

Decision No. 32682.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Certificate of)
TANNER MOTOR TOURS, LTD., to operate)
sightseeing tours from Los Angeles)
to Death Valley and return.)

ORIGINAL
Application No. 21645.

BY THE COMMISSION:

O P I N I O N

In this application, as amended, Tanner Motor Tours, Ltd., requests a change in routing on its Death Valley sightseeing tours and a certificate de novo in lieu of all of its sightseeing operative rights now held governing its operation in the Death Valley region.

Applicant's present operative rights between Los Angeles and Death Valley National Monument involved herein were established as follows:

By Decision No. 27519, dated November 13, 1934, on Application No. 19686, a certificate was granted to applicant to establish a sightseeing tour for the transportation of passengers and baggage between Los Angeles and Furnace Creek Inn, Death Valley and other points over a route via Riverside and San Bernardino, the return movement being over the same route. This tour was operated on a seasonal basis, subject to weather conditions, between the approximate dates November 1st and April 30th of the following year, provided that no tour is operated except for a minimum of two passengers. Stopovers are permitted between tours at Furnace Creek Inn or Death Valley Junction.

By Decision No. 27905, dated April 22, 1935, on Application No. 19915, applicant was authorized to acquire from Death Valley Transportation Company, a corporation, a consolidated operative right in the Death Valley Region which was created by three decisions in the following manner:

By Decision No. 24179, dated November 2, 1931, on Application No. 17746, Death Valley Transportation Company was authorized by the Commission to acquire from Death Valley Railroad Company a certificate granted by Decision No. 23128, dated November 28, 1930, on Application No. 17025, which authorized the transportation of passengers and their baggage, between Death Valley Junction and Furnace Creek Inn and other points in Death Valley, the service to be operated on-call and seasonally from approximately November 1st to April 30th of the following year;

By Decision No. 24244, dated November 23, 1931, on Application No. 17776, a certificate was granted Death Valley Transportation Company as an extension and enlargement of the right acquired by it under Decision No. 24179, which authorized the transportation of passengers and baggage over five routes between various points within Death Valley to be operated subject to weather conditions;

By Decision No. 25364, dated November 23, 1932, on Application No. 18506, a certificate was granted Death Valley Transportation Company which authorized the transportation of passengers and baggage (A) "on-call" from Death Valley Junction over the Beatty-Nevada Highway to the California-Nevada State Line and (B) between Barstow and Baker. This operation is seasonal from approximately November 1st to April 30th of the following year and is to be operated as an enlargement and extension of the right granted by Decision No. 24244.

Applicant herein proposes to establish and operate a seasonal round trip sightseeing service, beginning and ending at Los Angeles, for the transportation of passengers and their baggage during the season from approximately November 1st to April 30th of the following year. Operation in Death Valley will also be subject to weather conditions. No tour will be operated unless a minimum of two tickets have been sold for any tour. The route proposed is from Los Angeles over U.S. Highways Nos. 66 and 99 to San Bernardino, thence over U.S.

Highway No. 66 to Barstow via Victorville and thence over U. S. Highway No. 91 to Baker, thence over State Route No. 127 to Death Valley Junction, thence over State Route No. 190 via Furnace Creek Inn and Stovepipe Wells to U. S. Highway No. 6 via Lone Pine or Olancho Cutoff, thence over U. S. Highway No. 6 through Mojave, Lancaster, and Saugus, thence over U. S. Highway No. 99 through San Fernando to Los Angeles. Alternate routes are proposed to be used to and from Death Valley connecting with the main route at Yermo, Ibex Pass, Shoshone or Death Valley Junction.

As justification for the authority sought applicant alleges that it has been customary to change from one path or route to another at various times when changes seem expedient due either to the desire of passengers or weather conditions or poor condition of the roads. It is not proposed to fix definite routes within the Monument because points of interest are not well defined and the paths and the roads between them are not well mapped and the condition of the roads varies from time to time and upon occasion are impassable.

As justification for the establishment of operations over the route through Keeler, Lone Pine, Olancho, and Mojave, applicant alleges that the use of such route would permit patrons of the tour to see additional points of interest, including Red Rock Canyon, a portion of the Owens River Valley, the east side of the Sierra Nevada Mountains, the Mojave Desert, Mint Canyon and other points of interest for which there is now no sightseeing tour. The use of this route has been available since the completion of the highway connecting Death Valley and Mt. Whitney Highway (U. S. Highway No. 6).

The request for the certificate de novo is for the purpose of combining in one certificate, its Death Valley operation, and revocation of the certificates heretofore granted because of certain ambiguities and lack of clarity in the definition of the rights involved.

The application does not affect the operations of any other public carrier. M. C. Yahne, Incorporated, operates between Los Angeles, Lone Pine, and other points over U. S. Highway No. 6 and has indicated, in writing, that he has no objection to the granting of the authority requested.

It does not seem that this is a matter in which a public hearing is necessary and the application appearing to be in the public interest will be granted.

Tanner Motor Tours, Ltd., is 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.

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Tanner Motor Tours, Ltd., as a passenger stage corporation as that term is defined in section 2 $\frac{1}{2}$ of the Public Utilities Act, of the following automotive service:

1. A seasonal sightseeing service upon the demand of two or more passengers between the approximate dates of November 1 and April 30 of each following year, subject to weather conditions, for the transportation of passengers and their baggage whose point of origin and destination is Los Angeles, said sightseeing service to be conducted over and along any of the following routes or combinations thereof, in either direction:

From Los Angeles to San Bernardino, over Huntington Drive, U. S. Highways Nos. 66 and 99 or via Riverside over U. S. Highway No. 60, thence over State Highway No. 18, to San Bernardino, thence over U. S. Highway No. 66 via Victorville to Barstow, thence over U. S. Highway No. 91 to Baker, thence over State Highway No. 127 to Death Valley Junction, thence over State Highway No. 190 via Furnace Creek Inn, and Stovepipe Wells to junction of U. S. Highway No. 6 via Lone Pine or the Olancha Cut-off, thence over U. S. Highway No. 6 through Mojave, Lancaster, and Saugus to junction of U. S. Highway No. 99, thence over U. S. Highway No. 99 through San Fernando to Los Angeles, with diversions therefrom to any or all points of interest within Death Valley National Monument.

Alternate routes may be used to and from Death Valley connecting with the main route at either Yermo, Ibex Pass, Shoshone or Death Valley Junction.

2. A seasonal automotive service for the transportation of passengers and their baggage upon the demand of two or more passengers between the approximate dates of November 1st and April 30th of each following year, subject to weather conditions, between Death Valley Junction and Ubehebe Crater and intermediate points with diversions to points on the California-Nevada State Line, on the road between Scotty's Castle and Bonnie Clare, Nevada, on the Rhyolite-Titus Canyon Road, on the Rhyolite-Cloride Cliff Road, on the Daylight Pass Road, on the road to Beatty, Nevada; between Death Valley Junction and a point on the California-Nevada State Line where such State Line is intersected by State Route No. 127 and intermediate points over and along State Route No. 127.

3. A seasonal sightseeing service upon the demand of two or more passengers between the approximate dates of November 1st and April 30th of each following year, subject to weather conditions, for the transportation of passengers and their baggage from Barstow to Death Valley and return, the point of origin and destination being Barstow, over and along U. S. Highway No. 91 to Baker, thence over State Route No. 127 to Death Valley Junction, thence over State Route No. 190 with diversions therefrom to points of interests within Death Valley National Monument. Alternate routes may be used to and from Death Valley National Monument connecting with this route at either Yermo, Ibex Pass, Shoshone, or Death Valley Junction.

IT IS ORDERED that a certificate de novo therefor is hereby granted to Tanner Motor Tours, Ltd., not in addition to, but, in lieu of the operative rights heretofore created by Decision No. 27519, dated November 13, 1934, and the operative rights acquired by virtue of Decision No. 27905, dated April 22, 1935, which operative rights are hereby revoked and annulled. The authority herein conferred is subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed twenty (20) days from date hereof.

3. Applicant shall commence the service herein authorized within a period of not to exceed one hundred twenty (120) 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 the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

4. Applicant shall file in duplicate, and make effective within a period of not to exceed one hundred twenty (120) 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.

5. 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.

6. No vehicle may be operated by applicant herein unless such vehicle 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.

Dated at San Francisco, California, this 25th day of
July, 1939.

Robert [unclear]
John [unclear]
Ray [unclear]
[unclear]
Justin J. Casper