

ORIGINALDecision No. 59426

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
 (A) ALBERT C. MONIZ and LUELLA)
 CORCORAN, partners, (1) for an in lieu)
 certificate authorizing highway common)
 carrier operations, and (2) for authority)
 to sell and transfer to COAST DRAYAGE,)
 a corporation, property and the operating)
 rights contained in said in lieu certificate;)
 and (B) COAST DRAYAGE, a corporation,)
 for authority (1) to purchase property and)
 operating rights as a highway common carrier)
 from ALBERT C. MONIZ and LUELLA CORCORAN)
 doing business as COAST LINE DRAYAGE, a)
 partnership; (2) to issue stock; and (3))
 to execute a mortgage of chattels and)
 promissory note.)

Application
No. 41687O P I N I O N

The Commission is requested to restate the operating rights presently possessed by Albert C. Moniz and Luella Corcoran and to authorize the transfer of such restated right, operating property and permits to Coast Drayage, a corporation. Authority also is sought to issue stock and execute a chattel mortgage and promissory note.

The application sets forth allegations which may be summarized as follows:

1. That the seller is engaged in the transportation of general commodities as a highway common carrier between points in the San Francisco-East Bay Cartage Zone and between San Mateo, Hayward, San Jose, Los Gatos and intermediate points. (Decisions Numbers 50996 and 51815)

2. That the purchase price is the sum of \$62,500 allocated:

a. Motor Vehicle Equipment	\$54,545.00	(appraised value)
b. Office Equipment	3,132.00	(book value)
c. Shop & Garage Equipment	1,651.00	(book value)
d. Parts, Tires, Stationery and Supplies	3,000.00	(inventory value)
e. Operating Authorities	172.00	
Total	<u>\$62,500.00</u>	

That of the purchase price, \$18,000 is to be paid on or before December 1, 1959 and the balance of \$44,500 on or before April 1, 1960. That sellers are to convey all the assets free and clear of all claims, liens and encumbrances.

3. That the buyer was incorporated for the sole purpose of acquiring the property and operating authority of seller and has not yet commenced to do business.

4. That of the two sellers, one has not been active in the business and wishes to retire therefrom, the other does not wish to continue to shoulder the responsibilities attendant upon ownership.

5. That buyer will utilize the equipment so that service to the public will be continued as presently performed and that buyer will provide additional equipment and facilities if necessary.

6. That buyer proposes to issue 250 shares of its \$100 par value stock to Edwin R. Adams, Jr., its president, for the sum of \$25,000 in cash.

7. That buyer proposes to execute a chattel mortgage and promissory note to the Oakland Bank of Commerce in return for the sum of \$45,000, which sum taken together with the proceeds of the sale of stock will provide sufficient funds to pay the purchase price and supply sufficient working capital. The face amount of such note is \$50,400.00 and is payable in 36 monthly installments of \$1400 each.

8. That buyer will have the financial ability, equipment, and terminal to render the service within the area delineated by the operating rights, authority to transfer which is sought herein.

9. That seller is not a party to any through routes or joint rates with any other carrier.

The Commission, upon consideration of all the allegations of the application and the exhibits thereto attached, finds and concludes that the public interest will not be adversely affected by approval of the transfer of the operating rights and property here involved. The Commission further finds and concludes that public convenience and necessity require that the highway common carrier operating rights of Albert C. Moniz and Luella Corcoran be restated as described in Appendix A and Appendix B attached to the ensuing order.

The application will be granted. No finding is made as to the value of such operating rights and property. The authority granted herein for the issuance of stock is not to be construed as indicative of amounts to be included in a future rate base for the purpose of determining just and reasonable rates. The Commission is of the opinion that the money, property or labor to be procured or paid for by the issue of the shares of common stock and indebtedness herein authorized is reasonably required for the purposes specified herein, and that such purposes, except for the inclusion of \$5,400 of prepaid interest as referred to in the application, are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

Coast Drayage is placed on notice that it cannot engage in the transportation of property as a highway common carrier and

as a radial highway common carrier over the same routes or between the same points nor both as a highway common carrier and as a highway contract carrier of the same commodities between the same points.

Coast Drayage is further placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

An application having been filed and based upon the evidence therein contained,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Albert C. Moniz and Luella Corcoran, authorizing them to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points and over the routes as more particularly set forth in Appendix A and Appendix B, attached hereto and made a part hereof.

(2) a. That within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that

it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

b. That within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs satisfactory to the Commission.

(3) That the operating authorities granted by Decisions Numbers 50996 and 51815 are revoked and cancelled contemporaneously with the effective date of the tariff filings required by paragraph (2) b. hereof.

(4) That, on or before June 30, 1960, Albert C. Moniz and Luella Corcoran, may sell and transfer and Coast Drayage, a corporation, may purchase and acquire the operating rights and property referred to in the foregoing opinion in accordance with the terms of the agreement attached to the application as Exhibit "C".

(5) That, within thirty days after the consummation of the transfer herein authorized, Coast Drayage shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

(6) That, on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall amend or reissue the tariffs on file

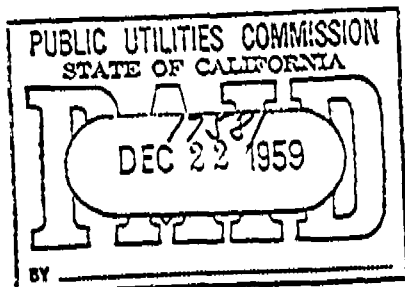
with the Commission, naming rates, rules and regulations governing the operations here involved to show that Albert C. Moniz and Luella Corcoran have withdrawn or canceled, and Coast Drayage has adopted or established as its own, said rates, rules and regulations. That tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80. That Coast Drayage shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

(7) Coast Drayage, in the event the transfer is consummated, may issue and sell not to exceed 250 shares of common stock at not less than \$100 per share for the purpose set forth in the application.

(8) Coast Drayage, in the event the transfer is consummated, may issue a promissory note for the purposes set forth in, and in the form attached to, the application, as Exhibit "E", payable to the Oakland Bank of Commerce in the principal sum of \$50,400.00.

The authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$51.00. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st day of December, 1959.



Luella Corcoran

President
Albert C. Moniz

Therese J. ...

Commissioners

Albert C. Moniz and Luella Corcoran, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points in the San Francisco Territory as more particularly delineated and described in Appendix B.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses; viz., new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock; viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

Issued by California Public Utilities Commission.

Decision No. 59426, Application No. 41687.

SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; north-easterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwestly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.