

ORIGINALDecision No. 68980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MURL W. HARRIS, an individual, dba)
 Harris Rock Products, of El Monte,)
 for a permit to operate as a cement)
 contract carrier (Application No.)
 19-56916-CC) in Los Angeles County,)
 (File No. T-9907).)

Application No. 47002
 Filed September 3, 1964

Murl W. Harris, in propria persona.
Lauren M. Wright and O'Melveny and Myers,
 for American Cement Corporation; C. R.
Boyer and G. B. Shannon, for South-
 western Portland Cement Co.; George H.
Roe, for California Portland Cement
 Company; Harvey H. Lowthian, Jr., for
 Kaiser Cement and Gypsum Corporation,
 interested parties.
Russell & Schureman, by Carl H. Fritze,
 for protestants.¹
Ronald J. Harvey, for the Commission staff.

O P I N I O N

A duly noticed public hearing was held before Examiner Power at Los Angeles on February 24, 1965 and the matter was submitted.

One cement company and a group of six carriers¹ protested. Three cement companies appeared as interested parties. As the evidence developed, the protesting cement company's representative changed its appearance to that of an interested party. Counsel for the carrier protestants did not change their appearance.

The evidence revealed that Harris has been in the trucking business since 1946. He had been transporting cement for about five

¹ Max Binswanger Trucking, Matich Transportation Co., Daniel Lohnes Trucking Co., Valley Transportation Co., Phillips Trucking and More Truck Lines.

years at the time of the hearing, particularly to three building material dealers in Los Angeles County.

On September 13, 1963, applicant filed an application to transport cement as a highway contract carrier, being under the impression he was duly filing for "grandfather" rights. This filing, although timely made, was misleading because of use of an incorrect filing form. After extensive correspondence with the Commission staff, a proper filing was received September 17, 1964, indicating that applicant has performed transportation of cement during the grandfather period.

In the Commission's opinion Harris is entitled to a cement contract carrier right to and between points within Los Angeles County.

The Commission finds that:

1. Applicant operated as a cement contract carrier in good faith within a year prior to June 1, 1963 and continuously thereafter for so long as he believed it lawful for him to do so.
2. Applicant first applied for a cement contract carrier permit prior to December 31, 1963.
3. Applicant has presented adequate proof of such prior operations.

The Commission concludes that applicant is entitled to a cement contract carrier permit authorizing operation from any and all points of origin to and within Los Angeles County.

ORDER

IT IS ORDERED that the Secretary of the Commission shall issue a cement contract carrier permit to Murl W. Harris authorizing

operations from any and all points of origin to and within the County of Los Angeles.

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

Dated at San Francisco, California, this 27th day of April, 1965.

Fredrick B. Hallock
President
John E. [unclear]
George E. Hoover
[unclear]
Commissioners

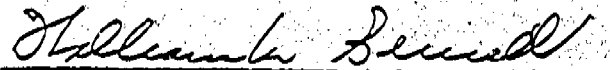
AG

A. 46147, A. 46123, A. 46125 and A. 47002

CONCURRENCE

BENNETT, William M., Commissioner, Concurring Opinion:

I concur in the grant of the requested authority herein. I point out again, however, that the showings here are in no wise materially different from other applications for authority to transport cement which have previously been denied. And based upon the ease with which findings are made herein, I would certainly expect that showings similar to this will result in a granting of the requested authority.


WILLIAM M. BENNETT
Commissioner

San Francisco, California

April 27, 1965