the rates and rules contained in California Warehouse Tariff Bureau Warehouse Tariff No. 39, Cal. P.U.C. No. 208, Jack L. Dawson, Agent.

Applicant attached a copy of its Articles of Incorporation and financial statements to its application. The latter reveal adequate resources to undertake the service proposed.

Applicant alleges that its president and general manager have each had ten years of experience in the operation of warehouses for the storage and handling of agricultural commodities in the Sacramento Valley.

In the absence of protest, the Commission will not require a hearing and will grant the application.

The Commission finds that:

1. Applicant has the experience, facilities, personnel and financial resources to render the service proposed in the application.
2. Public convenience and necessity require that the application be granted.

A public hearing is not necessary.

The Commission concludes that the application should be granted as provided by the following order.

Tri-Grain, Inc. is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business in particular communities. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

The action taken herein is for the issuance of a certificate of public convenience and necessity only and is not to be considered as indicative of amounts to be included in proceedings for the purpose of determining just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Tri-Grain, Inc., a corporation, as a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to file annual reports of its operations. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the public utility warehouse operations authorized by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.

- (c) The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-A.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 26th day of SEPTEMBER, 1967.

Edward E. Mitchell
President
Hallam B. Bennett
William A. Gator
Paul P. Monahan
Commissioners

Commissioner A. W. Gator, being necessarily absent, did not participate in the disposition of this proceeding.

Tri-Grain, Inc., a corporation, by authority of the decision noted in the margin, is authorized to operate public utility warehouse space for the storage of agricultural commodities, as follows:

<u>Location</u>	<u>Number of Square Feet Of Floor Space</u>
In the vicinity of Artois	41,764
In the vicinity of Corning	15,300

(The floor space shown above is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 73136, Application No. 49574.