

ORIGINAL

Decision No. 34822

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ADOLPH)
 TOLOMEI, E. DEL GRANDE and LOUIS J. GERBONI)
 co-partners doing business under the name of)
 HALF MOON BAY DRAYAGE COMPANY, for authority)
 to transfer and sell, and EUGENIO RUGANI, PAUL)
 PERA, ADOLPH TOLOMEI and E. DEL GRANDE, as co-)
 partners to do business under the name of)
 C. PELLEGRINI DRAYING COMPANY, to acquire and)
 purchase, an automobile freight line operated)
 between Half Moon Bay and San Gregorio and)
 points intermediate, on the one hand, and)
 Colma, San Francisco, Oakland, San Leandro)
 and Emeryville, on the other hand, all in the)
 State of California.)

Application
No. 24570

BY THE COMMISSION:

O P I N I O N

By a joint application filed on November 7, 1941, the Half Moon Bay Drayage Company seeks authority to sell and transfer to C. Pellegrini Draying Company, and the latter seeks to purchase and acquire from the former, an operative right as a highway common carrier for the transportation of farm produce from Half Moon Bay and San Gregorio and intermediate points, on the one hand, to San Francisco, Colma, Oakland, San Leandro and Emeryville, on the other hand. Authority is also sought to consolidate the foregoing certificate with the existing operative rights of the Pellegrini Draying Company. If the application is

(1) Adolph Tolomei, E. Del Grande and Louis J. Gerboni, as co-partners, now own and operate the Half Moon Bay Drayage Company. By an agreement dated October 27, 1941, Louis J. Gerboni sold his one-third interest in said partnership to Tolomei and Del Grande.

Eugenio Rugani and Paul Pera now own and operate the C. Pellegrini Draying Company as co-partners.

granted, Adolph Tolomei, E. Del Grande, Eugenio Rugani and Paul Pera, propose to form a new co-partnership and operate their combined services under the name of C. Pellegrini Draying Company.

History of operative rights of Half Moon Bay Drayage Company.

The existing operative rights of Half Moon Bay Drayage Company were originally created in Paul Gatto by Decision No. 10065, of February 8, 1922, in Application No. 7440, authorizing him to operate as a highway common carrier of vegetables and other perishable farm products from Half Moon Bay to Colma and San Francisco. This certificate carried a restriction that no service could be performed from Half Moon Bay to San Mateo and southbound service from San Francisco and Colma to Half Moon Bay was limited to hauling of empty boxes and crates returned to shippers.

By Decision No. 11417, of December 29, 1922, in Application No. 8511, Paul Gatto transferred his operative right to Guiseppe Tocchini and Danti Dianda. The latter, in turn, by Decision No. 22716, of July 25, 1930, in Application No. 16691, transferred their rights to Adolph Tolomei, one of the present co-partners of Half Moon Bay Drayage Company.

By Decision No. 24143, of October 19, 1931, in Application No. 17722, Tolomei transferred his operative rights to the co-partnership composed of himself, E. Del Grande and Louis J. Gerboni, each of said co-partners holding a one-third interest in the new firm.

By Decision No. 25981, of May 29, 1933, as amended, in First Supplemental Application No. 17742, the aforesaid co-partners were authorized to extend their highway common carrier

service twelve miles south of Half Moon Bay to San Gregorio and haul farm produce from San Gregorio to San Francisco and farm equipment, farm supplies and agricultural necessities southbound from San Francisco to the ranches in the San Gregorio territory. This certificate carries a right to perform pickup and delivery service at farms and ranches located within three miles of San Gregorio and lateral service three miles on each side of the highway between San Gregorio and Tunitas.

The most recent addition to the operative rights of Half Moon Bay drayage Company was created by Decision No. 32456, of October 10, 1939, in Application No. 22603, whereby Tolomei, Del Grande and Gerboni, as co-partners, were authorized to transport fresh fruits, fresh vegetables, cut flowers, bulbs, poultry, rabbits, eggs and mushrooms, as a highway common carrier from Half Moon Bay and San Gregorio and intermediate points on the one hand, to commission houses, canneries and packing houses in Oakland, San Leandro and Emeryville, on the other hand, and empty containers returning, in the reverse direction. This certificate includes a three mile lateral right to serve points between Half Moon Bay and San Gregorio, and was granted as an extension and enlargement of the existing operative rights of the applicant.

The foregoing operative rights are those sought to be sold and transferred to the Pellegrini Draying Company by the instant application.

History of operative rights of C. Pellegrini Draying Company.

By Decision No. 17797, of December 23, 1926, in Application No. 11275, Caesar Pellegrini was authorized to engage in the transportation of property as a highway common carrier

between Tunitas and Montara and certain additional points on the one hand, and San Francisco and Colma on the other hand. This certificate was subsequently transferred to a co-partnership composed of Pellegrini, Eugenio Rugani and Vincenzo Lencioni by Decision No. 28530, of November 12, 1935, in Application No. 20187, each co-partner acquiring a one-third interest in said operative right.

By Decision No. 34161, of May 6, 1941, in Application No. 23955, Eugenio Rugani and Paul Pera were authorized to acquire the operative rights described in the preceding paragraph and now conduct a co-partnership business under the name of C. Pellegrini Draying Company.

Attached to the present application as Exhibits "A" and "B" are copies of agreements dated October 27, 1941 and November 6, 1941 respectively. The first agreement (Exhibit A) purports to be a contract of sale and transfer by Louis J. Gerboni to Adolph Tolomei and E. Del Grande, of his one-third interest in and to the business and operative rights of Half Moon Bay Drayage Company for a consideration of \$1,500. The

-
- (2) The additional points named in the certificate were as follows: Lobitas, Purissima, Half Moon Bay, Spanish Town, Balboa, Green Valley, San Pedro, Salada Beach and Burlington Beach. Applicant was authorized to operate via the coast route and also via San Mateo and the peninsula route into San Francisco.
- (3) According to the annual report of Half Moon Bay Drayage Company on file with the Commission for the year 1940, the company owns five units of automotive equipment valued at \$8,500. Exhibit "A" attached to the instant application describes the motor vehicles as follows:
- 1 - Kleiber, 3 ton flat bed truck, 1931 model
 - 1 - Kleiber, 3 ton truck, 1931 model
 - 1 - Federal, flat rack truck, 1936 model
 - 1 - Federal, stake body truck, 1936 model
 - 1 - G.M.C. platform stake truck, Model T, 1937 model

second agreement (Exhibit B) purports to be a contract of sale and transfer by Tolomei and Del Grande to Rugani and Pera, of the automotive equipment, business assets and operative rights of Half Moon Bay Drayage Company. ⁽⁴⁾ This agreement further provides that Rugani and Pera shall admit Tolomei and Del Grande into the formation of a new co-partnership, share and share alike, which shall consist of the four parties and "shall thereafter do business under the firm name of C. Pellegrini Draying Company," and that Rugani and Pera shall pay to Tolomei and Del Grande the sum of \$1,400 in two installments within one year from the date of execution of the agreement.

This is not a matter in which a public hearing is necessary. The proposed transfers and merger of the two companies appear to be in the public interest and will be authorized. From a study of the respective certificates here involved, however, we are of the opinion that a mere consolidation of operative rights will result in some overlapping or duplicate services. To the end that this may be eliminated the order following this opinion will grant the new co-partnership an in-lieu certificate which will permit the full rendition of the highway common carrier service now being performed by both companies without duplicating the services of either of them. The order will also provide for a revocation and cancellation of all operative authority heretofore issued to any of the parties by the Commission.

(4) The same equipment as that described in footnote (3) is included in the agreement of sale (Exhibit B) between Tolomei and Del Grande, on the one hand, and Rugani and Pera, on the other hand.

It is not possible for the Commission to determine from the application what value if any applicants Tolomei and Del Grande have placed upon their operative rights. They have not designated any precise value thereon for the Commission's consideration upon this record, therefore, we are unable to determine the value of the operative rights of Half Moon Bay Drayage Company. The order herein will provide that the transfer of a one-third interest in said operative rights from Louis J. Gerboni to his co-partners Tolomei and Del Grande and the transfer of their entire interest to Rugani and Pera shall be subject to the usual condition that the purchasers shall never claim a value for said rights in excess of the actual cost thereof. The order will also grant the new co-partnership an in-lieu certificate embracing the operative rights of both companies without duplication of services.

O R D E R

Based upon the foregoing opinion and finding by the Commission that public convenience and necessity so require,

IT IS ORDERED that Louis J. Gerboni be and he is hereby authorized to sell and transfer to E. Del Grande and Adolph Tolomei, and the latter be, and they are hereby authorized to purchase and acquire his one-third interest in and to the Half Moon Bay Drayage Company, including operative rights, automotive equipment and personal property for the sum of \$1,500 subject to the condition that neither the purchasers nor their successors or assigns shall ever claim before this Commission, or any court or other public body, a value for the operative authority hereby transferred in excess of the actual cost thereof.

IT IS FURTHER ORDERED that Adolph Tolomei and E. Del Grande, co-partners, doing business as Half Moon Bay Drayage Company be, and they are hereby authorized to sell and transfer to Eugenio Rugani and Paul Pera, Adolph Tolomei and E. Del Grande, co-partners doing business as C. Pellegrini Draying Company, and the latter are hereby authorized to purchase and acquire from the former the operative rights, automotive equipment and personal property of said Half Moon Bay Drayage Company for the sum of \$1,400 subject to the condition that neither said purchasers nor their successors or assigns shall ever claim before this Commission or any court or other public body, a value for the operative authority hereby transferred, in excess of the actual cost thereof.

IT IS FURTHER ORDERED that an in-lieu certificate of public convenience and necessity be and it is hereby granted to Eugenio Rugani, Paul Pera, Adolph Tolomei and E. Del Grande, as co-partners, doing business under the fictitious name of "C. Pellegrini Draying Company" to operate as a highway common carrier, as that term is defined by Section 2-3/4 of the Public Utilities Act of California:

- (a) For the transportation of property between Tunitas, Salada Beach and intermediate points, on the one hand and San Francisco and Colma, on the other hand, with a right to perform pickup and delivery service at farms and ranches located within a distance of one-half ($\frac{1}{2}$) mile from the highways traversed; subject to a restriction that no property may be transported locally between San Francisco and San Mateo.

- (b) For northbound transportation of vegetables and perishable farm produce including fresh fruits, fresh vegetables, cut flowers, bulbs, poultry, rabbits, eggs and mushrooms from San Gregorio and Half Moon Bay and intermediate points, on the one hand, to San Francisco, Colma, Oakland, San Leandro and Emeryville, on the other hand, with the right to pickup shipments at farms and ranches located not more than three (3) miles laterally off the highways traversed between San Gregorio and Tunitas; subject to a restriction that no service may be rendered locally from or to San Mateo as an intermediate point.
- (c) For southbound transportation of farm equipment, farm supplies and empty carriers returning, from San Francisco, Colma, Oakland, San Leandro and Emeryville, on the one hand, to Half Moon Bay and San Gregorio and intermediate points, on the other hand; subject to the same lateral rights as described in the preceding paragraph (b).

IT IS FURTHER ORDERED that in the operation of the highway common carrier service authorized herein, Louis J. Gerboni, Adolph Tolomei, E. Del Grande, Eugenio Rugani and Paul Pera shall comply with the following service regulations:

- (1) Adolph Tolomei, E. Del Grande and Louis J. Gerboni, doing business as Half Moon Bay Drayage Company shall, within sixty (60) days from the effective date hereof, and upon not less than fifteen (15) days' notice to the Commission and the public, file appropriate cancellation supplements to tariffs and time schedules now on file with the Commission covering the operations, rates and services of the Half Moon Bay Drayage Company.
- (2) Eugenio Rugani, Paul Pera, Adolph Tolomei and E. Del Grande, doing business as C. Pellegrini Draying Company shall:
- (a) File within thirty (30) days from the effective date hereof, a written acceptance of the certificate of public convenience and necessity granted herein.

- (b) File within sixty (60) days from the effective date hereof, and on not less than fifteen (15) days' notice to the Commission and to the public, (and concurrently with the filing of documents pursuant to sub-paragraph (1) of this ordering paragraph) appropriate tariffs and time schedules covering the highway common carrier services herein authorized.
- (c) Commence the service herein authorized within sixty (60) days from the effective date hereof.
- (d) Comply with and observe the provisions of General Order No. 93-A of the Railroad Commission, insofar as they are applicable to the operations herein authorized.
- (e) Subject to the Commission's right to change said routes at any future time, conduct the operations herein authorized over and along the following routes:

Route No. 1 - Beginning at San Gregorio, on California State Highway No. 1, thence north via State Highway No. 1 to junction with State Highway No. 5, thence via a continuation of State Highway No. 1, and Alemany Boulevard, Mission Boulevard or Potrero Boulevard into San Francisco, and via San Francisco-Oakland Bay Bridge to Oakland, returning over the same route in reverse direction, or via Routes Nos. 2 or 3.

Route No. 2 - Beginning at San Gregorio, on California State Highway No. 1, thence northerly on said highway to Half Moon Bay, thence via Crystal Springs Road to San Mateo, thence via U.S. Highway No. 101, (El Camino Real or Bayshore Highway) to San Francisco, and via San Francisco-Oakland Bay Bridge to Oakland, returning over the same route in the reverse direction, or via Routes Nos. 1 or 3.

Route No. 3 - Beginning at San Gregorio, on California State Highway No. 1, thence northerly on said highway to Half Moon Bay, thence via Crystal Springs road to San Mateo, thence via San Francisco Bay toll bridge to Mt. Eden, thence via California State Highway No. 17 and San Leandro Street to Oakland, returning over the same route in the reverse direction, or via Routes Nos. 1 or 2.

IT IS FURTHER ORDERED that all certificates of public convenience and necessity heretofore granted to Adolph Tolomei,

E. Del Grande and Louis J. Gerboni, or their predecessors in interest by the following decisions, be and they are hereby revoked, cancelled and annulled, effective upon the date when operations are begun under the in-lieu certificate granted herein:

Decision No. 10065, in Application No. 7440
Decision No. 11417, in Application No. 8511
Decision No. 22716, in Application No. 16691
Decision No. 24143, in Application No. 17722
Decision No. 25981, in Application No. 17742
Decision No. 26029, in Application No. 17742
Decision No. 32456, in Application No. 22603.

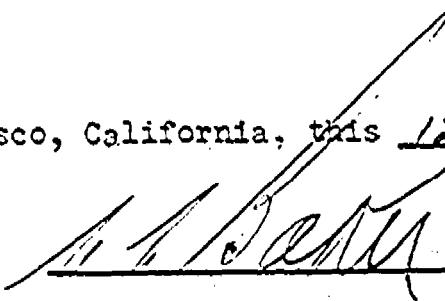
IT IS FURTHER ORDERED that all certificates of public convenience and necessity heretofore granted to Eugenio Rugani and Paul Pera, or to their predecessors in interest by the following decisions, be and they are hereby revoked, cancelled and annulled effective upon the date when operations are begun under the in-lieu certificate granted herein:

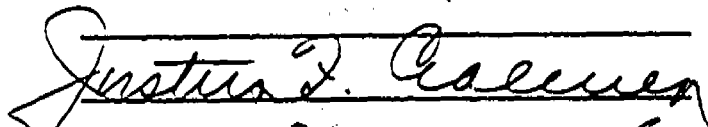
Decision No. 17797, in Application No. 11275
Decision No. 28350, in Application No. 20187
Decision No. 24161, in Application No. 23955
Decision No. 34630, in Application No. 23955.


The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 12th day of

January, 1942.







COMMISSIONERS