

ORIGINAL

Decision No. 79574

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 to RAYMOND E. SKAGGS,  
an individual.

Application No. 52940  
(Filed October 22, 1971)

O P I N I O N

By this application, Rock Transport, Inc. (Rock), a corporation, (transferor) seeks authority to sell and transfer, and Raymond E. Skaggs (Skaggs), an individual, (transferee) seeks authority to purchase and acquire, a portion of a certificate of public convenience and necessity authorizing operations as a cement carrier. There are no protests.

Transferor possesses a certificate of public convenience and necessity authorizing operations as a cement carrier from any and all points of origin to any and all points of destination within the Counties of Butte, El Dorado, Mendocino, Placer, Plumas, Shasta, Solano, Toulumne and Yolo. Said certificate was granted by Decision No. 78996 and amended by Decision No. 79461 in Application No. 52938. Said certificate is presently in suspension pursuant to Decision No. 79130 dated September 8, 1971.

The application states that on or about September 30, 1971, Rock and Skaggs entered into an agreement whereby Skaggs agreed to purchase a portion of Rock's certificate of public convenience and necessity to transport cement to the Counties of Butte, Placer, Shasta and El Dorado for the total purchase price of \$3,000.

Skaggs presently is conducting operations as a certificated cement carrier pursuant to Decision No. 76037, dated August 19, 1969, in Application No. 51207, authorizing transportation from any and all points of origin to all points and places within the Counties of Contra Costa, Sacramento, San Joaquin, Solano and Yolo.

A copy of transferee's balance sheet as of December 31, 1970 is attached to the application as attachment C. It discloses total assets of \$64,430.43 and total liabilities of \$33,969.74.

It is alleged that the reasons and justifications for the proposed transfer are as follows:

The certificate of public convenience and necessity presently held by Rock, including that portion proposed to be transferred hereunder was issued to Rock pursuant to the grandfather provision of Section 1063 of the Public Utilities Code immediately subsequent to the adoption of the terms and provisions of what is commonly referred to as the Cement Carriers Act, all as set forth in Section 1061 et seq. of the Code. Prior to the adoption of that Act and subsequent thereto, Rock has conducted substantial operations in and for the transportation of cement to and between various points within the State of California. Rock has determined that it would be in its best interest to cease and terminate the transportation of cement and to make available for sale the operating authority pursuant to which it had previously conducted operations. Subsequent to arm's length negotiations entered into by and between the parties hereto, it was determined that the proposed sale price for the operating authority was fair, just and equitable under the circumstances and that the sale would be in the best interests of the applicants and general public. It is further alleged that Skaggs has the financial ability, as well as the equipment necessary to conduct such operations and to provide expanded facilities where necessary. Skaggs is familiar with the transportation of cement and stands ready, willing and able to conduct and perpetuate the service heretofore provided the public by Rock.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and should be granted. A public hearing is not necessary.

Raymond E. Skaggs is 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. 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.

The authorization herein granted shall not be construed as a finding of value of the rights herein authorized to be transferred.

### O R D E R

IT IS ORDERED that:

1. On or before July 1, 1972, Rock Transport, Inc. may sell and transfer, and Raymond E. Skaggs may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, purchaser shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
3. Raymond E. Skaggs 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. 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. 117. Failure to comply with and observe the provisions of General Order No. 117 may result in a cancellation of the operating authority granted by this decision.

4. The certificate of public convenience and necessity granted to Rock Transport, Inc. by Decision No. 78996 and amended by Decision No. 79461, is further 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 Raymond E. Skaggs, 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 transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Raymond E. Skaggs, authorizing him to operate as a cement carrier as defined in Section 214.1 of the Public Utilities Code between the points particularly set forth in Appendix B, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 76037, which certificate is revoked effective concurrently with the effective date of the tariff filings required to be filed by paragraph 3 hereof.

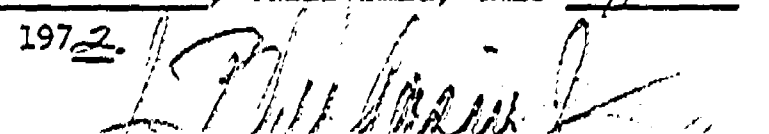
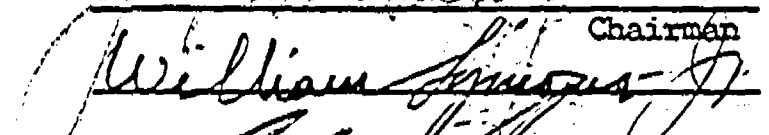
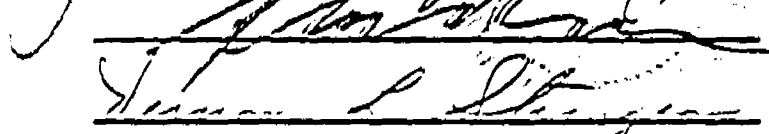
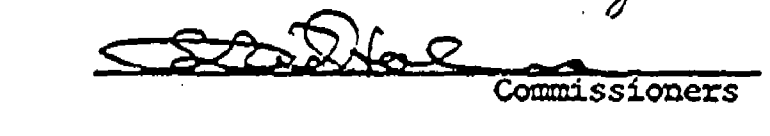
7. Within thirty days after the transfer herein authorized is consummated, Raymond E. Skaggs shall file a written acceptance of the certificate herein granted. Raymond E. Skaggs is placed on notice, that, if he accepts the certificate of public convenience and necessity herein granted, he will be required, 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. Raymond E. Skaggs shall maintain his 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, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Raymond E. Skaggs shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Raymond E. Skaggs elects not to transport collect on delivery shipments, he 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 San Francisco, California, this 11th day of JANUARY, 1972.

  
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Chairman  
  
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Commissioners

Rock Transport, Inc., by the certificate of public convenience and necessity granted by Decision No. 78996, as amended by Decision No. 79461, dated December 14, 1971, in Application No. 52938 and 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:

Mendocino, Plumas, Solano, Tuolumne and 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. 79574, Application No. 52940.

Raymond E. Skaggs, by the certificate of public convenience and necessity granted 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 any and all points in the counties of:

Butte, Contra Costa, El Dorado, Placer, Sacramento,  
San Joaquin, Shasta, Solano and Yolo.

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. 79574, Application No. 52940.