

ORIGINALDecision No. 68855

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 BLUE FLEET LINES, INC., a corpora-
 tion, of Santa Maria, California,
 for a permit to operate as a cement
 contract carrier (Application No.
 42-2105-cc), Monolith, et al., to
 Santa Barbara County (File No. T-64,
 2/2).

Application No. 46240
 Filed February 19, 1964

Phil Jacobson, for applicant.
O'Melveny & Myers by Lauren M. Wright, for
American Cement Corporation; James J.
 Trabucco, for Southern Pacific Company;
Russell & Schureman by R. Y. Schureman,
 for Max Binswanger Trucking, Matich
 Transportation Company, Daniel Lohnes
 Trucking Company, Valley Transportation
 Company, Phillips Trucking and More
 Truck Lines; and George H. Roe, for
California Portland Cement Company, pro-
 testants.
Waldo A. Gillette, for Monolith Portland
 Cement Company; C. R. Boyer and C. B.
 Shannon, for Southwestern Portland Cement
 Company; Don Severance, for Ideal Cement
 Company; Chester A. Davis, for Southern
 Pacific Milling Company; Enright, Elliott &
 Betz by S. T. Enright, for Monolith Port-
 land Cement Company; and S. A. Moore, for
Kaiser Cement & Gypsum Corporation, inter-
 ested parties.
Donald J. Harvey, for the Commission staff.

O P I N I O N

Blue Fleet Lines, Inc., requests a permit to operate as a
 cement contract carrier.

A public hearing was held at Santa Maria before Examiner
 Porter on December 17, 1964, and the matter was submitted.

Galen Q. Stong, owner of Blue Fleet Lines, Inc., Valley
 Paving & Construction Company and Lopez Rock & Sand, testified that
 Blue Fleet Lines, Inc., had been engaged in dump-truck hauling of

rock and sand and has hauled cement since 1953. He was engaged in developing a rock plant and had left the general office work of Blue Fleet Lines, Inc., to the office personnel. He was unaware of the necessity of filing an application for a cement carrier permit. He became aware of the necessity about February 1964 when the cement companies refused to load the applicant as it did not have authority from this Commission to haul cement. As a result of the refusal of the cement companies to load applicant's trucks, Stong estimates that there has been a loss of between \$10,000 to \$15,000 in monthly volume in hauling.

Representatives of Monolith Portland Cement Company, Southern Pacific Milling Company, Southwestern Portland Cement Company and Ideal Cement Company appeared as witnesses in support of the application.

Attached to the application is a substantial list of equipment owned and operated by applicant. Applicant lists as of January 31, 1964 assets of \$655,765 and liabilities of \$436,851.36.

Exhibit 1 shows that applicant had hauled cement in the territory it now requests authority to serve during the years 1962 and 1963.

After consideration the Commission finds that:

1. Applicant possesses the ability and financial responsibility to provide the proposed operations.
2. The proposed operation will not endanger the safety of the public nor interfere with the public use of the highways or impair the condition or maintenance of them directly or indirectly.
3. The proposed operation will not impair the service of previously certificated cement carriers or permitted cement contract carriers.
4. Applicant is a fit and proper person to receive such permit to operate as a cement contract carrier.

O R D E R

IT IS ORDERED that:

1. The Secretary of the Commission shall issue a cement contract carrier permit to Blue Fleet Lines, Inc., authorizing operations from any or all points of origin to all points within the Counties of San Luis Obispo and Santa Barbara.

2. Whenever Blue Fleet Lines, Inc., engages other carriers for the transportation of property of Galen Q. Stong or Lopez Rock & Sand or Valley Paving & Construction Company or Blue Fleet Lines, Inc., or customers or suppliers of said individual, firms or corporation, Blue Fleet Lines, Inc., shall not pay such carrier less than 100 percent of the applicable minimum rates and charges established by the Commission for the transportation actually performed by such other carriers.

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

Dated at San Francisco, California, this 6th day of APRIL, 1965.

Fredrick B. Hallock
President

George H. Brewer

Augusta

Commissioners

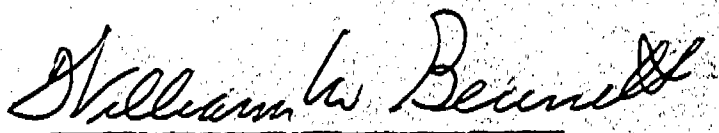
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BENNETT, William M., Commissioner, Concurring Opinion.

I concur in the issuance of the permit to Blue Fleet Lines, Inc. I point out, however, that the Commission was under no disability to make findings as to applicant's financial responsibility, findings as to the public safety and condition of the public highways, findings as to the lack of impairment upon existing services.

In all of the cement cases there remains unanswered from the so-called policy decision the standards the Commission operates upon. These matters cannot be decided upon a case to case system but must be decided from some uniform concept applied upon an equal basis so far as possible to all. Anything else is arbitrary. The Commission has still not enunciated any standards other than the fact that denials are the rule and not the exception. I point out the danger in this since limiting the availability of a state privilege soon enhances its value. And it is only a matter of time since new permits other than grandfather permits are not issued that existing privileges will acquire an exorbitant value. I expect to see transfer applications coming through this Commission which denote the quick rise in value upon a permit which should be available upon publicly known conditions to all who qualify.

Accordingly while I concur in the issuance herein I still insist that the Commission should place some degree of enlightenment upon its interpretation of the cement carrier legislation so that applicants may know what is expected of them. The Commission generally speaking continues to deny applications and consistently refuses to disclose any pertinent reasons therefor.


WILLIAM M. BENNETT
Commissioner

San Francisco, California
April 7, 1965