

MW

Decision No. 79005

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

W & H TRUCKING CO., INC., a  
corporation, WENDELL MARTIN,  
RAY JACKSON, LESTER GORDON,  
HENLEY MEDLOCK, FORREST CRAVEY,  
JERRY LOCASTRO, RAY BROWN  
and B. KIMBELL,

Complainants,

v.

GENERAL TEAMSTERS LOCAL 982,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, ASSOCIATED GENERAL  
CONTRACTORS OF CALIFORNIA, INC.,  
HUGHES AND LADD, INC., and  
PACIFIC WESTERN CONSTRUCTION, INC.

Defendants.

Case No. 9230

ORDER OF DISMISSAL

Complaint was filed on June 1, 1971 alleging jurisdiction of this Commission to resolve a dispute pertaining to the status of independent owner-operator dump truck carriers and whether or not certain work performed by complainants was as employees or permit carriers.

Motions to dismiss on behalf of various defendants were filed on June 9, 1971 and June 14, 1971 stating that this is a labor dispute over which the Commission has no jurisdiction, that the matter is now subject to arbitration under the National Labor Relations Act, and that the federal statutes have preempted the field. By letters of June 9, 1971 and June 21, 1971, complainants have reasserted the jurisdiction of this Commission to hear the matter.

On July 2, 1971, complainant addressed a letter to the Commission stating that the grievance procedures under the National Labor Relations Act were deadlocked, arbitration is pending, and that complainants proposed to file an action in the United States District Court. Complainants request that the Commission take no action on their complaint pending decision of the federal court.

While there is no doubt that we have the authority to temporarily suspend processing of this complaint the Commission sees no public interest or benefit in so doing. It would appear that a more efficient procedure would be to grant the motions to dismiss the complaint, without prejudice to the matter being brought before us at some future time when complainants are prepared to proceed.

For the reasons stated above, Defendants' Motions to Dismiss are granted without prejudice to the matter being brought before the Commission at some later date.

IT IS ORDERED that the complaint herein is dismissed without prejudice. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10<sup>th</sup> day of AUGUST, 1971.

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Chairman

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Commissioners