

ORIGINALDecision No. 68993

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
 of ANTHELEE SPEARS, an individual,
 of Sunnyvale, for a certificate
 to operate as a cement carrier
 (Application No. T-73,310, CMT-G),
 Alameda County, et al.,
 (File No. T-73,310).

Application No. 46472

ORDER AMENDING PERMIT AND
 RESCINDING ORDER GRANTING REHEARING

Applicant filed a timely application for a "grandfather" cement carrier certificate. By letter dated March 30, 1964 applicant stated a desire to change his application from one requesting a certificate to one requesting a cement contract carrier permit. On June 23, 1964 the Commission by ex parte Resolution No. 13820, Sub. No. 17 granted to applicant a cement contract carrier permit limited to independent contractor subhauling operations only, to and within the Counties of Alameda, Contra Costa, Fresno, Los Angeles, Napa, Riverside, San Bernardino, San Joaquin, San Mateo, Santa Clara, Santa Cruz and Sonoma. Said permit became effective on August 4, 1964. On August 4, 1964 California Portland Cement Company filed a Petition for Rehearing alleging in substance that applicant had utilized the same bills to evidence transportation in his application which other carriers had employed in their applications. Said petition was granted by Order Granting Rehearing dated August 25, 1964. On October 6, 1964 by Resolution No. 14014 the Commission authorized the transfer of applicant's Cement Contract Carrier Permit No. 43-5698 to Ray Choy. Ray Choy now operates pursuant to the cement contract carrier permit granted by the ex parte resolution of June 23, 1964. By letter dated March 1, 1965 counsel for

Ray Choy requested that the independent contract subhauler restriction be removed based upon the Commission action in the so-called "Shatto" decision (Decision No. 68397). Counsel requested that the Commission consider his letter as a "Petition for Reconsideration".

In Decision No. 68397, Application of Kenneth D. Francisco et al., the Commission decided that an applicant for "grandfather" authority could utilize shipments of cement on which he was either a prime carrier or a subhauler and that both the prime carrier and subhauler could employ the same movement to qualify for "grandfather" authority. It is true that Decision No. 68397 dealt with "grandfather" authority relative to cement carrier authority while this application deals with cement contract carrier authority. The rationale, however, is the same in each case. Based upon the application herein, all the various pleadings, and the criteria established by Decision No. 68397, the Commission finds that no useful purpose would be served by rehearing of this matter.

IT IS ORDERED that:

1. Order Granting Rehearing, dated August 25, 1964, in this proceeding, is hereby rescinded.

2. The aforementioned "cement contract carrier" permit granted to applicant Anthlee Spears, and thereafter transferred to Ray Choy, is hereby amended by deleting therefrom the words "Independent contractor subhauling operations only".

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

Dated at San Francisco, California, this 4th day of May, 1965.

Frederick B. Hallock President
George E. Thorne
William A. Belmont Commissioners