

ORIGINAL

Decision No. 38173

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

| | |
|--|-----------------------|
| In the Matter of the Application of) | |
| NAPA TRANSPORTATION COMPANY for a) | |
| certificate to operate auto truck) | Application No. 24132 |
| service between San Francisco and) | 3rd Supplemental |
| Vallejo and Napa in conjunction with) | |
| vessel service between said points.) | |

BY THE COMMISSION:

O P I N I O N

By prior decisions in Applications Nos. 21104 and 24132, Napa Transportation Company and its successor in interest, Kellogg Express and Draying Co., were authorized temporarily to operate a highway common carrier service between San Francisco and Napa, and between Napa and Vallejo, in coordination and conjunction with vessel service operated between these points. Such authority was granted for specified periods of time, the last expiring May 5, 1945. The application recites that due to oversight the last extension of this authority (Decision No. 37112, June 6, 1944, Application No. 24132) was allowed to expire without a request for renewal prior to such expiration, and that the purpose of this application is to obtain an order extending such authority to and including May 5, 1946, under the same conditions as those existing when the prior orders were issued.

Inasmuch as the prior authority has lapsed, we think it would be proper to treat the application as a request for a temporary certificate to conduct highway common carrier operations between the points involved in coordination and conjunction with vessel service between such points. We believe that such authority should be limited to a period of six months and our order will so provide. No public hearing is necessary.

Kellogg Express and Draying Co. is hereby 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 in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

Good cause appearing,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity is hereby granted to Kellogg Express and Draying Co. authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of property between applicant's vessel dock at San Francisco, on the one hand, and applicant's vessel dock at Napa, on the other hand, as traffic requirements demand; and between Vallejo, on the one hand, and Napa, on the other hand. Such operation shall be in coordination and conjunction with applicant's existing vessel service between San Francisco and Vallejo. The operation between Vallejo, on the one hand, and Napa, on the other hand, shall be limited to transportation of less-carload merchandise originating at or destined to either San Francisco or Napa only.

(2) That the certificate herein granted shall expire on February 28, 1946.

(3) That in providing service pursuant to the certificate herein granted, the following service regulations shall be complied with:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
2. Applicant shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within 60 days from the effective date hereof and on not less than 1 day's notice to the Commission and the public.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 28th
day of August, 1945.

L. Harold Coulson
Justice J. Casper
L. H. Ketchum
Commissioners
COMMISSIONERS