

DECISION NO. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Henry H. Denison,)
 Complainant,)
 -vs-)
 Southern Pacific Company,)
 Defendant.)

Case No. 1087

Decision No. 4625

O P I N I O N

LOVELAND, Commissioner.

Complainant, a lumberman with office at Sacramento, alleges that rate of \$1.80 per ton on redwood bark, carloads, from Santa Cruz district to Oakland is unreasonable as compared with rate of \$1.20 per ton contemporaneously in effect on lumber, carloads, and prays that the Commission establish rates for this commodity in carloads from Santa Cruz district to San Francisco, Oakland and Bay Points not in excess of rates on lumber.

The rate attacked reads:

<u>Commodity</u>	<u>From</u>	<u>To</u>	<u>Rate Per Ton of 2000 lbs.</u>
Bark (except Tan Bark), Carloads, Minimum Carload Weight 30,000 lbs.	(Laurel,	Cal.)	\$1.80
	(Glenwood,	"	
	(Felton	"	
	(Newell Junction,	"	
	(Newell Creek Mill,	"	
	(Ben Lomond,	"	
	(Boulder Creek,	"	
	(Santa Cruz,	"	
	(Aptos,	"	
(Loma Prieta,	"		
		Oakland, Cal.	

Defendant denies the unreasonableness of rate assailed and contends that the lumber rate is not a proper measure of the rate for bark.

At the hearing petition of intervention was filed by Mr. U. S. McMillan in behalf of the Redwood By-Products Company. From testimony submitted by complainant and intervenor, it was shown that redwood bark is used in the manufacture of roofing felt and building paper, in which respect it competes with cheap raw materials such as scrap paper, straw and rags; that formerly the rags used for this purpose were imported from foreign countries, but, owing to war conditions and consequent inability to procure same from the usual sources at this time, a substitute has been found in the form of redwood bark.

It was further developed that this bark is a very low grade commodity, its value being principally represented by the cost of gathering and loading on cars; that heretofore it has been merely a forest waste and, as such, a serious fire menace.

Complainant testified that this commodity is moved in open gondola cars without being damaged by the elements and that it is not susceptible to injury, consequently rendering carriers practically free from damage claims.

Witness for defendant, in support of its contention that lumber rate of \$1.20 per ton is not properly comparable to bark, testified that the lumber rate was established to meet competition of lumber reaching San Francisco and bay points from Washington, Oregon and coastwise points by water at rate of \$2.00 per 1000 feet or, on basis of 3-1/3 pounds per foot, \$1.20 per ton and that the same competition does not exist with respect to bark.

Defendant argues that bark is more analogous to wood than to lumber and should be rated accordingly as was done in case of the rate under discussion which is the wood rate converted to a weight denomination on basis of 2500 pounds per cord.

In the course of hearing, complainant directed attention to rates carried by defendant on tan bark which is of much higher value than redwood bark, the loading qualities being practically the same. A comparison of the redwood bark rates with those for tan bark taken largely from rates mentioned by complainant follows:

Commodity	From	To	Miles (Via Short Line)	Rate Per Ton	Rate Per Ton Mile		
Bark(except Tan Bark)C.I. min.30000 lbs.	Boulder Creek	Oakland	76	\$1.80	.0237		
	Newell Crk.Mill	Oakland	74	1.80	.0237		
	Santa Cruz	Oakland	76	1.80	.0237		
Tan Bark,C.I. min.30000 lbs.	(Newell Creek Mill)	San Francisco	74	1.65	.0217	(Eff.11/22/12. Prev.rate \$2.50 per cord-approx. \$2.00 per ton.	
	(Boulder Creek)	Oakland	76				
"	"	Boulder Creek	Santa Clara	39	1.00	.026	(Eff.11/22/12. Prev.rate \$1.50 per cord-approx. \$1.20 per ton.
"	"	Santa Cruz	Stockton	116	1.50	.0129	(Eff. 4/11/14. Prev.rate \$1.70 per ton.
"	"	"	Benicia	104	1.80	.0173	(Eff. 1/31/15.
"	"	(Monterey Santa Cruz)	Santa Clara "	78) 39)	.95	.0122	(Eff.11/22/12.
"	"	(Boulder Creek) (Santa Cruz) (Monterey)	Redwood	58 58 97	1.15	.02 .02 .0118	(Eff.11/22/12. Prev.rate \$1.75 per cord-approx. \$1.40 per ton.

"Per cord" rates converted to "per ton" on basis of 2500 pounds per cord which is method used by carrier in arriving at redwood bark rate under complaint.

Carrier in defense of the rates on tan bark argued that they were granted in the early days when the leather business was first established in California for the purpose of encouraging an industry then in its infancy and for this reason should not be considered in comparison at the present time.

This gives rise to the question as to what is the difference in conditions surrounding the establishment of rates on the two kinds of bark. If low rates were granted to foster the leather industry in its early stages, may not the shippers of redwood bark, with equal justification, expect the same liberal treatment of their commodity, which also contributes to the establishment of a new industry, and therefore in like need of encouragement on the part of carrier?

It is hardly necessary, however, to decide this point as the preceding table shows that the existing tan bark rates are of comparatively recent effective date and mostly reductions in the rates previously carried. For instance rate of \$1.50 per ton from Santa Cruz to Stockton became effective April 11, 1914, superseding rate of \$1.70 per ton. The \$1.80 rate from Santa Cruz to Benicia took effect January 31, 1915. None of the present rates were operative prior to November 22, 1912. While the original tan bark rates may have been established for the purpose of nourishing a new industry, I believe it is quite apparent that those now in effect were fixed at a time when the leather industry in this state was on a firm foundation and that defendant in determining present rates was actuated by entirely different motives.

The transportation company, in further defense of redwood bark rate, complained of, urges difficulty and expense of operation over the line north of Santa Cruz due to severe grades, long tunnels and meager volume of traffic necessitating light

train movement, all of which while of interest will not materially affect the issues presented inasmuch as the same conditions exist in the transportation of lumber and tan bark with which comparison is drawn.

In fixing rate for this commodity it is desired to establish a minimum weight closely approximating the carrying capacity of defendant's equipment to the end that maximum car efficiency may be assured.

The minimum weight for lumber between these points is 30000 pounds, but the average carloading is 66380 pounds, which at rate of \$1.20 per ton yields car revenue of \$39.83. For redwood bark the present rate of \$1.80 per ton with minimum of 30000 pounds gives revenue of \$27.00 per car. It is possible to load redwood bark to approximately 40000 pounds per car which at \$1.20 per ton will yield \$24.00 car revenue.

There was some discussion at the hearing as to practicability of loading cars to 40000 pounds from certain points north of Santa Cruz account clearance restrictions of defendant due to tunnels along this route, but carrier does not seem to be clear as to whether this would prevent such loading. This minimum weight will therefore be established with the understanding that carrier will modify same, should it develop that its rules governing car clearances will bring about a conflict.

Upon careful consideration of the evidence submitted, I am of the opinion that the present rate of \$1.80 per ton on redwood bark, minimum 30000 pounds from Santa Cruz district to Oakland is unreasonable by comparison with rates for tan bark maintained by defendant, and find a reasonable rate for this commodity between the points mentioned to be \$1.20 per ton, minimum 40000 pounds.

The following form of order is submitted:

O R D E R .

The above entitled case having come on regularly for hearing and the Commission being duly apprised in the premises,

IT IS HEREBY FOUND AS A FACT that the rate of \$1.80 per ton on redwood bark carloads from Santa Cruz district to Oakland is unreasonable and that a rate of \$1.20 per ton is a reasonable rate for the service.

And basing its order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the Southern Pacific Company establish a rate of \$1.20 per ton on bark (except tan bark) carloads, minimum 40,000 pounds from Laurel, Glenwood, Felton, Newell Junction, Newell Creek Mill, Ben Lomond, Boulder Creek, Santa Cruz, Aptos and Loma Prieta to Oakland.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of September, 1917.

H. J. Howard
Alex Gordon
Edwin C. Edgerton
Frank R. Perkins
Commissioners.