

ORIGINAL

Decision No. 70582

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
IGNAZIO INTRAVAIA, doing business as }
INTRAVAIA TRUCKING and INTRAVAIA }
ROCK & SAND, s sole proprietorship, }
for an In Lieu Certificate of Public }
Convenience and Necessity to operate }
as a cement carrier, and to extend }
his present Certificate of Public }
Convenience and Necessity. }

Application No. 47779
(Filed August 2, 1965)

Donald Murchison, for applicant.
Russell & Schureman by R. Y. Schureman, for
Max Binswanger Trucking, Daniel Lohnes
Trucking Co., Matich Transportation Co.,
More Truck Lines, Phillips Trucking and
Valley Transportation Co.; David K. Graham
and S. A. Moore, for Kaiser Cement and
Gypsum Corp.; and George H. Roe, for
California Portland Cement Co., protestants.
Donald J. Harvey, for the Commission staff.

O P I N I O N

By this application Ignazio Intravaia seeks to add Imperial County to those counties in which he now operates as a cement carrier. Applicant was granted a certificate of public convenience and necessity by ex parte Resolution No. 13823, Sub. No. 40, dated June 23, 1964. Said certificate authorized cement carrier operations to and within the Counties of Fresno, Kern, Los Angeles, Orange, San Bernardino, San Diego, Santa Barbara and Ventura. By Decision No. 68572 dated February 9, 1965 in Application No. 46549 applicant's certificate was amended to add the County of Riverside.

Public hearings on the instant application were held before Examiner Gravelle in Los Angeles on November 22 and 23, 1965. The matter was submitted on the latter date.

During the course of the hearings applicant, through his counsel, requested that the application be amended by striking the request for authorization to transport cement in sacks to Imperial County. Counsel for Valley Transportation Co. thereupon withdrew that company's protest to the application.

Applicant has been in the trucking business in California since 1950 and has been transporting cement since 1959. He started with one Studebaker bobtail dump truck and has now built his business to the point where his cement operations alone utilize equipment costing \$103,000 and account for the employment of four drivers. A balance sheet dated September 30, 1965 indicates a net worth of \$87,204.47.

Applicant testified to his manner of operations, his interest in conducting them in a safe fashion, his facilities and his insurance coverage. Suffice it to say that the evidence shows that applicant is capable of adequately providing the service for which, by this application, he seeks authorization. He also testified that the reason he made this application was to enable him to serve the account of one shipper in Imperial County. That shipper is Lubanko & Sons Co., located in Salton City. George Lubanko, a vice president and director of that company, testified in support of applicant. Lubanko & Sons Co. opened a new batch plant at the Salton City location within the past six months. Said firm had done business with applicant previously and offered him the new business of hauling cement to its Salton City plant. Because he was not certificated to serve in Imperial County, he was unable to accept the proffered business. Applicant therefore desires to add Imperial County to his certificate to enable him to serve Lubanko & Sons Co. at Salton City and to "round out" his operating authority in the southern part of the State.

Lubanko & Sons Co. is now being served by other cement carriers; however, of the protestants that appeared in this proceeding, only one had transported a load of cement for that shipper.

Protestants offered two witnesses, each of whom represented a cement carrier presently authorized to operate in Imperial County. They testified generally that their firms were ready, willing, and able to supply the needs of Lubanko & Sons Co. or any other shipper requiring cement deliveries in Imperial County. All the Lubanko shipments come from Riverside Cement Co., a Division of American Cement Corporation. One of the protestants' witnesses represented a carrier that hauls mostly, if not exclusively, for California Portland Cement Co.; his firm gets no business from Riverside Cement Co. The other protestant witness represented Phillips Trucking, the firm that had hauled one load of cement for Lubanko. That shipment was a back-haul of a load of gypsum from Plaster City and was the only shipment ever offered it for the Lubanko account.

Protestants argued that the granting of this application would divert traffic from the carriers presently serving in Imperial County and specifically those serving Lubanko & Sons Co. Sections 1061 et seq. of the Public Utilities Code, under which this application is made, contain no special mandate or direction to the Commission as to what it should consider in authorizing new cement carrier certificates or extensions of existing certificates. The standard is public convenience and necessity.

Applicant has not demonstrated that public convenience and necessity require the granting of this application. At best, applicant has shown that he is able to provide, on a contract basis, service to one shipper at one point in Imperial County. The application should be denied without prejudice to applicant's right to seek a cement contract carrier permit to serve the account of Lubanko & Sons Co., at Salton City.

After consideration the Commission finds that applicant has failed to establish that public convenience and necessity require the granting of his application for an extension of his certificate as a cement carrier and concludes that the application should be denied.

ORDER

IT IS ORDERED that the application of Ignazio Intravaia for an extension of his certificate of public convenience and necessity as a cement carrier is hereby denied.

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

Dated at San Francisco, California, this 19th day of APRIL, 1966.

President

George T. Tower

William W. Bennett

Augusta

Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

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