

**ORIGINAL**

Decision No. 69451

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of LEO E. KOTHE and LOUIS J. )  
LEPPO, JR., a partnership dba )  
LEO & LOU TRUCKING of Santa )  
Maria, for a permit to operate as ) Application No. 47268  
a cement contract carrier, state- )  
wide (Application No. 42-2122-CC, )  
File No. T-77,238). )

G. Bruce Gauley, for applicants.  
E. G. Jones, for Kaiser Cement & Gypsum Corp.;  
Lauren M. Wright, for American Cement Corp.;  
R. Y. Schureman, for Max Binswanger Trucking,  
Matich Transportation Co., Daniel Lohnes  
Trucking Company, Phillips Trucking and  
More Truck Lines; Waldo A. Gillette, for  
Monolith Portland Cement Co.; and James J.  
Trabucco, for Southern Pacific Company and  
Pacific Electric Railway Company, protestants.  
Douglas Quinlan, for the Commission staff.

O P I N I O N

Leo E. Kothe and Louis J. Leppo, Jr., a partnership doing business as Leo & Lou Trucking, request a permit to operate as a cement contract carrier from all points within the state to all points and places within the County of San Luis Obispo.

A public hearing was held before Examiner Daly on May 6, 1965 at Santa Maria and the matter was submitted.

Applicants as individuals have been engaged in the trucking business for many years. They have been partners for approximately two years and during that period have been engaged in the transportation of fertilizer, roofing and various products pursuant to a radial highway common carrier permit. They lease and operate a two-acre terminal located in Santa Maria. Upon said property applicants maintain an office and facilities for the maintenance and repair of

equipment. They own and operate 11 units of equipment including several semi- and full-hopper type trailers. As of October 14, 1964, the partnership indicated a net worth in the amount of \$29,095.

According to applicant Leppo, the partnership has been requested by the manager of the Arroyo Transit Mix Co., which is located in Arroyo Grande, San Luis Obispo County, to transport cement in bulk. The shipments originate at the plants of Riverside Cement Company located in San Bernardino County. Mr. Fred B. Lohmes testified that his company is presently serving the same parties pursuant to "grandfather" authority and that the granting of the requested permit would result in a diversion of all or part of this traffic. Protestants contend, through argument of counsel, that additional carriers would have an unstabilizing effect upon the cement industry as a whole. The Commission takes official notice of the fact that 50 cement carriers and cement contract carriers are now authorized to serve San Luis Obispo County.

During the course of the hearing it was determined that applicant Leppo had received 12 or 13 citations for speeding within the past three years and is presently on probation with the Department of Motor Vehicles. His partner also has received numerous traffic citations for speeding and has just recently been taken off probation by the Department of Motor Vehicles.

Two of the conditions which must be found to exist before the Commission may issue a cement contract carrier permit are (1) that the privilege sought will not endanger the safety of the public and (2) that the service of previously certificated cement carriers or permitted cement contract carriers will not be impaired.

The Commission finds that:

1. Both applicants have committed numerous recent traffic violations; to grant their application would endanger the safety of the public.

2. The granting of the application herein would impair the service of previously certificated cement carriers and permitted cement contract carriers.

Based on the foregoing findings of fact, the Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that the application is denied.

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

Dated at San Francisco, California, this 27<sup>th</sup> day of July, 1965.

Fredrick B. Holmoff  
President

George J. Hoover

Augustus

~~Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.~~

~~Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.~~  
Commissioner's