

Decision No.

72793**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation  
 into the rates, rules, regulations,  
 charges, allowances and practices  
 of all common carriers, highway  
 carriers and city carriers relating  
 to the transportation of sand, rock,  
 gravel and related items (commodities  
 for which rates are provided in  
 Minimum Rate Tariff No. 7).

Case No. 5437  
 Petition for Modification  
 No. 143  
 (Filed January 5, 1967)

N. H. Smedegaard, Marjorie C. Townsend, and  
 Charles H. Townsend, for petitioners.  
E. O. Blackman, for California Dump Truck Owners  
 Association; H. F. Kollmyer, J. C. Kaspar and  
 A. D. Poe, for California Trucking Association;  
Fred Imhoff, for Southern California Rock  
 Products Association; W. F. Webster and  
 William M. Hanson, for Rodeffer Industries,  
 Inc., interested parties.  
Fred P. Hughes, for the Commission staff.

O P I N I O N

Charles H. Townsend and Marjorie C. Townsend, doing  
 business as Burris Sand Pit, petitioners (hereinafter referred to  
 as Burris), engage in the production of sand, gravel and aggregates  
 at a location in Orange County in the vicinity of Anaheim. Peti-  
 tioners seek to have dump truck zone rates established in Minimum  
 Rate Tariff No. 17 (MRT 17) from Burris Sand Pit. Specifically,  
 they seek revision of the description of Orange County Production  
 Area M in Directory 1 to include the Burris Sand Pit. Distance or  
 hourly rates set forth in Minimum Rate Tariff No. 7 (MRT 7) are now  
 applicable to said transportation. Petitioners allege that zone  
 rates are necessary in order that they may compete effectively with  
 sand and aggregate producers located in nearby production areas and  
 who now enjoy zone rates from their facilities.

This matter was heard and submitted before Examiner Mallory at Los Angeles on May 25, 1967. Evidence was presented on behalf of petitioners, California Dump Truck Owners Association (CDTOA) and the Commission staff. None of the parties opposed the establishment of zone rates from Burriss Sand Pit; however, CDTOA objected to the inclusion of Burriss Sand Pit within Orange County Production Area M without adjustment of the rates therefrom.

The testimony and pleadings disclose the following: Orange County Production Area M now encompasses the plant of Rodeffer Industries, Inc., at which materials are produced which are similar to those produced by Burriss Sand Pit. The plants of Rodeffer and Burriss are on properties which lie adjacent and parallel to the bed of the Santa Ana River. The Rodeffer and Burriss properties abut each other. All of the Rodeffer property and the southern half of the Burriss property are located within the present description of Production Area M (see sketch attached as Appendix "A"). The Burriss property is approximately 5,500 feet long and the average width is about 800 feet. The Burriss production facilities and truck scale are in the portion of the Burriss property located outside the present limits of Production Area M.

Orange County Production Area M was originally established to encompass the plant of Norwalk Asphaltic Concrete Company (Decision No. 61115 dated November 22, 1960, in Case No. 5437, Petition No. 63). The zone description was subsequently amended to encompass the plant of Rodeffer Industries (Decision No. 62908, dated December 5, 1961, in Case No. 5437, Petition No. 77). Decision No. 62908 states that Production Area M, as originally established, was approximately 1/4 mile in width, and that it extended southward approximately 1/2 mile from Wagner Avenue to

Ball Road. It was extended southward approximately 1/4 mile to Taft Avenue by Decision No. 62908. The record herein indicates that Norwalk Asphaltic Concrete Company subsequently discontinued operations within Production Area M.

For-hire carriers load at the Burris production facilities (just north of the extension of Wagner Avenue) and then weigh their shipments at the Burris truck scales. Ninety percent of the shipments are then transported over a dike road northward to Lincoln Boulevard and thence to destination. Ten percent of the shipments are moved southbound over the dike road to Ball Road, thence westerly over Ball Road and connecting streets to destination. Movements from the Rodeffer plant are via Rodeffer's truck scale, located just south of Ball Road, to Ball Road, thence westerly along Ball Road and connecting streets to destination.

The record also shows the following: Petitioners plan to move their truck scales to a location adjacent to their production facilities in the near future; the precise date is not known. This will change the route of movement of trucks entering and leaving the Burris property. The dike road is not a public road. The use of said road is controlled by Orange County through the Orange County Flood Control District. Agreements have been reached between Burris and Rodeffer, on the one hand, and Orange County, on the other hand, for the continuing use of the dike road by Burris and Rodeffer. Said agreement also provides for maintenance and policing of the road. Orange County and the State of California plan to construct Ball Road in an easterly direction across the bed of the Santa Ana River in the near future. Petitioners have reached a settlement with the County and State so that there will be no cutoff of access by Burris from the dike

road to Ball road; however, no such agreement has been reached by Rodeffer. Unless an agreement is reached, when the reconstruction of Ball Road is completed, Rodeffer will not be able to cross Ball Road and thus will have no access to the dike road for movements in a northerly direction. The expected completion date of the construction of Ball Road across the Santa Ana River is not a matter of record.

The assistant director of CDTOA presented in evidence tie-in times and mileages from petitioners' production plant and truck scales to various intersections along Ball Road and along Lincoln Boulevard. The managing director of CDTOA recommended that the Commission establish a new production area for Burris Sand Pit, using the tie-in times and mileages presented in evidence by CDTOA to accomplish this purpose. However, if this proposal is not adopted, he recommended that the description of Orange County Production Area M be amended as proposed in the petition, but that a change be made with respect to the point within the production area from which times and mileages are developed (centroid).<sup>1/</sup> He urged that the Commission staff be directed to make the further studies necessary to accomplish either of these recommendations.<sup>2/</sup>

A Commission transportation engineer presented in evidence a map showing the present and proposed boundaries of Orange County Production Area M and the location of petitioners' properties and

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<sup>1/</sup> Said times and mileages are underlying factors used in computing rates.

<sup>2/</sup> Assertedly, the proposed change in the centroid of the production area would require the weighting of the relative amounts of shipments by for-hire carriers from Burris and from Rodeffer. Said information is not available in the record in this proceeding. Nor is it certain where the present centroid of the production area is located. Also, tie-in times and mileages from Rodeffer would need to be developed to accomplish CDTOA's recommendation regarding reestablishment of the centroid of the production area.

Rodeffer Industries (similar to Appendix "A" hereof). He also presented a document containing the relevant portion of the schematic diagram of the computer map containing the times, mileages and points from which the current zone rates from Production Area M were developed.<sup>3/</sup> This diagram shows that times and mileages from Production Area M to all but two adjacent destination zones were computed via Ball Road. There is no development on said diagram of tie-in times and mileages from Production Area M via Lincoln Boulevard.

Discussion

The position of all of the parties is that production area-delivery zone rates should be established from Burriss Sand Pit. The issues in this proceeding involve the method to be employed in the establishment of said rates. Petitioners request that this be accomplished by revising the description of Orange County Production Area M to include their plant. Rodeffer Industries, whose plant is now located in said production area, concurs in this request. Petitioners' proposal would result in no change in existing rates from said production area.

CDTOA requests that Burriss Sand Pit be included in a new production area and that a new run-out of rates be developed from said production area. If Burriss Sand Pit is included in Production Area M, CDTOA requests that the centroid of said production area be revised to reflect the average tie-in times and mileages from the two producing plants which would be located in said production area. CDTOA contends that without the adjustments sought by it, the zone rates from Production Area M will not be equitable to shippers and carriers because the present rates do not reflect the greater times and distances involved for

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<sup>3/</sup> Exhibit A-29 in Case No. 5437, Order Setting Hearing dated March 24, 1959.

shipments from Burriss. California Trucking Association (CTA) took the position that many of the time and distance factors involved will be changed in the near future, such as the relocation of Burriss's truck scale and the opening of Ball Road across the Santa Ana River. CTA moved that an interim order be issued revising the description of Production Area M to include Burriss Sand Pit facilities, as proposed in the petition, and that the proceeding be kept open so that when the events occur which will change the time and distance factors, such changes may be considered by the Commission. The Commission staff urged that petitioners' request be granted. The staff position was that changes in the tie-in times and mileages, while desirable, should be made in connection with a general updating of the computer map, because of the many uncertainties involved.

#### Findings and Conclusions

We find that:

1. Petitioners operate a production facility for the processing of rock, sand and aggregates at a location adjacent to, and north of Orange County Production Area M, as described in Directory 1.
2. Petitioners market their products in competition with producers of rock, sand and aggregates located nearby, including Rodeffer Industries, Inc. The latter company has a plant located within Orange County Production Area M.
3. The present minimum rates for transportation from Burriss Sand Pit are the hourly and distance rates set forth in Minimum Rate Tariff No. 7. Petitioners have requested the establishment of zone rates in Minimum Rate Tariff No. 17 from their plant. The establishment of zone rates from Burriss Sand Pit will provide

rates of the same kind and character as those available from established competing points of production in the same general area. The establishment of zone rates in Minimum Rate Tariff No. 17 from Burris Sand Pit is justified.

4. Construction of Ball Road across the Santa Ana River and a change in the location of the truck scales of Burris Sand Pit are planned for the near future. The exact dates of these changes are not known. Said changes should be reflected in basic data underlying the development of rates from Production Area M. Pending the studies necessary to reflect such changes, no undue preference or advantage will occur by the establishment of zone rates from the Burris Sand Pit on the same levels as zone rates now applicable from Production Area M. The establishment of said rates will be reasonable for movements by for-hire carriers as the times and distances used as a basis for the construction of the present rates are no less than the times and distances over routes actually traveled for the preponderance of movements from Burris Sand Pit.

5. Adjustment of the tie-in times and distances from Orange County Production Area M should be accomplished to reflect routes via the dike road and Lincoln Boulevard, and also to reflect conditions which will occur in the near future, such as the opening of Ball Road across the Santa Ana River and the relocation of Burris's truck scales. The necessary studies should be conducted by the Commission staff in the course of studies looking to the general updating of the basic traverses set forth on the current computer map (Exhibit A-29 in Case No. 5437, Order Setting Hearing dated March 24, 1959).

The Commission concludes that Petition No. 143 should be granted, and that the motion for an interim order should be denied.

O R D E R

IT IS ORDERED that:

1. Directory 1 (Appendix A to Decision No. 69469, as amended) is hereby further amended by incorporating therein, to become effective September 2, 1967, First Revised Page 145 and First Revised Page 146, attached hereto and made a part hereof.

2. In all other respects Decision No. 69469, as amended, shall remain in full force and effect.

3. The motion for an interim order is denied.

This order shall become effective twenty-five days after the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup> day of JULY, 1967.

John E. Mitchell  
President

Augustin  
William M. Bennett  
Shed P. Morrissey  
Commissioners

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



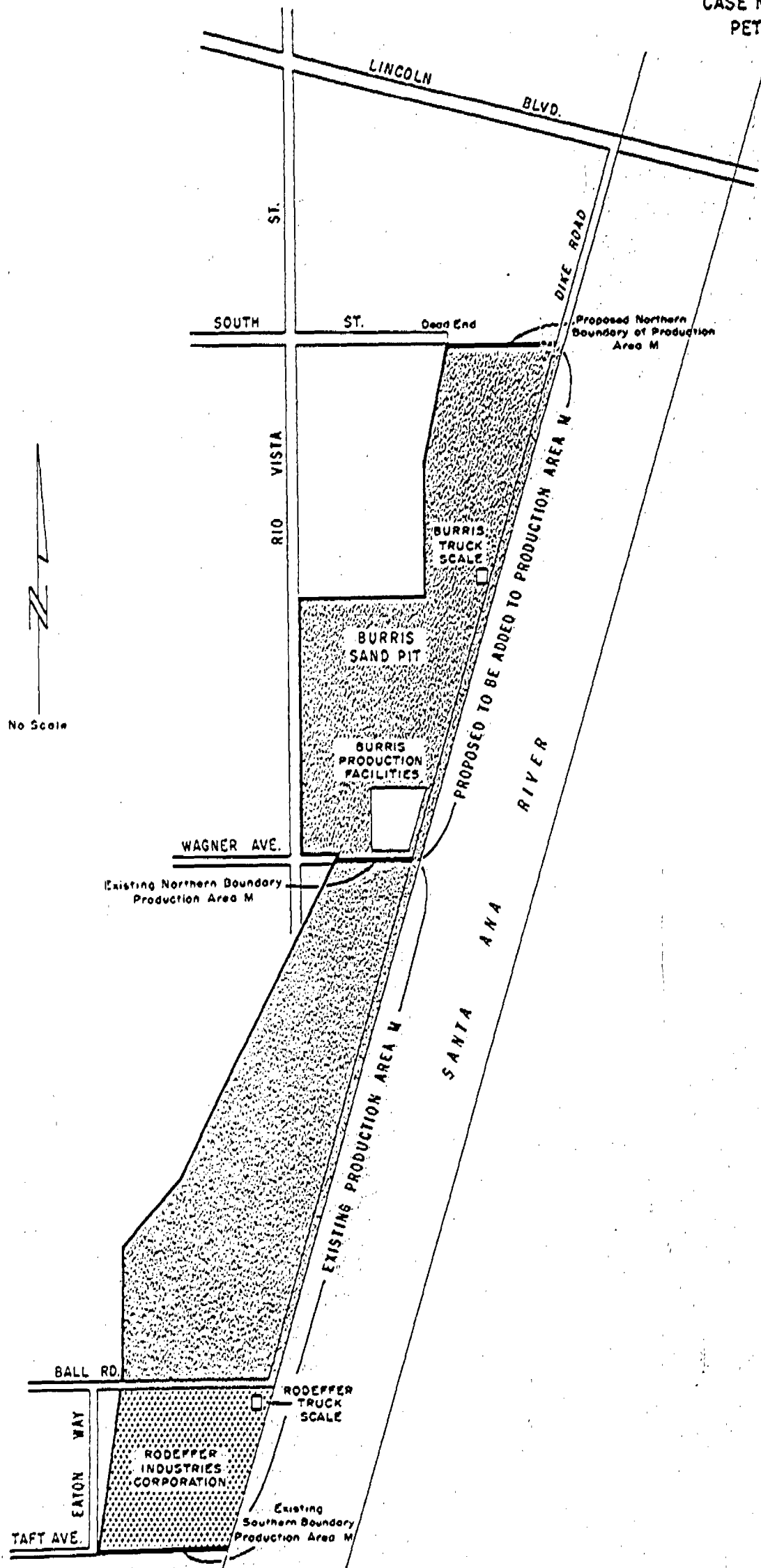
SECTION 3 - ORANGE COUNTY PRODUCTION AREAS AND DELIVERY ZONES (Continued)	
ORANGE COUNTY PRODUCTION AREAS	Area
<p>Beginning at a point approximately four-tenths (.4) mile east of Gypsum Creek on the Santa Ana Canyon Road (State Highway 91) and identified by a Division of Highways marker No. B486+75; westerly along the Santa Ana Canyon Road (State Highway 91) to a paved private road approximately one-tenth (.1) mile westerly of Gypsum Creek; southerly along said private road two-tenths (.2) mile; easterly along a line paralleling the Santa Ana Canyon Road (State Highway 91) to a point due south of said Division of Highways marker B486+75; north along a direct line to the point of beginning.</p>	30-G
<p>Beginning at Ellis and Golden West Avenue, in Huntington Beach; thence north along Golden West Avenue to Talbert; thence east along Talbert to Gothard; thence south along Gothard to Ellis St.; thence west along Ellis to the point of beginning.</p>	30-I
<p>Beginning at the intersection of Beach Boulevard (SSR 39) and Katella Avenue; southerly along Beach Boulevard (SSR 39) to Ruthann Avenue; easterly along a direct line to the intersection of Dale Street and the Pacific Electric Railway Company right-of-way; northerly along Dale Street to Katella Avenue; westerly along Katella Avenue to the point of beginning.</p>	30-J
<p>Beginning at the prolongation of Jefferson Street and the Santa Ana River; thence northerly along said prolongation and Jefferson Street to State Highway 91; thence westerly along State Highway 91 to its intersection with the southerly prolongation of Red Gum Street; thence southerly along said prolongation of Red Gum Street to the Santa Ana River; thence easterly along the Santa Ana River to point of beginning.</p>	30-K
<p>No change on this page ) Decision No: <b>72793</b></p>	
<p>EFFECTIVE SEPTEMBER 2, 1967</p>	
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p>	

SECTION 3 - ORANGE COUNTY PRODUCTION AREAS AND DELIVERY ZONES (Continued)	
ORANGE COUNTY PRODUCTION AREAS	Area
<p>Beginning at the intersection of Walnut and Taylor Streets; thence west on Walnut Street to its intersection with Van Buren Street; thence south on the southerly extension of Van Buren Street to its intersection with the Santa Ana River; thence northeasterly on the Santa Ana River to its intersection with the southerly extension of Taylor Street; thence north on said extension of Taylor Street to the point of beginning.</p>	30-L
<p>Beginning at the intersection of the easterly extension of South Street and the Santa Ana River; thence westerly along said extension and along South Street to its intersection with Rio Vista Street; thence southwesterly along a direct line to the intersection of Eaton Way and Ball Road; thence southerly along Eaton Way to Taft Avenue; thence easterly along Taft Avenue and the easterly extension thereof to the intersection of said extension with the Santa Ana River; thence northeasterly along the Santa Ana River to the point of beginning.</p>	30-M
<p>Beginning at the intersection of Warner Avenue and Grand Avenue in the City of Santa Ana; thence north along Grand Avenue to a point exactly seven hundred feet north of said intersection; thence due west to Standard Avenue; thence south along Standard Avenue to Warner Avenue; thence east along Warner Avenue to the point of beginning.</p>	30-N
<p>An area northerly of the El Toro Marine Air Station more specifically described as the westerly 1/4 of Block 152, Irvine Subdivision, as recorded in the records of the Orange County Recorder.</p>	30-C
<p>An area approximately 6 miles easterly of San Juan Capistrano more specifically described as the S 1/2 of Section 35, Section 36, and the SE 1/4 of Section 25, Township 7 South, Range 7 West, SBEM inclusive.</p>	30-P
<p>Change, Decision No. <b>72793</b></p>	
<p>EFFECTIVE SEPTEMBER 2, 1967</p>	
<p>Issued by the Public Utilities Commission of the State of California,            San Francisco, California.            Correction 7</p>	

APPENDIX "A"

CASE NO. 5437

PET. 143



No Scale