

ORIGINAL

Decision No. 75918

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TRI-GRAIN, INC., a
California Corporation, and LESLIE D.
BERRY, as Receiver of the property of
Tri-Grain, Inc. to transfer public
utility property and operating rights.

Application No. 51125
(Filed May 29, 1969)

O P I N I O N

The instant application requests the following authority:

1. Leslie D. Berry, as Receiver of the public utility warehouse property of Tri-Grain, Inc., to transfer said property to E. T. Hermann, Gwendolyn Jane Hermann and Pacific Mill & Elevator Co.;
2. Transfer of public utility property by E. T. Hermann, et al to Rivelco, Inc.;
3. Transfer of a certificate of public convenience and necessity by Tri-Grain, Inc. to Artois-Corning Warehouses, Inc.; and
4. Hypothecation of public utility property by Rivelco, Inc., and the leasing thereof to Artois-Corning Warehouses, Inc.

The record indicates that on April 14, 1967, Tri-Grain, Inc. purchased warehouse facilities located at Artois and Corning, California, from E. T. Hermann, Gwendolyn Jane Hermann and Pacific Mill & Elevator Co., subject to deeds of trust covering the real property and security agreements covering the personal property. By Decision No. 73136 dated September 26, 1967, in Application No. 49574, Tri-Grain, Inc. was granted a certificate of public convenience and necessity authorizing operations as a public utility warehouseman for the storage of agricultural commodities at the Artois and Corning

facilities. As the result of financial difficulties, Leslie D. Berry was appointed as Receiver of the property of Tri-Grain, Inc., by order of the Superior Court in and for the County of Glenn dated October 11, 1968. Pursuant to the provisions of the deeds of trust covering the real property and the security agreements covering the personal property. E. T. Hermann, et al, will acquire the property of Tri-Grain, Inc.

Upon acquiring the property E. T. Hermann, et al, request authority to sell and transfer the same to Rivelco, Inc. for \$330,000 represented by a promissory note secured by a deed of trust on all the real property and a security agreement on the major items of personal property. The property will then be leased by Rivelco, Inc. to Artois-Corning Warehouses, Inc., a recently formed subsidiary of Rivelco, Inc. Authority is also sought for the transfer of the certificate of public convenience and necessity by Tri-Grain, Inc. to Artois-Corning Warehouses, Inc. In Application No. 51156 Artois-Corning Warehouses, Inc. proposes to issue stock for acquiring \$10,000 initial working capital.

It is alleged that Rivelco, Inc. is active in the business of grain storage and brokerage and through another wholly owned subsidiary, Sacramento Delta Elevators, is presently performing public utility warehouse operations (Decision No. 70442 dated March 15, 1966 in Application No. 48230). It is further alleged that Rivelco, Inc. has sufficient experienced executive personnel with which to staff Artois-Corning Warehouses, Inc.

After consideration the Commission finds that the proposed transfers would not be adverse to the public interest. Because Rivelco, Inc. will not be operating as a public utility, no authority

is required to execute the hypothecation and lease agreements; however, the public utility dedicated status of the property herein considered shall continue notwithstanding the provisions of any agreement or contract to the contrary. A public hearing is not necessary.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1970, Leslie D. Berry, as Receiver of the property of Tri-Grain, Inc., may sell and transfer, and E. T. Hermann, Gwendolyn Jane Hermann and Pacific Mill & Elevator Co. may purchase and acquire, the property referred to in the application, and upon acquisition thereof E. T. Hermann, Gwendolyn Jane Hermann and Pacific Mill & Elevator Co. may sell and transfer, and Rivelco, Inc. may purchase and acquire, the same property. The public utility dedicated status of the property herein considered shall continue notwithstanding the provisions of any agreement or contract to the contrary.

2. On or before May 1, 1970, Tri-Grain, Inc. may transfer, and Artois-Corning Warehouses, Inc. may acquire, the operative rights granted by Decision No. 73136 dated September 26, 1967, in Application No. 49574.

3. Within thirty days after the consummation of the transfers herein authorized, purchasers shall notify the Commission, in writing, and within said period shall file with the Commission true copies

of any bills of sale or other instruments of transfer which may be executed to effect said transfers.

4. Artois-Corning Warehouses, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations herein to show that it has adopted or established, as its own, said rates and rules. 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 consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 61-A. Failure to comply with and observe the provisions of General Order No. 61-A may result in a cancellation of the operating authority acquired pursuant to this decision.

5. Within thirty days after the effective date hereof, Artois-Corning Warehouses, Inc. shall file a written acceptance of the certificate, the transfer of which is herein authorized. Artois-Corning Warehouses, Inc. is placed on notice that, if it accepts such certificate, it will be required, among other things, to file annual reports of its operations.

6. In the event the transfer authorized in paragraph 2 hereof is consummated a certificate of public convenience and necessity is granted to Artois-Corning Warehouses, Inc. 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.

7. The certificate of public convenience and necessity granted in paragraph 6 of this order shall supersede the certificate of public convenience and necessity granted in Decision No. 73136 in Application No. 49574 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 4 hereof.

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

Dated at San Francisco, California, this 15th day of JULY, 1969.

President

Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

Artois-Corning Warehouses, 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.

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