

Decision No. 21474

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 L. A. THORNEWILL for a certificate of )  
 public convenience and necessity to ) Application No. 15249  
 enlarge operations from San Francisco )  
 to Santa Cruz and Capitola. )

**ORIGINAL**

Douglas Brookman, for Applicant.  
 H. W. Hobbs and W. S. Johnson, for Southern  
 Pacific Company, Protestant.  
 Edw. Stern, for Railway Express Agency, Incorporated,  
 Protestant.  
 R. L. Hayes, for Highway Transportation Company,  
 Protestant.

BY THE COMMISSION -

O P I N I O N

L. A. Thornevill has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the removal of certain restrictions as to the carriage of commodities between San Francisco and Santa Cruz and Capitola.

Public hearings on this application were conducted by Examiner Handford at Santa Cruz, the matter was duly submitted and is now ready for decision.

Applicant is now authorized to transport berries, fruits, vegetables, poultry and eggs from Santa Cruz and Capitola to San Francisco, and grapes and plums from Alma to San Francisco, and to transport mill feed, in sacks, and empty containers (free) from San Francisco to Santa Cruz and Capitola; and to transport berries, fruits, vegetables, poultry and eggs from Swanton to San Francisco via Davenport and Santa Cruz, with the right to return empty containers without charge from San Francisco to Swanton and intermediate points. Applicant herein seeks authority to transport sugar, flour, groceries, drug store supplies, building supplies, electrical, hardware and plumbing supplies, fresh and smoked meats, and fruits and vegetables between San Francisco and Capitola, in addition to commodities heretofore authorized.

The granting of the application was protested by the Southern Pacific Company, the Railway Express Agency, Inc. and by the Highway Transport Company, one of the authorized truck carriers between San Francisco and Santa Cruz.

The applicant in fact has been transporting all such commodities between San Francisco and Santa Cruz for some time. His application was filed on December 6, 1928. It recites that in certain instances, as an accommodation to shippers, he has performed such services and that a demand has been made upon him to install a regular service of the character proposed. Witnesses who testified in behalf of applicant stated that they had used the service at various times for the shipment of merchandise of nearly all kinds and that they desired the continuation of such service, which they had found to satisfactorily meet their needs. It does not appear that applicant has refused to handle any business if the vacant spaces on his trucks would permit of such carriage and all such handling has been done prior to application for the necessary certificate and has continued after filing application for the certificate and without waiting for a decision. Under such circumstances we cannot ignore the applicant's violation of his certificate and permit such restrictions to be removed.

We are not, therefore, at this time passing on the matter of public convenience and necessity other than to conclude that an applicant should not receive such certificate based on evidence which is conclusively to the effect that the authority sought has been already anticipated and assumed by the applicant who has operated and now is operating for compensation, and without the necessary authority as prescribed by the statutory law. For this reason the application will be denied.

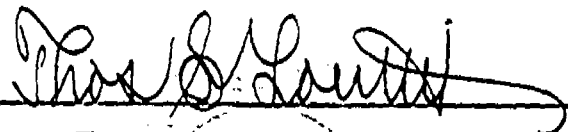
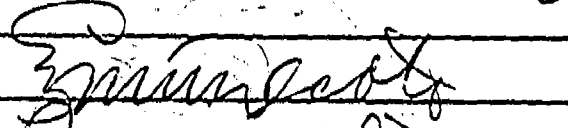


O R D E R

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion as set forth in the opinion which precedes this order,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that the record herein does not justify the expansion and enlargement of operative rights for the conduct of an automobile trucking service from San Francisco to Santa Cruz and Capitola as now contained in certificates of public convenience and necessity as heretofore issued to L. A. Thornewill, and

IT IS HEREBY ORDERED that this application be and the same is hereby denied.

Dated at San Francisco, California, this 20<sup>th</sup> day of August, 1929.

  
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Commissioners.