

ORIGINALDecision No. 80643

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates, charges and practices of
Valley Sand Corporation, a
California corporation.

Case No. 9390
(Filed June 13, 1972)

Robert C. Donovan, Attorney at Law, for
respondent.
Robert T. Baer, Attorney at Law, and
E. H. Hjelt, for the Commission staff.

O P I N I O N

This investigation was instituted on June 13, 1972 to determine whether Valley Sand Corporation has violated the provisions of Section 3575 of the Public Utilities Code by employing subhaulers without having a bond on file to secure the payment of subhauler claims.

A public hearing was held before Examiner Fraser on June 29, 1972, at San Francisco.

Respondent holds a radial highway common carrier permit issued August 23, 1967 and a dump truck carrier permit issued January 7, 1970. Respondent has one driver and two office employees; it has no terminal, but operates two tractors and sixteen sets of trailers. The gross revenue for 1971 was \$578,916.

A staff representative testified that respondent's subhaul bond was cancelled on July 9, 1970 and has never been reinstated. The record shows that respondent has previously been cited for engaging subhaulers from January 29, 1971 through February 26, 1971 (Exhibit No. 3) and from August 2 through August 31, 1971 (Exhibit No. 4). Neither citation was contested and respondent paid fines of \$250 and \$500 as directed. Exhibit No. 1 was placed in evidence

by a staff witness. It reveals that respondent was still employing subhaulers in February of 1972, without the required bond on file.

The president of the respondent corporation testified that all of the staff allegations were true and that respondent was still engaging subhaulers through June 13, 1972. He advised that all subhaulers were paid promptly and that no money was owed as of the date of hearing. He further testified that he has been in the trucking business since 1947, formerly with two partners. The partnership was dissolved in 1970 and respondent has since been unable to obtain a subhauler bond due to not having sufficient assets to pledge as security for the bond.

Staff counsel recommended that respondent's operating authority be revoked or that a fine of \$4,000 be imposed. Counsel for respondent argued that the alleged violations were a mere technicality since all subhaulers employed by the respondent were promptly paid in full. Respondent tried to obtain a bond by August 10, 1972, without success.

Findings

1. Respondent holds permits as a radial highway common carrier and as a dump truck carrier.
2. Respondent has employed subhaulers during 1971 and from January through June 12, 1972, without having a subhauler bond on file with the Commission.
3. Respondent has insufficient assets to qualify for the issuance of the subhauler bond required by law, although respondent has been operating exclusively through subhaulers.


Based upon the findings herein, the Commission concludes that respondent's permits should be revoked.

O R D E R

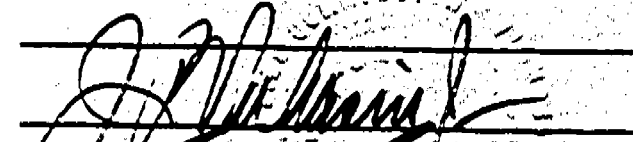
IT IS ORDERED that the radial highway common carrier permit and the dump truck carrier permit issued to Valley Sand Corporation are hereby revoked.


The Secretary of the Commission is directed to cause service of this order to be made upon the respondent corporation. This order shall be effective twenty days after the completion of service on the respondent corporation.

Dated at San Francisco, California, this 25th day of OCTOBER, 1972.



President





Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.