

Decision No. 20251

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 JOHN C. BIANCHINI to sell his interest,
 and WM. G. WAHL, J. HILLS WYTHE and
 R. E. HOERLER to purchase the interest
 of said JOHN C. BIANCHINI in and to the
 automobile freight line operated between
 Hollister and points in San Benito,
 Santa Cruz, Monterey and Santa Clara Counties,
 California.)
)
) Application
) No. 15013
)

BY THE COMMISSION -

OPINION and ORDER

John C. Bianchini has applied to the Railroad Commission for an order approving the sale and transfer by him to Wm. G. Wahl, J. Hills Wythe and R.E. Hoerler, his partners, of his interest in an operating right for an automotive trucking service between Hollister and points in San Benito, Santa Cruz, Monterey and Santa Clara counties, and Wm. G. Wahl, J. Hills Wythe and R.E. Hoerler have applied for authority to purchase and acquire the said interest of applicant Bianchini, and to hereafter operate said service, the sale and transfer to be in accordance with an agreement of sale, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$4250, all of which sum is said to represent the value of said Bianchini's interest in the business of the partnership.

The operating right herein proposed to be transferred was granted to the partnership of Bianchini, Wahl, Wythe and Hoerler by the Railroad Commission in its Decision No. 17548, dated October 29, 1926, and issued on Application No. 11660. The right authorizes the operation of a common carrier trucking service for the transportation of green and dried fruits, vegetables, farm produce, crude oil, smudge oil, spray oil and box shock between the points,

places and communities named and designated on, over and along the said public roads and public highways described in the 17 respective routes from 1 to 17 inclusive, as specifically set out on pages one and two of said amended application, together with the right to serve all points distant two miles on each side of said 17 routes and between all points and places on one route to all points and places on any of the other routes. Said routes are as follows:

Route No.1- Bell Station and Hollister and intermediate points via Pacheco Pass, State Highway, and San Felipe-Hollister roads.

Route No.2- Gilroy and Hollister and intermediate points via Hollister, Gilroy, Wright and San Felipe, Hollister roads.

Route No.3- Gilroy and Hollister and intermediate points via Pacheco Pass, San Felipe - Hollister roads.

Route No.4- Intersection Gilroy - Hollister Road and Shore Road and intermediate points via Shore, San Felipe-Fairview and Hollister- Santa Ana roads.

Route No.5- Hollister and Hollister and intermediate points via Hollister- Santa Ana, Hawkins, Enterprise- Tres Pinos, Sunny Slope Roads.

Route No.6- Hollister and Hollister and intermediate points via Buena Vista, Wright, San Felipe- Hollister roads.

Route No.7- Lone Tree School House and Hollister and intermediate points via Lone Tree, San Felipe- Fairview, McCloshey, San Felipe- Hollister roads.

Route No.8- Tres Pinos and Hollister and intermediate points via Southside, Hollister- Tres Pinos and Sunny Slope roads.

Route No.9- Grass Valley, Vineyard and Hollister and intermediate points via Cienga, Bird Creek and Sunnyslope roads.

Route No.10- San Juan and Hollister and intermediate points via San Juan- Hollister State Highway.

Route No.11- Hollister and Hollister and intermediate points via Nash and Union roads.

Route No.12- Corner Santa Ana - Tres Pinos and Hawkins roads and Tres Pinos and intermediate points via Santa Ana- Tres Pinos and Buena Vista roads.

Route No.13- Los Muertos Ranch House and Tres Pinos and intermediate points via Buena Vista and Quien Sabe roads.

Route No.14- Peralto School House and Hollister and intermediate points via Panoche, New Idria, Panoche Pass, San Benito, Tres Pinos and Hollister-Tres Pinos and Sunnyslope roads.

Route No.15- Brown's Valley and Tres Pinos and intermediate points via Brown's Valley, Buena Vista, Quien Sabe and Buena Vista roads.

Route No.16- Watsonville to Hollister and intermediate points via State Highway, Duncan Lane cut-off and State Highway.

Route No.17- Associated Oil Company's Pumping Station, No.2 and Hollister and intermediate points via State Highway.

Provided, however, that said applicants shall only transport the following commodities over the following routes, to-wit:

(a) Spray oils and box shooks between Watsonville and Hollister and destinations on the herein described routes.

(b) Fruit and produce from orchards located on the herein described routes to dryers or warehouses located at Watsonville, or vice versa.

(c) Smudge oil between Gilroy and Hollister and destinations located on the herein described routes.

(d) Green and dried fruit from orchards located on the herein described routes to dryers or warehouses at Gilroy, or vice versa.

(e) Crude oil from Salinas to Hollister and intermediate points via San Juan, as well as to all destinations on the herein described routes.

Provided, further said applicants shall not transport any consignment or individual shipment of freight under 500 pounds in weight between Hollister and Libby's Gate and intermediate points by Bird Creek road.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

Wm. G. Wahl, J. Hills Wythe and R. E. Hoerler are hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly

of a class of business over a particular route. 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

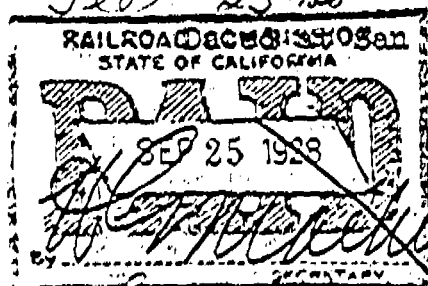
2- Applicants John C. Bianchini, Wm. G. Wahl, J. Hills Wythe and R. E. Hoerler shall immediately unite with applicants Wahl, Wythe and Hoerler, co-partners, in common supplement to the tariffs on file with the Commission, applicants Bianchini, Wahl, Wythe and Hoerler on the one hand withdrawing, and applicants Wahl, Wythe and Hoerler, co-partners, on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Bianchini, Wahl, Wythe and Hoerler shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicants Wahl, Wythe and Hoerler, co-partners, shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Bianchini, Wahl, Wythe and Hoerler which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Bianchini, Wahl, Wythe and Hoerler, or time schedules satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5- No vehicle may be operated by applicants Wahl, Wythe and Hoerler unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

6- This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act and the Auto Stage and Truck Transportation Act on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.



Fee # 25798

San Francisco, California, this 25th day of September, 1928.

Leon A. White
Chas. H. Lewis
Alvin B. Lewis