

ORIGINAL

Decision No. 79461

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

ROCK TRANSPORT, INC.,
a California corporation,to sell and transfer a certificate of
public convenience and necessity
authorizing the transportation of
cement toJAMES M. WHITTY dba J. M. WHITTY
TRUCKING,

and

STEVE J. GROVE dba STEVE GROVE
TRUCKING.Application No. 52938
(Filed October 20, 1971)O P I N I O N

Rock Transport, Inc. requests authority to sell and transfer, and James M. Whitty, doing business as J. M. Whitty Trucking, and Steve J. Grove, doing business as Steve Grove Trucking, request authority to purchase and acquire, portions of a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Decision No. 78996, dated August 10, 1971, in Application No. 52668 and authorizes the transportation of shipments of cement to and between points in the following counties: Alameda, Butte, Contra Costa, El Dorado, Mendocino, Placer, Plumas, Sacramento, Santa Clara, Shasta, Solano, Tuolumne and Yolo. Said certificate was suspended at the request of applicant seller by Decision No. 79130, dated September 8, 1971, in Application No. 52668. By agreements entered into on September 29, 1971, applicant seller has agreed to sell that portion of the

certificate authorizing operations in the Counties of Sacramento and Santa Clara to James M. Whitty and that portion of the certificate authorizing operations in the Counties of Contra Costa and Alameda to Steve J. Grove. Each agreement specifies a cash consideration of \$1,500.

James M. Whitty is presently operating as a cement carrier to and between points within the Counties of Alameda, Contra Costa, Fresno and Sonoma pursuant to Decision No. 75123 dated December 20, 1968, in Application No. 50675. He owns and operates four units of equipment and as of July 1, 1971, indicated a net worth in the amount of \$44,431.

Steve J. Grove is presently operating as a radial highway common carrier and as a dump truck carrier. He owns and operates eleven units of equipment and as of December 31, 1970, indicated a net worth in the amount of \$29,909.

After consideration the Commission finds that the proposed transfers would not be adverse to the public interest and concludes that they should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfers are consummated, the revocation of the certificates presently held by James M. Whitty, a revision of the certificate presently held by Rock Transport, Inc., and the issuance of certificates in appendix form to James M. Whitty and Steve J. Grove.

Applicants 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, these rights extend to the holder a full or partial monopoly of a class of business. 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 May 1, 1972, Rock Transport, Inc. may sell and transfer, and James M. Whitty and Steve J. Grove may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfers herein authorized, purchasers 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. James M. Whitty shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that he has adopted or established, as his own, said rates and rules. Steve J. Grove shall file tariffs with the Commission, naming rates and rules governing the common carrier operations herein to show that he has adopted or established as his own, said rates and rules. Rock Transport, Inc. shall amend its tariff presently on file with this Commission to reflect the authority herein granted. 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 dates of the tariff filings shall be concurrent with the consummation of the transfers 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. 117. Failure to comply with and observe the provisions of General Order No. 117 may result in a cancellation of the operating authorities granted by this decision.
4. The certificate of public convenience and necessity granted to Rock Transport, Inc. by Decision No. 78996 is amended as set forth in Appendix A, attached hereto and made a part hereof, effective concurrently with the tariff filings required to be filed by James M. Whitty and Steve J. Grove by paragraph 3 hereof. Said certificate shall remain in suspension as set forth in Decision No. 79130 and

Rock Transport, Inc. shall comply with all conditions of the suspension and with all requirements set forth in Decision No. 79130 before resuming operations.

5. In the event the transfers authorized in paragraph 1 hereof are consummated, certificates of public convenience and necessity are granted to James M. Whitty and Steve J. Grove, authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendices B and C attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted in paragraph 5 of this order to James M. Whitty shall supersede the certificates of public convenience and necessity granted by Decision No. 75128, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. 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 insurance requirements of the Commission's General Order No. 100-F.

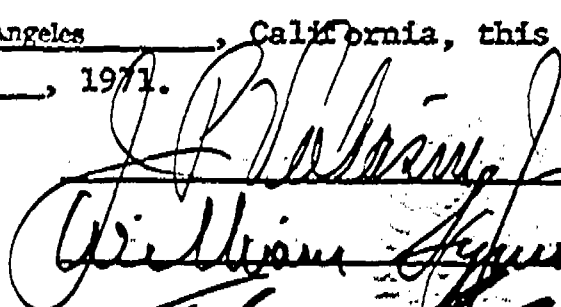
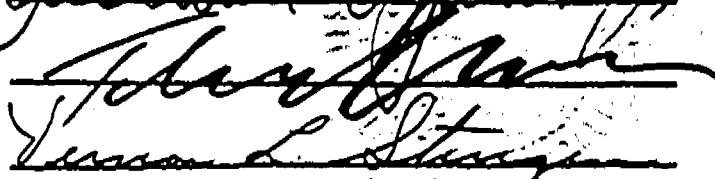

8. Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, annual reports of their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

9. 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, they shall make the appropriate tariff filings as required by the General Order.

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

Dated at Los Angeles, California, this 14th
day of DECEMBER, 1971.


Chairman


Commissioners

Rock Transport, Inc., by the certificate of public convenience and necessity granted by Decision No. 78996, as amended by the decision noted in the margin, is authorized to conduct operations as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places within the following counties, subject to the restrictions shown below:

Butte, El Dorado, Mendocino, Placer,
Plumas, Shasta, Solano, Tuolumne, Yolo.

RESTRICTION:

1. Whenever Rock Transport, Inc., engages other carriers for the transportation of property of the Rock Transport, Inc., or Redding Transit Mix, Inc., or customers or suppliers of said corporations, Rock Transport, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in the carrier's tariffs on file with this Commission.
2. This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Amended by Decision No. 79461, Application No. 52938.

James M. Whitty, dba J. M. Whitty Trucking, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places in the Counties of Alameda, Contra Costa, Fresno, Sacramento, Santa Clara and Sonoma, subject to the following restriction:

This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 79461, Application No. 52938.

Steve J. Grove, dba Steve Grove Trucking, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places in the Counties of Alameda and Contra Costa, subject to the following restriction:

This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(END OF APPENDIX C)

Issued by California Public Utilities Commission.

Decision No. 79461, Application No. 52938.