

ORIGINAL

Decision No. 36445

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MARIN-SONOMA FAST FREIGHT, a corporation, for authority to issue stock, and of ROBERT G. ANDERSON to transfer his highway common carrier operative rights and business to MARIN-SONOMA FAST FREIGHT.

Application No. 25631

Douglas Brookman and David B. Fyfe,  
by Douglas Brookman, for Applicants.

BY THE COMMISSION:

O P I N I O N

Applicant, Robert G. Anderson, an individual doing business under the fictitious name and style of Marin-Sonoma Fast Freight, is a highway common carrier as that term is defined in Section 2-3/4 of the Public Utilities Act, and as such is engaged in the transportation of property as a common carrier between San Francisco, on the one hand, and points north of San Rafael, including Hamilton Field, Petaluma, Santa Rosa, Sebastopol, and points intermediate thereto, on the other hand, located on U. S. Highway No. 101 or on the unnumbered State highways between Santa Rosa and Sebastopol and between Sebastopol and Cotati, and locally between San Rafael,

Santa Rosa and intermediate points and between points both of which are intermediate to San Rafael and Santa Rosa located on U. S. Highway No. 101. He also engages in the transportation of property between Healdsburg and Santa Rosa. His operative rights are more particularly defined by the certificates of public convenience and necessity granted him under and by Decision No. 34067, dated April 1, 1941, in Application No. 24016 (Exhibit No. 4) and by Decision No. 34977, dated February 3, 1942, in Application No. 24677 (Exhibit No. 5). The certificate of public convenience and necessity granted by said Decision No. 34067 was in lieu of and not in addition to the rights granted by Decision No. 33277, dated July 3, 1940 and Decision No. 33397, dated August 6, 1940, in Application No. 20083.

Applicant, Marin-Sonoma Fast Freight, is a California corporation, originally incorporated on February 24, 1939, under the name of Sausalito-Mill Valley & San Francisco Express Co. It is engaged in the transportation of property as a common carrier between San Francisco and points in Marin County as far north as San Rafael. Its operative rights are more particularly described and defined by Decision No. 32224, dated August 8, 1939, in Application No. 22710 (Exhibit No. 3).

Marin-Sonoma Fast Freight has an authorized stock issue of \$25,000, divided into 250 shares of \$100 each. Under the authority granted by said Decision No. 32224, it issued \$7,000 of its stock to John W. Anderson in exchange for his highway common carrier business, including automotive equip-

ment and other physical properties and operative rights. The 70 shares of stock are now owned by the following:

Robert G. Anderson	34 shares
Rosalie E. Anderson	34 "
David B. Fyfe	2 "

For 1942, applicant Marin-Sonoma Fast Freight, a corporation, reports operating revenues of \$71,115.71, while Robert G. Anderson, doing business under the fictitious name and style of Marin-Sonoma Fast Freight, reports his operating revenues for 1942 at \$66,306.47.

In Exhibit C, Robert G. Anderson, doing business under the fictitious name and style of Marin-Sonoma Fast Freight, reports his assets and liabilities, as of March 31, 1943, as follows:

<u>ASSETS</u>		
Current Assets		\$ 5,652.23
Cash in Bank	\$3,563.52	
Special Funds on Deposit	1,400.00	
Accounts Receivable - Net	<u>688.91</u>	
Fixed Assets		20,186.75
Transportation Equipment	\$26,273.19	
Machinery & Tools	29.87	
Furniture & Fixtures	<u>106.00</u>	
Less: Reserve for Depreciation	<u>6,222.31</u>	
Prepaid Insurance		783.07
Franchises		<u>5,000.00</u>
Total Assets		<u>\$31,622.05</u>
<u>LIABILITIES</u>		
Current Liabilities		\$ 7,682.98
Accounts Payable	\$ 2,383.21	
Contracts Payable	2,600.00	
C.O.D.'s Unremitted	116.76	
Freight Advances Payable	1,027.58	
Accrued Taxes	<u>1,555.43</u>	
Due Associated Companies		2,750.94
Proprietorship Investment		<u>21,188.13</u>
Total Liabilities		<u>\$31,622.05</u>

In Exhibit B, the cost of Robert G. Anderson's automotive equipment is reported as follows:

	<u>Type and Make</u>	<u>Year</u>	<u>Cost</u>
Truck	Diamond T 1½ Tons	1941	\$ 2,362.50
"	Diamond T 1½ Tons	1936	915.25
"	Diamond T 1½ Tons	1942	1,797.50
"	Tractor Autocar	1940	4,575.19
"	" International	1939	3,375.75
Semi-Trailer	Van	1942	1,850.00
Full Trailer	Fruehauf	1940	6,751.00
"	" "	1939	3,433.50
Auto	Plymouth	1941	<u>1,212.50</u>
	Total		<u>\$26,273.19</u>

The testimony shows that the above cost figures represent actual expenditures by Robert G. Anderson for the purchase of equipment and that all of this equipment is now being used by him in the conduct of his transportation business. For the purpose of calculating depreciation expense, a life of eight years has been assigned to the equipment.

Robert G. Anderson asks permission to transfer such equipment, together with all of his other assets, including his operative rights, cash, and accounts receivable to the Marin-Sonoma Fast Freight, a corporation. Said Marin-Sonoma Fast Freight will assume all of his liabilities incident to his transportation business and further issue to him in payment for his properties, 80 shares of its capital stock of the aggregate par value of \$8,000.

The Marin-Sonoma Fast Freight, a corporation, which is controlled through stock ownership by Robert G. Anderson and his mother, Rosalie E. Anderson, and Robert G. Anderson, doing business under the fictitious name and style of Marin-Sonoma Fast Freight, now operate out of the same terminal in

San Francisco. Some of the equipment owned by the corporation is at times used by Robert G. Anderson while equipment owned by him is, in turn, used now and then by the corporation. It is believed that the consolidation of the business of Robert G. Anderson and Marin-Sonoma Fast Freight will result in a more efficient use of equipment and reduce the cost of keeping transportation records.

It will be observed that among the assets of Robert G. Anderson are franchises listed at a cost of \$5,000. It is of record that in obtaining the certificate of public convenience and necessity granted to him by Decision No. 34067 rendered on April 1, 1941 in Application No. 24016 and Decisions No. 33277 and 33397 previously rendered in Application No. 20083, which last named decisions were superseded by said Decision No. 34067, Robert G. Anderson expended \$5,000 for the following purposes:

Attorney fees in re proceedings before Railroad Commission	\$4,500
Filing fees paid Railroad Commission	100
Transcript in testimony	275
Miscellaneous expenses	<u>125</u>
Total	<u>\$5,000</u>

The \$5,000 does not appear in the balance sheet of Robert G. Anderson's annual reports on file with the Commission. Under the provisions of Section 52 of the Public Utilities Act, we cannot regard the expenditure as being the cost of franchises or certificates of public convenience and necessity granted by the Railroad Commission. Only the amount paid to the State

of California may be regarded as the cost thereof. In this instance, the amount consists of the filing fees paid under Section 57½ of the Public Utilities Act to obtain the operative rights now being transferred. The filing fees paid to obtain those rights and the transfer herein authorized aggregate \$200, and that amount, if any, should be recorded as the cost thereof. The \$5,000 can be disregarded in its entirety in authorizing the issue of the \$8,000 of stock. The net cost of the automotive equipment and the current assets exceeds \$8,000. We do not believe that the \$5,000, except the amount of filing fees included therein, should be transferred to Marin-Sonoma Fast Freight, a corporation.

No examination has been made by the Commission or by its authorized representatives of the physical properties involved in this transfer, as to their existence, value, or ownership.

Marin-Sonoma Fast Freight, a corporation, is placed upon notice that operative rights as such do not constitute a class of property which may be capitalized or used as an element of value for rate fixing or for any amount of money in excess of that originally paid to the State for consideration of the grant of such rights. Aside from their purely permissive aspect, they extend to the owner a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed any time by the State, which is not in any way limited as to the number of rights which may be given.

No one appeared at the hearing to protest the granting of this application.

O R D E R

A public hearing having been held in the above-entitled matter before Examiner Fankhauser and the Commission having considered the record in this application and it being of the opinion that the money, property or labor to be procured or paid for by the issue of \$8,000 of capital stock by Marin-Sonoma Fast Freight, a corporation, is reasonably necessary for the purpose herein indicated; that the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted subject to the provisions of this Order, therefore

IT IS HEREBY ORDERED as follows:

1. Robert G. Anderson, an individual, may transfer, on or before September 1, 1943, to Marin-Sonoma Fast Freight, a corporation, all of his highway common carrier business now conducted under the name of Marin-Sonoma Fast Freight, including in such transfer all of the automotive equipment and other physical assets owned by him and used in said business, also all of the certificates of public convenience and necessity owned by him and defined by Decision No. 34067 and Decision No. 34977 to which reference is made in the foregoing Opinion, also all other assets of said business of every kind and character. Marin-Sonoma Fast Freight, a corporation, may assume all liabilities of the business being conducted by Robert G. Anderson under the name of Marin-Sonoma

Fast Freight, and issue to him in payment for said properties, eighty shares of its capital stock of the aggregate par value of \$8,000.

2. The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act, and further to the condition that Marin-Sonoma Fast Freight, a corporation, its successors and assigns, shall never claim before this Commission or any court or other public body, a value for said operative rights, or claim as the cost thereof an amount in excess of that paid for said rights by those to whom said rights were originally granted.

3. Applicants herein shall comply with the rules of the Commission's General Order No. 80 and part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission, within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission.

4. Marin-Sonoma Fast Freight, a corporation, shall file with the Commission, within thirty (30) days after the issue of the stock herein authorized, a statement showing the amount of stock issued under the authority herein granted, the purpose for which said stock was issued, the name of the person or persons to whom said stock was issued, and a copy of the agreement under which it acquired said properties of said Robert G. Anderson.

5. This Order shall become effective upon the date hereof.



Dated at San Francisco, California, this 22<sup>nd</sup> day  
of June, 1943.

Francis D. Haverne

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Richard Jackson

John A. Oliver

Commissioners