

Decision No. ~~76623~~

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MADERA BEAN CO., INC., for a certificate of public convenience and necessity authorizing operation as a public warehouseman at Madera, California, and for authorization to issue stock.

Application No. 51349
(Filed September 8, 1969)

Herbert E. Barton, for applicant.
Everest A. Benton, for the Commission staff.

O P I N I O N

By this application, Madera Bean Co., Inc. requests a certificate of public convenience and necessity authorizing it to conduct business as a warehouseman as defined in Section 239 of the Public Utilities Code. Applicant also requests authority to issue 2,000 shares of stock at par value of \$10 per share.

A public hearing was held before Examiner O'Leary at Fresno on October 29, 1969, at which time the matter was submitted. No protestants appeared at the hearing.

Applicant is a new California corporation. Its president and secretary-treasurer are partners in a firm which is engaged in the grain, insurance and trucking businesses. Its vice president has been engaged in the dried bean business for 12 years. One of its directors has experience in the operation of agricultural warehouses and has been in the dried bean business for 22 years.

Applicant proposes to issue stock to the aforementioned officers and director which will yield to applicant \$20,000 cash. It is anticipated that said amount will be adequate for the beginning of operations.

Applicant has available two single-story warehouse buildings of steel construction with metal walls and roof and concrete floor with 16,000 square feet of floor space. A Southern Pacific spur track is located on the premises. The closest warehouse facilities are approximately twenty miles distant.

Five farmers in the Madera area testified in support of the application. All of them stated that existing facilities are not satisfactory; they are not located in close proximity to their farms.

Based on the evidence adduced the Commission finds that:

1. Public convenience and necessity require the granting of the requested authority.

2. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission concludes that the application should be granted.

In issuing our order herein, we place applicant and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return applicant should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of value of applicant's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

Madera Bean Co., 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 a particular location. 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Madera Bean Co., 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. Madera Bean Co., Inc. may issue not to exceed \$20,000 par value of its capital stock, at not less than par, for the purposes specified in the application.

3. Applicant shall comply with the regulations of the California Department of Public Health concerning hazardous or toxic commodities and shall include in its tariff a rule reading substantially as follows:

Hazardous or Toxic Commodities:

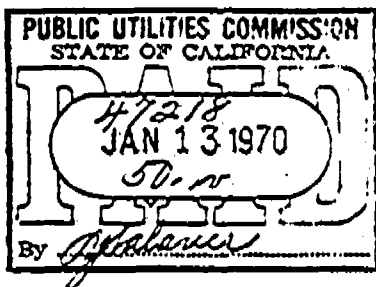
The warehouseman will not be required to accept for storage any commodity of a toxic nature which could contaminate other commodities in storage or be hazardous to the health of warehouse personnel. At warehouseman's option such hazardous or toxic commodities, when properly packaged and labeled to reduce contamination and health hazard to a minimum, may be accepted for storage in an area isolated from other commodities subject to contamination. Any additional services in the way of warehouse labor or excessive use of space arising from isolation of such commodities will be charged to the storage account.

4. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (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.
- (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.

5. The authority herein granted to issue stock will become effective when applicant has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 30th day of DECEMBER, 1969.



William J. ...
President

[Signature]

[Signature]

[Signature]
Commissioners

-4- Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Madera Bean Co., Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman for the operation of storage or warehouse floor space as follows:

| <u>Location</u> | <u>Number of Square Feet of Floor Space</u> |
|-----------------|---|
| Madera | 16,000 |

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code.)

(End of Appendix A)

Issued by California Public Utilities Commission.

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