

Decision No. 31115

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of)
Harold S. Peterson, doing business)
under the name of Peterson Water Taxi, (Application No. 21046.
for certificate of public convenience)
and necessity to operate vessels for)
the transportation of persons and)
property for compensation between)
points upon the inland waters of the)
State of California.)

Douglas Brockman, for applicant,
Frank S. Richards, for Key System.
Gwyn H. Baker, for Harbor Tug and Barge
Company and Crowley Launch and Tugboat Company,
Protestants.

WEITSELL, Commissioner:

OPINION ON REHEARING.

Decision No. 29896 issued June 26, 1937, denied applicant Harold S. Peterson a certificate to operate a common carrier vessel service for the transportation of persons and property upon the inland waters of San Francisco Bay, its tributaries and Golden Gate Strait. Thereafter, applicant petitioned for a rehearing of said decision which was granted.

Public hearings were held at San Francisco, on October 22nd, November 2nd and 24th, and December 9, 1937.

A second amended application was filed during the course of the rehearing which limited applicant's proposed service to the transportation of persons and ship chandlers' supplies between his dock at the foot of Buchanan Street in San Francisco and vessels within a defined area in San Francisco Bay commonly known as

(1)
"Quarantine."

The evidence shows that applicant proposes to transport pilots, officials of steamship companies, visitors, ship chandlers and ship chandlers' supplies to vessels in San Francisco Bay which are being held for quarantine or customs inspection. Applicant's dock is located directly opposite the quarantine area. The proximity of his dock to quarantine will enable him to render the proposed service at a saving of time and expense to his patrons and will not necessitate the crossing of ferry lanes which is a navigation hazard, particularly in foggy weather.

Two Bay pilots, Captains Edgar D. Farney and Edwin W. Groeper testified that applicant's proposed service was necessary to and would be convenient in their business. Captain Groeper stated that he would require such a service twelve or thirteen times a month. He testified also that such a service would be an advantage in his business because incoming ships can be seen from applicant's dock day or night and boarded by the use of applicant's boats in a few minutes thus saving valuable time.

Mr. G. Gallis, President of Schou-Gallis Company, Ltd., ship chandlers, testified that his company frequently had occasion to send supplies to ships at the quarantine area. He stated that applicant's proposed service would be advantageous to his company in supplying such ships, as quarantine flags are visible from Peterson's wharf and by using the proposed service ships could be reached almost

(1)
The area which applicant desires to serve from his dock is more particularly described as follows:

Bounded on the west by the Golden Gate Bridge, on the east by a line projected into the Bay as an extension of Van Ness Avenue, on the north by a line three-quarters of a mile in the Bay parallel to the north shore of the City of San Francisco and on the south by the north shore of the City of San Francisco.

immediately after quarantine was lifted. Mr. Gallis stated further that the service proposed by applicant "is absolutely necessary in our business."

Mr. J. L. Feragen, Vice-President of the Fred Olson Line Agency, Ltd., testified that the Company's pilot, would be instructed to use applicant's proposed service, if it is authorized, to board vessels in the quarantine area because of the saving in time and expense which would result from the proximity of applicant's dock to the quarantine anchorage. He also stated that in his opinion applicant's service was essential to the shipping business in San Francisco.

Mr. J. C. Hyde of Flood Brothers, steamship agents, testified that officials of his company have need for a service such as that proposed by applicant to reach ships in the quarantine area. He said his company would use applicant's service if the application therefor is granted. He stated that the location of applicant's dock would enable his company to save time as well as expense in boarding its vessels.

Other witnesses testified to the convenience which a service such as that proposed by applicant would afford them in their business and expressed a desire to have the Commission grant Peterson's application.

Protests were made against the granting of the application in this matter by Crowley Launch and Tugboat Company and Harbor Tug and Barge Company. The latter offered no additional evidence on re-hearing, but at the original hearing a witness on its behalf declared that it was authorized to and performed substantially the services which applicant seeks authority to conduct. Mr. W. G. Westman, Superintendent of Crowley Launch and Tugboat Company, asserted that there was not much demand for the service applicant desires authorization to render. He repeated the statement made at the original hearing that his company has rendered and now offers the public an

adequate, efficient and satisfactory service to the quarantine area. The evidence indicated that while the operations of both protestants were conducted from adjacent piers located to the south of the Ferry Building ferry slips, they also offered, whenever requested, service from any other point on San Francisco Bay to the quarantine area.

It appears from all the evidence adduced in this proceeding that the service which applicant proposes to render if his application is granted cannot now and will not be rendered by protestants nor by any presently existing common carrier by vessel in such a manner as to effect the saving of time and expense which may reasonably be expected to result from the use of applicant's service. Although protestants profess to provide service, when it is requested, to quarantine from any point on the Bay, the evidence indicates that the charge assessed for such service is calculated from the time the boat leaves protestants' docks and not from the time the boat leaves the point specified in the request. It is also in evidence that applicant's proposed service is more readily usable for the boarding of ships in the quarantine area because of its advantageous location nearby where the ships can be seen and which will enable those utilizing it to arrive at ship side almost as soon as boarding is permissible. The record in this proceeding shows that this time saving element often is essential to pilots, ship company officials and ship chandlers in the proper conduct of their business. Therefore, it is concluded that applicant's proposed common carrier service by vessel is necessary, convenient and in the public interest, and will result in a saving of time and expense to users thereof by reason of the proximity of applicant's dock to the proposed service area. A certificate of public convenience and necessity will be granted authorizing applicant's proposed service.

Harold S. Peterson, is heroby 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.

ORDER ON REHEARING.

Harold S. Peterson having made application for a certificate to operate a common carrier service by vessel for the transportation of persons and property which application was denied by Decision No. 29896, and having petitioned for and been granted a rehearing of said decision, the matter having been publicly heard and the evidence adduced at the original hearing and on rehearing fully and carefully considered, good cause appearing and based upon the findings and conclusions indicated in the above opinion,

IT IS ORDERED that a certificate of public convenience and necessity be and it is granted to Harold S. Peterson to operate a common carrier service by vessel for the transportation of persons and property between his dock situated at the foot of Buchanan Street in San Francisco and vessels within an area commonly known as "Quarantine" but more particularly described as bounded on the west by the Golden Gate Bridge, on the east by a line projected into the Bay as an extension of Van Ness Avenue, on the north by a line three-quarters of a mile in the Bay parallel to the north shore of the City of San Francisco and on the south by the north shore of the City of San Francisco, subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.

2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in exhibit "A" attached to the second amended application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

3. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.


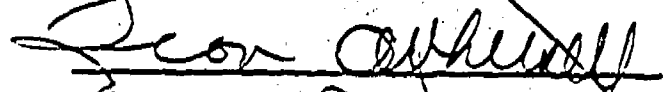
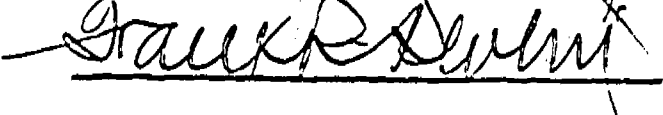
4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.

5. No vessel may be operated by applicant herein unless such vessel is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

The foregoing Opinion and Order on Rehearing are hereby approved and ordered filed as the Opinion and Order on Rehearing of the Railroad Commission of the State of California.

Dated at San Francisco, California this 19th day of July, 1938.

Commissioners.