

ORIGINAL

Decision No. 29997

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
HENRIK ARTUR TROBERG for an order)
authorizing the temporary suspension)
of service as a common carrier by) Application No. 21291
vessel on the inland waters of the)
State of California.)

In the Matter of the Application of)
HENRIK ARTUR TROBERG for a permit under)
the For-Hire Vessel Act of the State)
of California to operate a vessel for) Application No. 21292
the transportation of property for)
compensation on the inland waters of)
the State of California.)

BY THE COMMISSION:

OPINION AND ORDER

Applicant is an individual having on file with the Commission a tariff naming rates for the transportation of property as a common carrier by vessel on the inland waters of the state. By Application No. 21291, filed June 23, 1937, he seeks authority to discontinue for one year his operation as a common carrier and by Application No. 21292, filed on the same date, he seeks authority for a permit to operate a "for-hire" vessel under the For-Hire Vessel Act (Chapter 223, Statutes of 1933).

In Decision No. 29778 of May 24, 1937, in Case No. 3824, applicant was found to possess the right to transport only hay, in lots of not less than 100,000 pounds, within a limited territory. Applicant alleges that said operative right is so restrictive that he will be unable to serve the customers whose business he has handled for a number of years and that he will be forced to retire from business if required to operate as a common carrier thereunder. He believes that his present operation is such that it could be conducted as a for-hire vessel service rather than as a common carrier service but does not want to surrender his common carrier rights until he has had an opportunity to de-

termine whether such for-hire vessel operation will be satisfactory.¹ He anticipates that within one year he will be in a position to resume his common carrier operation or abandon it entirely.

If the sought for-hire permit be granted applicant will use the gasoline motor boat "FRANK LAWRENCE" which has a capacity of 90 tons. He expects to transport property for four shippers only, and in any event will limit his service to not more than six shippers during any year. He will not hold himself out to transport for the public generally. The rates which applicant proposes to charge, the commodities which he proposes to handle and the points which he proposes to serve are those set forth in Exhibit "A" attached to Application No. 21292.

Certain common carriers by railroad have protested the granting of these applications. They argue with considerable logic that applicant should be required to elect at this time whether he will continue to render a common carrier service. In view of the fact that applicant's operation under assumed rights was allowed to go unchallenged for a number of years, however, it appears proper to allow a reasonable period during which he may readjust his operating practices and determine whether or not common carrier operation under his rights as restricted will be feasible.

The granting of the application to discontinue common carrier operation, temporarily, will not deprive the public of means of transportation as the territory is served by other carriers.

It appears that these are matters in which a public hearing is not necessary and that the applications should be granted. Applicant is hereby notified that he will be expected to resume his operations as a common carrier within a period of one year or forfeit all rights thereunder. Therefore, good cause appearing,

IT IS HEREBY ORDERED that applicant Henrik Artur Troberg be and he is hereby authorized to suspend until July 26, 1938, his

¹ For-Hire Vessel Act (Statutes of 1933, Chapter 223) provides: "Section 13. No permit shall be issued to any person or corporation for the operation of for-hire vessels over the whole or any part of any route operated by the applicant as a common carrier."

service as a common carrier by vessel upon the inland waters of this state, provided he supplement his tariffs on file with the Commission to show that his service has been suspended as authorized herein.

IT IS HEREBY FURTHER ORDERED that a permit issue to applicant Henrik Artur Troberg, effective on the date of suspension of his common carrier service as authorized in the preceding paragraph of this order, to operate that certain gasoline motor vessel "FRANK LAWRENCE" as a "for-hire" vessel upon the inland waters of this state, subject to all the terms and conditions of the For-Hire Vessel Act (Chapter 223, Statutes of 1933), for the transportation of the following commodities and between the following points:

1. Cereals and Cereal Products, as defined in Item No. 70 of the tariff annexed to Application No. 21292 as "Exhibit A" - Between any and all points on San Francisco Bay, San Pablo Bay, Suisun Bay, the Sacramento River, the San Joaquin River and their respective tributaries and sloughs, with the exception of Sacramento, points on the Sacramento River north of Sacramento and points on any tributary of the Sacramento River joining the Sacramento River at or north of Sacramento.
2. Hay and Straw - Between any and all points on San Francisco Bay, San Pablo Bay, Suisun Bay, the Sacramento River, the San Joaquin River and their respective tributaries and sloughs.
3. Lumber, all kinds - Between any and all points on San Francisco Bay, San Pablo Bay, Suisun Bay, the Sacramento River, the San Joaquin River and their respective tributaries and sloughs.

IT IS HEREBY FURTHER ORDERED that such permit be and it is hereby made subject to the following conditions:

1. Applicant shall file his written acceptance of the permit herein granted within a period of not to exceed fifteen (15) days from the date hereof.
2. Applicant shall file in duplicate with his acceptance of the permit tariffs containing rates and rules which in volume and effect shall be identical with the rates and rules set forth in Exhibit "A" attached to Application No. 21292.
3. Applicant shall file a description of the vessel "FRANK LAWRENCE."

4. This permit and the rights and privileges exercisable thereunder may not be leased, transferred or assigned unless the consent of this Commission thereto has first been secured.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28th day of July, 1937.

William H. Ware.
Frank R. DeWitt
Ralph W. Hughes

COMMISSIONERS.