Decision No. 42322

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into ) the rates, rules, regulations, charges, ) allowances and practices of all common ) carriers, highway carriers, and city carriers, relating to the transportation) of property.

Case No. 4808

#### Appearances

T.A.L. Loretz, for the Hay Truckers Association,
Inc., petitioner.

Arlo Poe, for various hay dealers and hay growers,
interested parties.

J. J. Deuel, for California Farm Bureau Federation,
interested party.

(The above are appearances in the instant proceeding. For additional appearances, see previous decisions in this case.)

# SUPPLEMENTAL OPINION

The Hay Truckers Association, Inc., is a nonprofit corporation representing approximately 175 highway carriers. By its amended petition in this proceeding, it seeks revisions of the minimum rates, rules and regulations applicable to the transportation of hay and related articles.

Public hearing of the petition was had before Examiner
Abernathy at Los Angeles on September 15 and 16, 1948.

Statewide minimum rates, computed on a mileage basis, have heretofore been established for the transportation of hay and related articles; also, rates have been established which apply when these commodities are transported from designated production territories to defined consuming territories. Petitioner

The minimum rates, rules, and regulations which are involved herein are set forth in Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended, in Case No. 4246).

association seeks to have the mileage rates increased in so far as they apply to and between points in the southern California area; in addition, it seeks revision of existing hay-producing and consuming territories, the establishment of new territories, increases in present territorial rates, and rule changes. Petitioner alleges that the present mileage rates should be increased to make them commensurate with costs; that revisions should be made in hay-producing territories so that rates therefrom can be established on bases which correspond more closely to costs; that revised and additional territories are needed to meet the needs of and to conform to practices of those in the hay industry; and that certain rule changes should be made in the interests of clarification.

Cost evidence which the association introduced in support of the sought rate increases consisted principally of cost statements based upon figures which a transportation engineer of the Commission's staff developed in April, 1948, and submitted in an earlier phase of this proceeding to show costs of transporting hay. In the statements, projections of the engineer's figures were set forth to show estimates of transportation costs for distances up to 500 miles, and the estimated costs were compared with the present minimum rates. The statements indicate that the costs generally exceed the rates for distances over 150 miles and the differences become greater as the mileage increases. According to comparisons made with the territorial rates, the costs of transporting hay from the more distant parts of the Merced, Fresno, Bakersfield, and Imperial Valley hay-producing territories to the Los Angeles-Hynes hay-consuming territory exceed the rates in some instances by more than 10 cents per 100 pounds.

<sup>2</sup> See Decision No. 41566 dated May 4, 1948, in Case No. 4808.

<sup>&</sup>lt;sup>3</sup> Petitioner asserted that the cost differences justify division of the Bakersfield and Imperial Valley territories and the establishment of a new territory within the present boundaries of the Fresno and Merced territories.

Witnesses for the association testified that since the time when the engineer's cost figures were developed, the carriers have experienced increases of as much as 30 per cent in various of their operating expenses.

Other territorial changes which petitioner association requested are: amendment of the Bakersfield territory to include Arvin and certain other territory; enlargement of the boundaries of the Los Angeles-Hynes territory; establishment of the area in the vicinity of Barstow as a production territory; and establishment of the areas in the vicinity of Chino and of Riverside as consuming territories. These changes assertedly should be made so that territorial rates will be in effect from and to areas where there is considerable movement of hay. The association proposed an increase in the minimum charge for field pickup of hay, and revisions in reconsignment and demurrage rules applicable to shipments of hay. It was explained that the rule revisions are principally for the purposes of clarification and to eliminate certain difficulties which have become apparent since the reconsignment and demurrage rules first became effective on June 6, 1948.

A number of hay dealers and hay growers were represented in the proceeding and opposed the sought division of the Imperial Valley territory. Witnesses for the dealers and growers testified that the Imperial Valley is a distinct producing area without natural divisions to separate the territory for rate purposes. They declared that division of the territory as petitioner proposes would be impractical and confusing. They said that hay growers in the Imperial Valley have ranches which are on each side of the proposed line of division and that it would be difficult to compute transportation charges on shipments of hay according to the source. They advocated the continuance of the designation of the Imperial

Valley as a single production territory. The dealer representatives did not oppose other territorial changes which petitioners seek. Referring to the establishment of a new territory within the Merced and Fresno territories, however, they pointed out that higher rates are proposed to apply from the new territory than those which are applicable from the surrounding areas, and they opposed the establishment of any rate differentials between the territories.

The dealers' representatives also expressed opposition to the continuance of provisions relating to reconsignment and demurrage charges which were established by Decision No. 41566, supra. They stated that both provisions represent departures from practices hitherto observed by the hay industry and that the custom has been for hay to be reconsigned or to be held pending reconsignment without the carriers being specifically compensated for the reconsignment services or delays to their equipment. A witness declared that approximately 90 per cent of the hay which is shipped into the Los Angeles-Hynes territory is subsequently reconsigned. He said that shipments of hay are usually reconsigned within 45 hours from the time that they arrive at a dealer's place of business. During rainy weather, however, reconsignment and unloading may be delayed for several days by conditions at dairymen's yards. It was asserted that if the dealers are to be subject to demurrage charges for unloading delays, they would not utilize the services of for-hire carriers but would employ other means of

Reconsignment and demurrage rules established by Decision No. 41566 provide that a charge of 2½ cents per 100 pounds shall be applicable to shipments reconsigned within the Los Angeles-Hynes territory, and that a charge of \$20 shall be assessed for each 24-hour period or fraction thereof that shipments to be reconsigned are held in excess of 48 hours free time without being unloaded from carriers' equipment.

having hay transported during periods of rainy weather in order to avoid the possibility of paying substantial demurrage charges.

A dealer witness stressed that competition is one of the major factors affecting the level of rates which can be maintained for the transportation of hay: This witness declared that a large proportion of the hay which is shipped into the Los Angeles area is transported by farmers, dealers, and interstate carriers, all of whom are not bound by the minimum rates established by this It was the opinion of this witness that in view of Commission. the availability of transportation facilities not subject to rate regulation, the practical effect of establishing, as minimum rates, rates which are above those set by competition would be the diversion of traffic to the nonregulated carriers. Another dealerwitness referred to federal market reports which indicated that substantial quantities of hay were shipped to the Los Angeles area from the Imperial Valley during September, 1948, when the differential in the sale price of hay between the two areas was \$4.00 a ton. The witness regarded this fact as proof that the rates assessed for the transportation of hay from the Imperial Valley during September, 1948, were less than the minimum rates which are the equivalent of \$6.50 per ton, including a 50-cent per ton reconsignment charge.

A representative of the California Farm Bureau Federation declared that minimum rates for the transportation of hay should not be established which are higher than the rates formerly maintained by the Office of Price Administration as maximum rates.

It appears from testimony of both the carrier and the dealer witnesses that a number of the petitioning carriers from time to time operate as dealers and buy and transport hay for whatever they can realize from the sale thereof.

The maximum rates which were established by the Office of Price Administration are briefly discussed in Decision No. 41566, supra.

He asserted that establishment of minimum rates which are higher than the former maximum rates would result in an increase in the number of dealers who transport their own hay, and he anticipated that such increases in the minimum rates would have the practical result of removing the transportation of hay from regulation. With one exception, this witness was in accord with the various territorial changes which the petitioner association proposed. With respect to the proposed division of the Imperial Valley territory ne said that there was no natural basis for dividing the territory and that a division as proposed would react to the disadvantage of all concerned.

The Commission engineer, whose cost figures formed the basis of the comparisons submitted by association witnesses, testified briefly concerning a supplementary investigation which he had made since his earlier study of the costs of transporting day: He said that his supplementary investigation had disclosed that since April, 1948, the carriers have experienced increases in the costs of insurance, fuel, mechanics' wages and in several other expense items. These expense increases would tend to increase the cost figures shown in the study. The engineer said, however, that the carriers had been able to improve their operations, thereby effecting some reductions in their costs of doing business. It was his view that the increases in costs had been largely offset by reductions in expenses. For this reason he had not deemed it necessary to make revisions of his original study. Referring to his original study, the engineer stated that it covered the delivery of hay to the Los Angeles-Hynes territory only. He had not made determinations of delivery methods followed elsewhere in the State.

The record is persuasive that revisions of the Bakersfield

and the Los Angeles-Hynes territories should be authorized. Moreover, it appears that the area in the vicinity of Barstow should be designated as a hay production territory. In other respects the sought territorial changes have not been justified. It is clear that division of the Imperial Valley territory in accordance with petitioner's proposal would be detrimental to the orderly marketing of hay without substantial advantage to the carriers. The establishment of a hay-producing territory within the present Merced and Fresno territories would be unreasonable in results in view of the fact that higher rates would be applicable from the proposed territory than from the surrounding territories. Although the record indicates a desirability of designating the areas in and about Chino and Riverside as hay-consuming territories, it nevertheless does not provide an acceptable basis for establishing specific scales of rates to these territories. The petitioner association did not undertake to show that the conditions under which hay is delivered in the Chino and Riverside areas are the same as in the Los Angeles-Hynes territory, nor did it show that the cost figures of record would be a fair basis for rates into the two areas.

With reference to the various adjustments which petitioner seeks to have made in the minimum rates, the sought adjustment in the mileage rates must be denied in view of the limited scope of the engineer's study. Clearly, cost figures developed upon the basis of conditions observed within a limited area and which reflect factors such as unloading delays and reconsignment of a substantial number of shipments should not, in the absence of clear justification, be used as a basis for establishing rates of general application. Neither will an adjustment be made in

accordance with an alternate proposal of petitioner to increase the rates from the Imperial Valley territory to the Los Angeles-Hynes territory. The cost figures of record suggest that the rates from the Imperial Valley should be increased. Nevertheless, the cost figures themselves are not necessarily conclusive with respect to precise rate adjustments, in view of other evidence which shows that complete factual data were not available to the engineer at the time of his analysis of the carriers' costs. Consideration being given to the competitive transportation conditions which have been shown, particularly with respect to shipments originating in the Imperial Valley, it is concluded that an increase in the rates should not be made on the basis of this record. No evidence was submitted in justification of the proposed increase in the rate provided for field pickup of hay. This proposal will be denied.

Evidence introduced with respect to the separate charge heretofore established for the reconsignment of shipments shows that application of the charge causes some difficulty for both the carriers and dealers. The dealers prefer that the combined services of transporting hay to the Los Angeles-Hynes territory and of reconsigning it to points of unloading within the territory be covered by one rate. Petitioner association was in agreement with the dealers in this respect, providing that the carriers receive compensation for both services. An appropriate adjustment in the rates will be made. The demurrage charge for unloading delays will be retained, notwithstanding opposition thereto by the hay dealers' representatives. The evidence indicates that the operating efficiency of the carriers has been improved since the demurrage charge became effective. Clearly it is to the benefit of the carriers, and ultimately to the benefit

of the dealers, also, that the carriers' operations be conducted as efficiently as possible. The demurrage rule will be adjusted in accordance with a proposal of petitioner to include shipments which are reconsigned to points outside of the Los Angeles-Hynes territory.

Upon careful consideration of all of the evidence berein, the Commission is of the opinion and finds that Highway Carriers' Tariff No. 2 should be further amended as shown in the revised pages attached to and made part of the order which follows, and that in all other respects Decision No. 31606, supra, as amended, should remain in full force and effect.

# ORDER

An adjourned public hearing having been held in the above entitled proceeding and based upon all of the evidence and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREEY ORDERED that Highway Carriers' Tariff No. 2, Appendix "D" to Decision No. 31606, as amended, in Case No. 4246, be and it is hereby further amended by incorporating the revised and new pages attached hereto and by reference made a part hereof to become effective January 20, 1949, which pages are numbered as follows:

Fourth Revised Page 35 cancels Third Revised Page 35
Third Revised Page 35-A cancels Second Revised Page 35-A
Original Page 35-B
Seventh Revised Page 51-I cancels Sixth Revised Page 51-I

IT IS HEREBY FURTHER ORDERED that tariff publication required to be made by common carriers as a result of the amendments hereof of the aforesaid tariff shall be made effective on not less

than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that in all other respects the petition of the Hay Truckers Association, Inc., referred to in the preceding opinion be and it is hereby denied.

In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this <u>2/e/day</u> of Docember, 1948:

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Sommissioners

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Cancels Third Revised Page..::35 SECTION NO. 1 - RULLS AND REGULATIONS OF GENERAL Item APPLICATION (Continued) No. TERRITORIAL DESCRIPTIONS (Continued) (Items Nos. 270 and 271 series) The following territorial descriptions apply in connection with rates making specific reference hereto: (territories include both sides of streets, boulevards, roads, avenues or highways named.) \*1. BAKERSFIELD TERRITORY. Cancelled. See territorial descriptions of North Kern Territory and South Kern Territory. (1) 12. BARSTOW TERRITORY includes that area lying within a radius of 15 miles from the city limits of Barstow. 2. COACHELLA VALLEY TERRITORY includes that area lying between the little San Bernardino Mountains and Cottonwood Mountain on the one hand, and the Ban Jacinto and Santa Rosa Mountains on the other; and bounded on the northwest by Edom on U.S. Highway No. 99 and Indian Wells on State Highway No. lll, and on the southeast by the Riverside-Imperial County Line on U.S. Highway No. 99 and Southern Pacific Company station of Mortmar on State Highway No. 111. \*271-C 3. FRESNO TERRITORY includes that area lying within the following boundaries: Commencing at the point the Fresno-Cancels Kings County boundary line meets the Monterey County bound-271-B ary line; thence northeasterly along the southerly boundary line of Fresno County to its intersection with southwesterly boundary of Sierra National Forest approximately three miles east of Miramonte; northwesterly along the southwesterly boundary of Sierra National Forest to its intersection with the northerly boundary of Madera County; thence southwesterly along the northerly boundary line of Madera County, and southwesterly and southerly along the northwesterly and westerly boundary line of Fresno County to point of beginning. 4. IMPERIAL VALLEY TERRITORY includes that area bounded on the south by the International Boundary Line; on the east by the East High Line Canal to the point at which it inter-sects the main line of the Southern Pacific four miles east of Niland; on the north by the main line (transcontinental route) of Southern Pacific Company; and on the west by a series of imaginary lines drawn from Southern Pacific station of Wister to Kane Springs on U.S. Highway No. 99; thence south to Plaster City on U.S. Highway No. 80; thence south to the International Boundary Line.

(Continued)

(1) New Territory Decision No. 42322

EFFECTIVE JANUARY 20, 1949

Issued by The Public Utilities Commission of the State of California, San Francisco, California

Correction No. 359

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SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued) No. THRRITONIAL DESCRIPTIONS (Continued) (Items Nos. 270 and 271 scries) 5. LANCASTER TERRITORY includes that area lying within the following boundaries: Commencing at a point 10 miles east of Mojave on U.S. Highway No. 466; thence southerly along an imaginary line paralleling State Highway No. ?, passing through Redman to Littlerock; northwesterly clong State Highway No. 138 from Littlerock through Palmdale and Elizabeth Lake to its intersection with the Los Angeles Aqueduct, northeasterly along the Los Angeles Aqueduct to its intersection with U.S. Highway No. 466, thence southeasterly along U.S. Highway No. 466 to point of beginning. \*6. LOS ANGLLES-HYNAS TERRITORY includes that area embraced by the following: Commencing at the point where State Highway No. 27 (Topanga Canyon Road) meets the Facific Ocean; thence northerly along said highway through Girard until it intersects Los Angeles City Boundary Line approximately the miles norther porther porthers the Followuntil it intersects Los Angeles City Boundary Line approximately two miles north of Chatsworth; northeasterly following said boundary line until it meets the southern boundary of the Angeles National Forest at a point approximately two miles west of Olive View Sanitarium; easterly following said Angeles National Forest boundary until it intersects State Highway No. 39 (San Gabriel Forest Highway) north of Azusa; southerly on said Highway No. 39 (variously called Azusa Avenue, Glendora Avenue, Ta Habra Road, and Huntington Beach Boulevard) and passing through Puente to U.S. Highway No. 101; easterly and southerly on U.S. Highway No.101 to its junctionwith Los Angeles Street in Anaheim; southerly on Los Angeles Street to Center Street; easterly on Center Street to Olive Boulevard; easterly on Clive Boulevard to State Highway No. 55 at the town of Olive; southerly and westerly on State Highway No. 55 and its prolongation to the shoreline of the Pacific Ocean at Newport Beach; northwesterly following the coast line to point of beginning. \*271-C Cancels 271-2 (Continued) 7. MERCED TERRITORY includes that area lying wholly within the County of Merced. (1)72. NORTH KERN TERRITORY includes that area lying within! the following boundaries: Commencing at a point 10 miles east of U.S. Highway No. 99 on the Kern County-Tulare County Boundary Line; thence southeasterly along an imaginary line paralleling U.S. Highway No. 99 to State Highway No. 178; westerly and southerly on State Highway No. 173 to U.S. Highway No. 466; westerly on U.S. Highway No. 466 to U.S. Highway No. 99; southwesterly along an imaginary straight line through Tupman to its intersection with State Highway No. 33 at a point approximately 5 miles south of McKittric's northerly and westerly on State Highway No. 33 to the Kern County-Kings County Boundary Line; easterly along the Kern County Poundary Line; easterly along the Kern County Boundary Line to point of beginning. (Continued) (1) New Territory) Decision No. 42322 For territorial descriptions shown on Second Revised Page 35-A and not shown hereon, see Original Page 35-B

Correction No. 360

Issued by The Fublic Utilities Commission of the State of California

EFFECTIVE JANUARY 20,1949

Sha Francisco, California

Item No.

SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued).

### TERRITORIAL DESCRIPTIONS (Concluded) (Items Nos. 270 and 271 series)

- 7½. PALO VERDE TERRITORY includes that area within California lying within a radius of 25 miles of Lovekin Boulevard and Hobson Way, Blythe. □
- 8. SALTON SEA TERRITORY includes that area lying 44. directly between the Coachella and Imperial valleys, as these latter are defined above.
- 9. SAN DIEGO TERRITORY includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway No. 30; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.
- (1)92. SOUTH KERN TERRITORY includes that area lying within the following boundaries: Commencing at the southeastern corner of North Kern Territory on State Highway No. 178, thence due south along an imaginary straight line to a point on U.S. Highway No. 466 approximately 1.7 miles east of Edison, southeasterly on U.S. Highway No. 466 to "271-C" its junction with county road approximately 4.6 miles west of Caliente, thence southwesterly along an imaginary straight line to the junction of U.S. Highway No. 99 and (Constate Highway No. 166, westerly on State Highway No. 166 to U.S. Highway No. 399 at Maricopa, northerly on U.S. Highway No. 399 to its junction with State Highway No. 33 at Taft, northwesterly on State Highway No. 33 to the southerly boundary of North Kern Territory, thence along the southerly boundary of North Kern Territory to starting point. eastern corner of North Kern Territory on State Highway No. ing point.
  - 10. TULARE TERRITORY includes that area lying within the following boundaries: Commencing at the point of in-tersection of the Kings, Monterey and San Luis Obispo County boundary lines; thence easterly along the southerly boundary of Kings and Tulare Counties to its intersection with the westerly boundary line of Sequoia National Forest; northerly along the latter boundary line to its intersection with the westerly boundary of Sequoia National Park; northerly and westerly along the westerly boundary line of Sequoia National Fark to its intersection with State Highway No. 198; southwesterly along State Highway No. 198 to County Road approximately one mile north of Lemon Cove; westerly along said County Road through Woodlake to junction of said County Road with State Highway No. 65; northerly along State Highway No. 65 to point of intersection with northerly boundary of Tulare County; thence westerly, southwesterly and southerly along the northerly boundaries of Tulare and Kings Counties and westerly boundary of Kings County to point of beginning.

\*Change ) Decision No. 42322

For territorial descriptions in effect prior to the effective date hereof, see Second Revised Page 35-A.

EFFECTIVE JANUARY 20, 1949

Issued by The Public Utilities Commission of the State of California, San Francisco, California. Correction No. 361

Cancols Sixth Rovised Page ... 51-I

#### HIGHMAY CARRIERS TARIFF NO. 2

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Itom No.	SECTION NO. 3	COMMODITY RATES (Continued) In Conts per 100 Pounds					
	HAY AND RELATED ARTICLES, viz.: Fodder, bean, cane, corn or pea, leaves, cactus, dried, Hay, Straw. See Item No. 271 series for description of territories.						
	FROM	TO Los Angeles-Hynes Torritory			TO Sam Diogo Territory		
			Minimum 20,000	ATES (See Woight Pounds Ste 2)		Minimum Weigh 20,000 Pounds	
*652 <b>-</b> F	*Barstow Territory Coachella Valley Territory Fresno Territory Imperial Valley Territory Lancaster Territory Merced Territory *North Kern Territory Palo Verde Territory Salton Sca Territory *South Kern Territory Tulare Territory	- 64 (1) 82 77 (1) 56 (1) 91 (1) 69 (1) 666 (1) 77	*(1) *(1) (*(1)	27 26 35 32 22 37 30 33 29 27	77 	21 19 - - 21 -	

658-E

NOTE 1.-(a) Rates include services of driver and one helper to perform loading, unloading or other accessorial services.

(b) Rates do not alternate with rates provided in Item No. 657 series or Section No. 2 of this tariff.

(c) Rates are not subject to the provisions of Items Nos. 110, 150, 160, 170, 220 or 230 series.

(d) When baled hay or any other commodity described in this item is picked up from several points in a single field, the point or origin of the composite shipment shall be deemed to be the point of pickup most distant from point of destination. An additional charge of 2 cents per 100 pounds shall be assessed for picking up and loading baled hay from scattered points in the field.

\* (e) Shipments into the Los Angeles-Hynes Territory, for which transportation charges are assessed upon a basis of a minimum weight of 20,000 pounds or more, may, upon order of consignee or consigner, be stopped once within the los Angeles-Hynes Territory and, under the rates set forth above, be held in transit without being unloaded from carrier's equipment and be subsequently delivered within the same territory.

♦ (f) When upon order of consignee or consigner, a shipment is stopped within the Los Angeles-Hymes Territory and hold without, being unloaded from carrier's equipment, 48 hours free time (computed from the first 7:00 a.m. after time of arrival at point where shipment is hold) will be allowed for furnishing to the carrier instructions to deliver the shipment to the point of destination where it is to be unleaded, provided, however, that the free-time period will be 96 hours if the point of destination is located outside of the los Angeles-Hymes Territory. A charge of \$20.00 will be assessed for each 24-hour period, or fraction thereof, that the carrier's equipment is detained subsequent to the freetime period specified herein. In computing time in accordance with these provisions, Sundays and legal holidays will be excluded.

(g) (Applicable to shipments to points within the los Angeles-Hynes Territory only.) Rates in Item No. 657 series which are subject to a minimum weight of 20,000 pounds shall be also subject to a minimum charge of \$20.00 when the point of origin of a shipment is a railroad team track or ostablished depot, or when such rates are combined with railroad common carrier rates to produce through rates in accordance with the provisions of Item No. 210 sories.

NOTE 2.—Shipments moving by tractor and semi-trailer are subject to a minimum weight of 26,000 pounds. Shipments moving by truck and trailer are subject to a minimum weight of 36,000 pounds. Increase

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EFFECTIVE JANUARY 20, 1949

Issued by the Public Utilities Commission of the State of California, San Francisco, California.

Correction No. 362