

Decision No. 80028**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PHYLLIS N. MAILAND, an individual,
 doing business as Engh Trucking, to
 transfer a cement carrier certifi-
 cate of public convenience and
 necessity, and SELECT MATERIALS,
 INC., a corporation, to transfer
 certain motor vehicle equipment,
 and DEWEY AND BOB'S MIXED CONCRETE,
 INC., a corporation, to acquire
 same.

Application No. 53230
 (Filed March 23, 1972)

O P I N I O N

Phyllis N. Mailand, doing business as Engh Trucking, requests authority to sell and transfer, and Dewey and Bob's Mixed Concrete, Inc., requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a cement carrier and certain operating equipment.

The operating authority is prescriptive in nature and as set forth in Resolution No. 13821, Sub. No. 30, dated June 23, 1964, in Application No. 46528, authorizes the transportation of cement from any and all points within the State to any and all points within the Counties of Los Angeles, San Bernardino and San Diego. The sale also includes one tractor and two trailers, which are owned by Select Materials, Inc. Phyllis N. Mailand is the sole stockholder of Select Materials, Inc. The agreed consideration is \$29,350.42. A value of \$600 is placed upon the certificate. According to the terms of the agreement, the purchase price is to be paid as follows: \$11,350.42 is to be paid by check and the balance of \$18,000 is to be secured by a promissory note payable in monthly installments of \$500 with interest on the unpaid balance at the rate of 2 percent over the prime rate charged by national banks.

As of December 31, 1971, applicant buyer indicated a net worth in the amount of \$75,775.

After consideration the Commission finds that the proposed transfer and sale would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Phyllis N. Mailand and the issuance of a certificate in appendix form to Dewey and Bob's Mixed Concrete, Inc.

Dewey and Bob's Mixed Concrete, Inc., 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. 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, 1972, Phyllis N. Mailand may sell and transfer, and Dewey and Bob's Mixed Concrete, Inc., may purchase and acquire, the operative rights and property 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. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its 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. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Dewey and Bob's Mixed Concrete, Inc., authorizing it to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendix A, 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 Resolution No. 13821, Sub. 30, dated June 23, 1964, in Application No. 46528, which resolution is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it 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-Series.

8. Purchaser shall maintain its 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 its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it 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 9th day of MAY, 1972.

[Signature]
Chairman
[Signature]
[Signature]
[Signature]
Commissioners

/nb

Appendix A DEWEY and BOB'S MIXED CONCRETE, INC. Original Page 1
(a corporation)

Dewey and Bob's Mixed Concrete, Inc., a corporation, 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 by Section 214.1 of the Public Utilities Code, from any and all points within the State to any and all points within the following Counties, subject to the restriction below:

Los Angeles, San Bernardino and San Diego

RESTRICTION:

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.

Decision No. 80028, Application No. 53230.