

Decision No. 80733**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ENTERPRISE MATERIALS CORPORATION, a  
corporation, to acquire, and LOUIS R.  
GOMEZ, JR., an individual, to transfer  
a Cement Carrier Certificate of Public  
Convenience and Necessity, pursuant to  
Sections 351-354 of the California  
Public Utilities Code.

Application No. 53539  
(Filed August 21, 1972)

### O P I N I O N

Louis R. Gomez, Jr., who operates as a cement carrier by virtue of a cement carrier certificate of public convenience and necessity as set forth in Decision No. 76381 in Application No. 51297 requests authority to sell and transfer, and Enterprise Materials Corporation, presently in the business of guniting swimming pools, requests authority to purchase and acquire the cement carrier certificate.

There are no protests to the application.

On or about August 11, 1972 Louis R. Gomez, Jr. and Enterprise Materials Corporation entered into a written agreement embodying the terms and conditions of the proposed sale.

The total purchase price is \$5,100. Seller's balance sheet as of March 31, 1972 shows total assets of \$54,017, and an income statement as of March 31, 1972 shows a net income of \$2,712. Enterprise Materials Corporation's statement of condition lists total assets of \$8,250.

Enterprise Materials Corporation plans to operate one tractor and pneumatic trailers.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. 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 as a cement carrier held by Louis R. Gomez, Jr. and the issuance of a certificate in appendix form to Enterprise Materials Corporation.

Enterprise Materials Corporation 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.

O R D E R

IT IS ORDERED that:

1. On or before January 1, 1973, Louis R. Gomez, Jr., may sell and transfer, and Enterprise Materials Corporation, 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. 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 ten days after the effective date of this order on not less than ten 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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity as a cement carrier is granted to Enterprise Materials Corporation, authorizing it 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 A attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 76381, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. 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.

7. 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.

8. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Whenever Enterprise Materials Corporation engages other carriers for the transportation of property of Donald G. Nourse, and/or Enterprise Gumite Corporation and/or Enterprise Materials Corporation, or customers or suppliers of said individual or corporations, Enterprise Materials Corporation shall not pay such other carriers rates and charges less than the rates and charges published in Enterprise Materials Corporation's tariffs on file with this Commission.

The effective date of this order is the date hereof.

. Dated at San Francisco, California, this 14th  
day of NOVEMBER, 1972.

Vernon L. Shugart  
President  
William J. Shugart  
William J. Shugart  
William J. Shugart  
William J. Shugart  
Commissioners

Enterprise Materials Corporation, a corporation, 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 and within the counties of Los Angeles, San Luis Obispo, Santa Barbara and Ventura subject to the following:

Restrictions:

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

Whenever Enterprise Materials Corporation engages other carriers for the transportation of property of Donald G. Nourse, and/or Enterprise Gunite Corporation and/or Enterprise Materials Corporation, or customers or suppliers of said individual or corporations, Enterprise Materials Corporation, shall not pay such other carriers rates and charges less than the rates and charges published in Enterprise Materials Corporation's tariffs on file with this Commission.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 80733, Application No. 53539.