

ORIGINAL

Decision No. 78692

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of RINGSBY-PACIFIC LTD., a corporation, to sell to DOLLY E. MORTON, an individual doing business as MORTON DRAYAGE, certain operating authorities evidenced by a certificate of public convenience and necessity.

Application No. 52107  
(Filed August 6, 1970;  
Amended November 5, 1970)

In the matter of the Application of: APPELATE DRAYAGE COMPANY, a California corporation, and RINGSBY-PACIFIC LTD., a California corporation for authority for APPELATE DRAYAGE COMPANY to purchase a certain Certificate of Public Convenience and Necessity from RINGSBY-PACIFIC LTD.

Application No. 52146  
(Filed August 20, 1970;  
Amended September 2, 1970)

Ray Greene, Attorney at Law, for Dean McGuire, doing business as McGuire & Sons Trucking, applicant in Application No. 52107.

John Paul Fisher, Attorney at Law, for Applegate Drayage Company, applicant in Application No. 52146.

Boris H. Lakusta and David J. Marchant, Attorneys at Law, for Pacific Motor Trucking Co. and Peters Truck Lines; protestants.

Louis J. Seely and T. W. Curley, for Western Milk Transport, Inc.; interested party.

O P I N I O N

Ringsby-Pacific Ltd., a corporation (Ringsby), requests authority to sell and transfer portions of a certificate of public convenience and necessity to Dean McGuire, doing business as McGuire & Sons Trucking<sup>1/</sup> (McGuire), and to Applegate Drayage Company (Applegate).

<sup>1/</sup> By amendment filed November 5, 1970, Dean McGuire was substituted as applicant in place of Dolly E. Morton.

Public hearings were held before Examiner Daly at San Francisco with the matter being submitted on February 23, 1971, upon the receipt of concurrent briefs since filed and considered.

The certificate was granted by Decision No. 60456, dated July 28, 1960, in Application No. 41201, as amended by Decision No. 68029, dated October 13, 1964, in Application No. 46963 and authorizes the transportation of general commodities between points within the northern part of the state. McGuire would acquire that portion of the certificate authorizing service to all points and places between Sacramento and Red Bluff and between Red Bluff and Redding including all points within 10 miles of the authorized routes.<sup>2/</sup> Applegate would acquire that portion of the certificate authorizing service between all points on or within 10 miles of U.S. Highway 99 between Sacramento and Yuba City; U.S. Highway 40 Alternate between Yuba City and Portola; State Highway 89 at the point of intersection with U.S. Highway 40 Alternate and Greenville and unnumbered highways diverging from State Highway No. 89 at Greenville and U.S. Highways 40 Alternate and 395 between Portola and Herlong.

By the terms of the agreements McGuire would pay a consideration of \$7,500 with a cash payment of \$2,500 and the balance to be paid in monthly installments of \$300 with interest at the rate of 7 1/2 percent per annum on the unpaid balance. Applegate would pay a consideration of \$10,000 with a cash payment of \$2,000 and the balance in monthly payments of \$300 or an amount equal to 3 percent

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<sup>2/</sup> Subject to the restriction that no service would be provided on U.S. Highway 99 between Sacramento and Yuba City, no service would be provided to or from the Cities of Yuba City and Marysville and no service would be provided to any off route points within ten miles east of U.S. Highway 99 between Yuba City and the intersection of said highway and a line extending directly east from Durham, California.

of the gross revenue, whichever amount was larger. No interest is to be paid on the unpaid balance. Each applicant purchaser requests authority to incur long term indebtedness.

McGuire has been engaged in the field of transportation for many years and is presently conducting operations out of Sacramento as a contract carrier. As of October 31, 1970, applicant McGuire indicated a net worth in the amount of \$19,150.<sup>3/</sup>

Applegate is presently operating as a permitted carrier and as a certificated cement carrier. As of June 30, 1970, Applegate indicated a net worth in the amount of \$145,673.

The transfers were originally protested by Pacific Motor Trucking Lines, Delta Lines and Peters Truck Lines. During the course of hearing Delta Lines withdrew its protest to both applications.

The two protesting carriers take the position that Ringsby has ceased operating in the area covered by the applications and has therefore abandoned the certificate.

Ringsby is a large interstate carrier that is presently conducting both interstate and intrastate operations between points within California. It has on file with this Commission tariffs covering its intrastate operations including those covered by the certificate herein considered. It maintains a terminal in Sacramento to which personnel and equipment are assigned.

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<sup>3/</sup> This figure does not provide for an admitted outstanding debt of \$8,000 due Mr. & Mrs. Morton for the contractual rights acquired by McGuire pursuant to the assignment from Mrs. Morton.

For the purpose of reflecting the extent of its operations within the considered area for the past year, Ringsby introduced in evidence Exhibits 23 and 24. During the period November 5, 1969, through March 17, 1970, Ringsby transported 7 shipments between Herlong and Beale Air Force Base; 10 shipments between Sacramento and Yuba City; 1 shipment between Sacramento and Oroville; 12 shipments between Sacramento and Marysville; 3 shipments between McClellan Air Force Base and Beale Air Force Base; 4 shipments between Sacramento and Beale Air Force Base; 10 shipments between Quincy and Yuba City; and 1 shipment between Sacramento and Olivehurst (Exhibit 23). During the period November 3, 1969, to May 29, 1970, Ringsby transported 493 shipments from points in California outside of the scope of the certificate to such points as Lincoln, Beale Air Force Base, Yuba City, Marysville and Olivehurst, which are points within the certificated area.

Because of its unprofitable nature the management of Ringsby decided several years ago to curtail its intrastate operations in the area north of Sacramento. According to Ringsby's Vice President of Traffic, a labor strike, which lasted from April 1, 1970, to July 3, 1970, caused Ringsby to lay off personnel and to reduce "peddle" runs. Following the strike, he testified, Ringsby decided to concentrate on its long line operations and at the same time decided to sell the certificate covered by the instant applications to smaller carriers in the belief that with lower overhead expenses they could operate at a profit. He further testified that following the execution of the contracts of sale in July 1970, no attempt was made to restore service on a competitive basis. If the applications are

denied, he stated that it would be the intention of Ringsby to employ more personnel, including salesmen, to reestablish "peddle" runs and to provide a competitive service in the area.

Protestants introduced evidence relating to their operations within the area. In addition, Pacific Motor Trucking introduced Exhibits 26 through 27 which reflect interchange shipments tendered to Pacific Motor Trucking Co. by Ringsby at Sacramento and delivered to points within the certificated area for the months of March, August, October 1970 and February 1971.

To abandon means to desert, surrender, or forsake. It is the relinquishment or giving up with the intent of never again resuming one's right or interest. (Burroughs v. Pacific Telephone & Telegraph Co., 220 P. 152.) It is to give up absolutely, to forsake entirely and to relinquish all connection with or concern.

(Commonwealth v. Louisville & N.R. Co., 258 S.W. 101.) Abandonment is the surrender, relinquishment, disclaimer, or cessation of property or of rights. (Stephens v. Mansfield, 11 Cal. 363; Dikes v. Miller, 24 Tex. 417.) It is the relinquishing of all title, possession, or claim, or a virtual intentional throwing away of property. (Foulke v. New York Consol. R. Co., 127 N.E. 237, 9 ALR 1384.) Mere non-use, however, is not necessarily an abandonment. (Barnett v. Dickinson, 93 Md. 258; Welsh v. Taylor, 134 N.Y. 450; Phillis & Gross, 143 N.W. 373.) The Commission has repeatedly held that the non-use or dormancy of a certificate may not be introduced in a transfer proceeding as a collateral attack upon a prior decision of the Commission relating to public convenience and necessity. (Henry Stovall to sell to James L. Chase, 59 Cal. P.U.C. 373; Todd Freight Lines to sell to Coast Drayage, 63 Cal. P.U.C. 723, Frank Nolan Drayage Co. to sell to Motor Transport Terminals, Inc., 61 Cal. P.U.C. 160.)

Abandonment of a certificate includes the intention and also the external conduct by which it is carried into effect. In the instant proceeding the record clearly demonstrates that Ringsby began curtailing its intrastate operations north of Sacramento several years ago. There was no complete cessation of service to the entire area. The effect appears to have been a gradual reduction of service until the strike in 1970 prompted the management of Ringsby to sell the certificate. The decision to sell in itself is inconsistent with the legal concept of abandonment. The applications to transfer portions of the certificate were filed in August 1970, shortly after the agreement of sale had been executed. It is reasonable to believe that the parties did not expect that the time required to consummate the transfers would be protracted by the need for an extended hearing. The record fails to establish an intent on the part of Ringsby to abandon its certificated authority.

After consideration the Commission finds that:

1. Ringsby is a certificated carrier presently conducting operations within the State of California for the transportation of shipments moving in both intrastate and interstate commerce.
2. Ringsby is authorized to operate as a highway common carrier pursuant to a certificate of public convenience and necessity granted by Decision No. 60456 as amended by Decision No. 68029 and at all times has had on file with this Commission a tariff relating to service authorized by said decisions.
3. Ringsby owns and maintains a terminal in Sacramento to which are assigned personnel and equipment.
4. Approximately four years ago Ringsby commenced curtailing its operations in the area covered by the certificate granted by

Decision No. 60456 as amended by Decision No. 68029 and as of May 29, 1970, terminated all service to the area, by use of its own equipment, because of a labor strike.

5. At the time that Ringsby terminated its service to the area herein considered the management of said company had decided to sell the certificate, and in July 1970 agreements of sale were executed.

6. The evidence fails to establish an intent on the part of Ringsby to abandon the certificate herein considered.

7. Applicant purchasers have the necessary experience and financial ability to provide service.

8. The proposed transfers would not be adverse to the public interest, and the money, property, or labor to be procured or paid for by the indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission concludes that the applications should be granted. The order which follows will provide for, in the event the transfers are consummated, the revocation of the certificate presently held by Ringsby and the issuance of certificates to Applegate, McGuire and Ringsby.

Dean McGuire, Applegate Drayage Company and Ringsby-Pacific Ltd. are hereby placed on notice that 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.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1971, Ringsby-Pacific Ltd. may sell and transfer, and Dean McGuire, doing business as McGuire & Sons Trucking, and Applegate Drayage Company may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfers herein authorized, applicants shall notify the Commission, in writing, of that fact and within said period shall file with the Commission true copies of any bills of sale or other instruments of transfer which may be executed to effect said transfers.

3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established, as their own, said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five 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. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfers authorized in paragraph 1 hereof are consummated, certificates of public convenience and necessity are granted to Dean McGuire, doing business as McGuire & Sons Trucking,

and Applegate Drayage Company, a corporation, and Ringsby-Pacific Ltd., a corporation, authorizing them to operate as highway common carriers, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A, B, C, and D attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Decisions Nos. 60456 and 68029, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. Within thirty days after the transfers herein authorized are consummated, applicants shall file written acceptances of the certificates herein granted. Applicants are placed on notice that, if they accept the certificates of public convenience and necessity herein granted, they will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-F.

7. Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

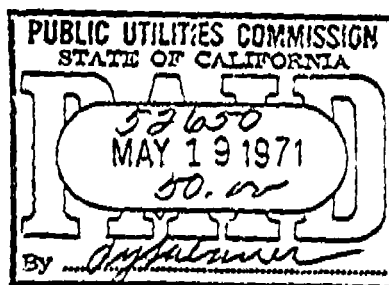
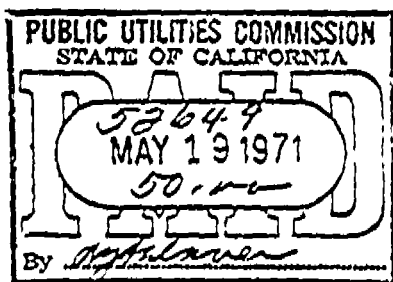
8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Applegate Drayage Company is authorized to execute evidence of indebtedness in the amount of \$8,000, and Dean McGuire is authorized to execute evidence of indebtedness in the amount of \$5,000.

The authority herein granted to issue notes will become effective when Applegate Drayage Company and Dean McGuire have each paid the fee prescribed by Section 1904 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 18th  
day of MAY 4, 1971.

J. P. Robinson  
Chairman  
William Symons, Jr.  
Frank  
Verna L. Sturgeon  
Commissioners



Applegate Drayage Company, a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

(A) Between all points and places on or within 10 miles of the following routes:

1. Interstate 80 between Sacramento and Roseville;
2. State Highway 65 between Roseville and Marysville;
3. State Highway 20 between Marysville and Yuba City;
4. State Highway 70 between Marysville and its intersection with U.S. Highway 395 (restricted against service to off route points west of State Highway 70 between Marysville and Oroville);
5. State Highway 89 at the point of intersection with State Highway 70 and Greenville and unnumbered highways diverging from State Highway 89 at Greenville and at or near Crescent Mills to Taylorsville, this being in the nature of a loop operation; returning over the same regular routes in the reverse direction;
6. Between the intersection of State Highway 70 and U.S. Highway 395 and Herlong via U.S. Highway 395; thence via unnumbered state or county road to Herlong and the Sierra Ordinance Depot.

Applicant may use any and all streets, highways and roads for operating convenience to perform the above service.

(B) Applicant shall transport no shipments of uncrated used household goods, personal effects and office, store and institution furniture, fixtures and equipment.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 78692, Application Nos. 52107 and 52146.

Dean McGuire, an individual, doing business as McGuire Trucking by the certificate of public convenience and necessity is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

A. Between all points on or within 10 miles of the following points:

1. U.S. Highway No. 99W and Interstate Route No. 5 between Sacramento and Redding;
2. State Highway No. 16 between Woodland and Sacramento;
3. U.S. Highway No. 40, Alternate (State Highway No. 113) between Davis and Yuba City;
4. State Highway No. 99 between Sacramento and Yuba City;
5. State Highway No. 99 from Yuba City to Red Bluff;
6. State Highway No. 32 between Orland and Chico;
7. Unnumbered county roads between Willows and Glenn;
8. Unnumbered county road between Hamilton City and Colusa;
9. Unnumbered county road between Codora and the point of intersection of said road with U.S. Highway No. 99E (State Highway No. 99);
10. State Highway No. 20 between Williams and Yuba City.

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(B) The authority described in paragraph A above shall be subject to the following restrictions:

1. Applicant shall be authorized to traverse State Highway No. 99 between Sacramento and Yuba City for operating convenience only. It shall not serve any intermediate points on said Highway between Sacramento and Yuba City.
2. Applicant shall not transport any shipments designated to the Cities of Yuba City and Marysville under this authority.
3. Applicant shall not serve any off route points within ten miles East of State Highway No. 99 between Yuba City and the point of intersection of said highway and a line extending directly East from Durham, California.

Applicant may use any appropriate route, for operating convenience only, in rendering the service authorized above.

- (C) Applicant shall transport no shipments of uncrated used household goods, personal effects and office, store and institution furniture, fixtures and equipment.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 78692, Application Nos. 52107 and 52146.

Ringsby-Pacific Ltd., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code as follows:

I. General Commodities excluding uncrated used household goods, personal effects and office, store and institution furniture, fixtures and equipment as follows:

- (A) Between all points and places within the area described as follows:

Beginning at the intersection of Sunset Boulevard and U.S. Highway No. 101, Alhambra; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to and including the City of Redlands; westerly along U.S. Highway No. 99 to U.S. Highway No. 395; southerly along U.S. Highway No. 395 to State Highway No. 18 to U.S. Highway No. 91; westerly along U.S. Highway No. 91

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to State Highway No. 55; southerly on State Highway No. 55 to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U.S. Highway No. 101, Alternate; thence northerly along an imaginary line to point of beginning.

(B) Between all points on or within 10 miles of the following routes:

1. U.S. Highways Nos. 101, 101 By-Pass and 101 Alternate between San Francisco and San Diego.
2. U.S. Highway No. 99 between Los Angeles and Sacramento.
3. U.S. Highway 40 between San Francisco and Auburn except, applicant shall serve no intermediate points of said highway between Sacramento and Roseville.
4. U.S. Highway No. 50 between Sacramento and Placerville.
5. State Highway No. 152 between Gilroy and Califa.
6. U.S. Highway No. 50; State Highway No. 17 and State Highway No. 120 between San Francisco and Manteca.
7. State Highway No. 33 between Tracy and Maricopa.
8. State Highway No. 166 between the intersection of said State Highway and U.S. Highway No. 99 and Maricopa.
9. State Highway No. 4 between the point of intersection with said State highway with U.S. Highway No. 40 and the point of intersection of said State highway and U.S. Highway No. 99 near Stockton.

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10. State Highway No. 12 between the point of intersection with said State highway with U.S. Highway No. 40 and the point of intersection of said State highway with U.S. Highway No. 99 near Lodi.
11. State Highway No. 24 between Sacramento and the point of intersection with said State highway with State highway No. 4 near Antioch.
12. State Highway No. 132 between Modesto and Vernalis.
13. State Highway No. 140 between Merced and Gustine.
14. Unnumbered County roads and State highways between Fresno and Famoso, via Sanger, Reedley, Dinuba, Orosi, Visalia, Exeter, Lindsay, Porterville and Famoso.
15. Unnumbered County roads and State highways between Tipton and Fresno, via Corcoran, Hanford, Lemoore, Riverdale and Fresno.
16. State Highway No. 180 between Mendota and Fresno.
17. State Highway No. 198 between Coalinga and the point of intersection of said State highway with U.S. Highway No. 99.
18. U.S. Highway No. 466 between Famoso and the point of intersection of said U.S. Highway with State Highway No. 33.
19. State Highway 178 between McKittrick and Bakersfield.
20. U.S. Highway No. 399 between Taft and Greenfield.

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- (C) Between the following points and places and between any of said points and places and the points and places described in all the preceding subparagraphs:

Alameda Naval Air Station  
Benicia Arsenal  
Camp Beale  
Camp Cook  
Camp Irwin  
Camp McQuaid  
Camp Pendleton  
Camp Roberts  
Camp San Luis Obispo  
Castle Air Force Base  
Shelly Air Force Base  
Edwards Air Force Base  
Fort Ord  
Naval Test Station - El Centro  
Hamilton Air Force Base  
Naval Installation at Long Beach, San Pedro  
and Wilmington  
March Air Force Base  
Mare Island  
Mather Air Force Base  
McClellan Air Force Base  
Marine Corps Base and Naval Installation -  
San Diego  
Naval Supply Annex - Stockton  
Naval Supply Depot - Oakland  
Norton Air Force Base  
Lemoore Naval Station  
Oakland Army Base  
Parks Air Force Base  
Port Chicago Naval Ammunition Dump  
Presidio - San Francisco  
Sacramento Signal Depot  
Sharp General Depot - Lathrop  
Sharp General Depot Annex - Lyoth  
Sierra Ordnance Depot  
Camp Stoneman  
Travis Air Force Base  
U.S. Marine Transit and Storage Depot near  
Barstow  
George Air Force Base

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Naval Test Station - Inyokern  
Air Force Station at Oxnard and Santa Rosa  
Cheli Air Force Base  
Naval Supply Depot - National City  
Mira Loma Quartermaster Department  
Point Mugu  
Port Hueneme

- (D) Through routes and rates may be established between any and all points specified in paragraph I, subparagraphs (A), (B) 1 through 29, and (C), and between any of those points, on the one hand, and San Francisco Territory as described in Appendix D, on the other hand.

Unless otherwise authorized in subparagraphs (B) and (C) above, applicant does not have the authority to render local service between points and places within said San Francisco Territory.

II. Fresh fruits or vegetables (not cold pack nor frozen) including mushrooms, and canned goods as described in Item No. 320 and 320.1 of Minimum Rate Tariff No. 2 between all points and places described in paragraph I hereof, on the one hand, and all points and places on and along the following routes, on the other hand:

- (1) State Highway No. 71 between Elsinore and Corona and within 25 miles of either side of said highway.
- (2) State Highway No. 150 between Carpinteria and Santa Paula and State Highway No. 126 between Santa Paula and Castaic Junction, and within 10 miles of either side of said highways.
- (3) U.S. Highway No. 40 between Auburn and Colfax.
- (4) Unnumbered County road between Davis and Winters.

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The authority granted in this paragraph is subject to the following restrictions:

- (a) The transportation of fresh fruits and vegetables originating or destined off the highways traversed and outside of incorporated communities shall be limited to shipments of not less than 10,000 pounds, or to shipments which shall carry a charge no lower than that applicable to shipments of not less than 10,000 pounds.
- (b) No shipment of fresh fruits or vegetables shall be transported which has both origin and destination along the routes or within the territory described in subparagraphs (1) and (2) hereof.

III. The authorities contained in paragraphs I and II hereof do not apply:

- (A) On fresh or green fruits, fresh or green vegetables or mushrooms when the point of destination of the shipment is a cannery, accumulation station, cold storage plant, pre-cooling plant, or winery, or
- (B) On fresh or green fruits, fresh or green vegetables or mushrooms when transported from the field or point of growth to a packing plant or a packing shed.

Exception: Except for the transportation of citrus fruits in field boxes or in bulk, or avocados, the provisions of paragraph (B) will not apply when the distance between point of origin and point of destination exceeds 50 constructive miles, or

- (C) On sugar beets when the point of destination of the shipment is a sugar beet factory or a railroad loading dump.

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IV. Ringsby-Pacific Ltd., a corporation, may use any appropriate route, for operating convenience only, in rendering service between any of the points it is herein authorized to serve.

(END OF APPENDIX C)

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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 one mile west of U. S. Highway 101; southerly along an imaginary line one 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 two miles southwest from Simla 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; southwesterly 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; 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; southwesterly 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.

(END OF APPENDIX D)