

**ORIGINAL**Decision No. 61441

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ARTEUR R. FAUGHN, an individual,  
doing business as FAUGHN'S TRANS-  
PORTATION, for a certificate of  
public convenience and necessity.

Application No. 42722

Bertram S. Silver, for applicant.O P I N I O N

Arthur R. Faughn, doing business as Faughn's Transportation, is operating under permitted authority as a radial highway common carrier between points in the State of California within 100 miles of Modesto.

The applicant now requests a certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the Public Utilities Code to authorize the transportation of general commodities, with certain exceptions, from the San Francisco Territory to Fresno, Sacramento, Stockton, Tracy, Lodi and Los Banos.

A public hearing was held in Modesto, California, on December 6, 1960, before Examiner Edward G. Fraser. No one appeared at the hearing in protest to the authority requested.

The evidence discloses that the applicant is able to supply the extended service. He has adequate equipment, he has the necessary experience and is financially sound. Various shipper witnesses testified they will use the service proposed by the applicant and that they have a need therefor. They also pointed out they now use the existing service of the applicant which they have found to be very satisfactory.

Upon consideration of all of the evidence adduced herein we find that public convenience and necessity require that the application be granted in the manner set forth in the ensuing order which will provide the applicant with a certificate of public convenience and necessity to haul general commodities, with certain exceptions.

Arthur R. Faughn is hereby 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

Public hearings having been held, and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED:

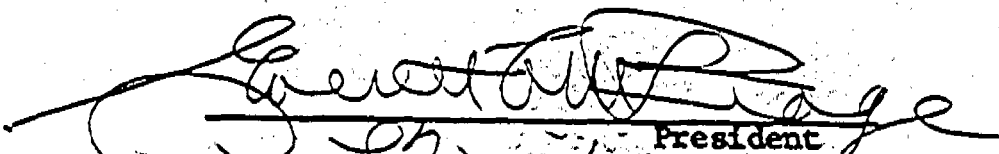
1. That a certificate of public convenience and necessity is granted to Arthur R. Faughn, authorizing him to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points as more particularly set forth in Appendices A and B, attached hereto and made a part hereof.

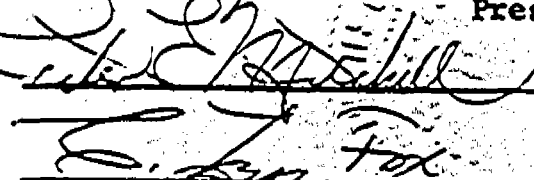
2. That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:


- (a) 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 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty 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.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 7th day of February, 1961.

  
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President

  
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E. L. Fox

  
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Commissioners

Arthur R. Faughn, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as follows:

1. Between all points and places in the San Francisco Territory as described in Appendix B attached hereto.
2. Between all points and places on and within 25 miles laterally of the following highways:
  - a. U. S. Highway 50 between Hayward and Stockton, inclusive.
  - b. U. S. Highway 40 between Richmond and Sacramento, inclusive.
  - c. State Highway 12 between its junction with U. S. Highway 40 near Fairfield and Lodi, inclusive.
  - d. State Highway 24 between Oakland and Sacramento, inclusive.
  - e. State Highway 4 between its junction with U. S. Highway 40 near Pinole and Stockton, inclusive.
  - f. U. S. Highway 99 between Fresno and Sacramento, inclusive.
  - g. State Highway 120 between its junction with U. S. Highway 50 near Lathrop and Oakdale, inclusive.
  - h. State Highway 33 between its junction with U. S. Highway 50 near Tracy and Mendota, inclusive.
  - i. State Highway 180 between Mendota and Fresno, inclusive.
  - j. State Highway 152 between Los Banos and Califa, inclusive.
  - k. State Highway 140 between Gustine and Merced, inclusive.

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3. Through routes and rates may be established between any and all points described in paragraphs 1 and 2, a through k, above.
4. Applicant may use any and all highways and roads between the areas described for operating convenience only.

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.

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8. Logs.
9. Commodities of unusual size, weight or shape which for that reason require the use of special equipment or handling.
10. Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

End of Appendix A

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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; southwesterly 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; southwesterly 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.