

ORIGINALDecision No. 70471

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GUS A. MELHAFF,
 an individual, dba MELHAFF TRUCKING
 CO., to transfer, and of PCP
 TRANSPORTATION COMPANY, a corpo-
 ration, to acquire certain tangible
 properties and the certificate of
 public convenience and necessity
 of GUS A. MELHAFF.

Application No. 48163
 (Filed January 3, 1966)

O P I N I O N

By this application Gus A. Melhaff requests authority to sell, and PCP Transportation Company requests authority to purchase, certain highway common carrier operative rights and property. Decision No. 61260, dated December 28, 1960, in Application No. 42110, authorized service by Melhaff within San Francisco Territory as defined in Minimum Rate Tariff No. 2 and an area bounded by U. S. Highway 40 to Sacramento, U. S. Highway 99 to Modesto and U. S. Highway 50 to Sacramento. It includes 15-mile lateral rights and 15-mile radial rights based on Sacramento and Modesto.

PCP has operating authority from the Interstate Commerce Commission extending into California, Nevada and Arizona. It operates in California intrastate commerce under permits.

Melhaff proposes to sell his common carrier business to PCP for \$50,000, plus \$76,940 for certain tangible property. This last item will be adjusted to the actual value of such property as of the time of transfer.

An application for transfer of the same property and corresponding interstate rights has been filed with the Interstate Commerce Commission. This was required because the Melhaff right is registered under the provisions of Section 206(a)(7) of the Interstate Commerce Act.

The Commission finds that:

1. The proposed transfer, with the restriction referred to below, would not be adverse to the public interest.
2. Public convenience and necessity require that the restated highway common carrier certificate appearing in the order herein be granted to PCP.

The Commission concludes that the application should be granted as provided by the order herein. To avoid possible confusion, the operative right granted by Decision No. 61260 should be revoked and restated for PCP.

PCP is an affiliate or subsidiary of Pacific Clay Products. Therefore, a restriction will be inserted in its certificate relating to business of that company.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

PCP Transportation Company, a corporation, is placed on notice that the operative rights it is acquiring were issued, and continue to be, subject to the following: 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.

A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before March 1, 1967, Gus A. Melhaff may sell and transfer, and PCP Transportation Company, a corporation, may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, PCP Transportation Company shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
3. PCP Transportation Company shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that it has adopted or established as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to

this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, PCP Transportation Company shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. Whenever PCP Transportation Company engages other carriers for the transportation of property of Pacific Clay Products or customers or suppliers of said corporation, PCP Transportation Company shall not pay such other carriers rates and charges less than the rates and charges published in the PCP Transportation Company tariffs on file with this Commission.

6. Concurrently with the effective date of the tariff filings required by ordering paragraph 3 hereof the operative right granted by Decision No. 61260 in Application No. 42110 is hereby revoked and, in place and stead thereof, a certificate of public convenience and necessity to operate as a highway common carrier is hereby granted to PCP Transportation Company,

a corporation, as particularly set forth in Appendices A and B attached hereto and hereby made a part hereof.

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

Dated at San Francisco, California, this 22nd day of MARCH, 1966.

Frederick B. Holbrook
President
Paul E. Mitchell
George T. Grover
Augustin
William G. Bland
Commissioners

PCP Transportation Company, a corporation, 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 located on and within 15 miles laterally of the following named highways:
 - a. U. S. Highway 40 between Richmond and Sacramento, inclusive.
 - b. U. S. Highway 50 between Hayward and Sacramento, inclusive.
 - c. U. S. Highway 99 between Modesto and Sacramento, inclusive.
 - d. State Highway 120 between junction with U. S. Highway 50 and Manteca, inclusive.
3. Between all points and places located within a 15-mile radius of Sacramento and Modesto.
4. Through routes and rates may be established between any and all points described in subparagraphs 1 through 3, above.

Issued by California Public Utilities Commission.

Decision No. 70471, Application No. 48163.

Applicants 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.
8. Logs.

Restriction: Whenever PCP Transportation Company engages other carriers for the transportation of property of Pacific Clay Products or customers or suppliers of said corporation, PCP Transportation Company shall not pay such other carriers rates and charges less than the rates and charges published in the PCP Transportation Company tariffs on file with this Commission.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 70471, Application No. 48163.

APPENDIX B TO DECISION NO. 70471

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 Simia 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; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestwesterly 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; southwestwesterly 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.