

**ORIGINAL**Decision No. 83586

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 DONOFRIO DRAYAGE, INC., a corporation,  
 for authority to purchase a warehouseman  
 certificate of public convenience and  
 necessity from applicant, OVERMYER OF  
 SAN LEANDRO, a corporation, and for  
 authority to transfer said certificate  
 to DONOFRIO DRAYAGE, INC.

Application No. 55084  
 (Filed August 1, 1974)

O P I N I O N

Overmyer of San Leandro requests authority to sell and transfer, and Donofrio Drayage, Inc. requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a public utility warehouseman.

The certificate was granted by Decision No. 81374 dated May 15, 1973 in Application No. 53627 and authorizes operations in 80,000 square feet of floor space in the city of San Leandro. The agreed cash consideration is \$6,000.

Applicant purchaser is presently engaged in the transportation of property and as of April 30, 1974 indicated a net worth in the amount of \$69,581.

A copy of the application was served upon the California Warehouseman Association. No protest has been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Overmyer of San Leandro and the issuance of a certificate in appendix form to Donofrio Drayage, Inc.

Purchaser is 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. 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. On or before May 1, 1975, Overmyer of San Leandro may sell and transfer the operative rights referred to in the application to Donofrio Drayage, Inc.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the warehouse operations transferred to show that it has adopted or established, as its own, the 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 transfer. 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-Series. Failure to comply with the provisions of General Order No. 61-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Donofrio Drayage, Inc., a corporation, authorizing it to operate 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 set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 81374 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall maintain its accounting records in conformance with any applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission, and each year shall file with the Commission an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 16<sup>th</sup> day of OCTOBER, 1974.

Thomas L. Steyer  
President  
William Quinn, Jr.  
[Signature]  
[Signature]  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Donofrio Drayage, 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 as defined in Section 239(b) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

| <u>Location</u> | <u>Number of Square Feet of Floor Space</u> |
|-----------------|---|
| San Leandro     | 80,000                                      |

(The floor space shown 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. 83586, Application No. 55084.