

**ORIGINAL**Decision No. 81868

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of DALLAS H. BLACK to sell and )  
 transfer his certificate of pub- )  
 lic convenience and necessity as )  
 a cement carrier authorizing )  
 transportation to and within the )  
 counties of Fresno and Kings, )  
 together with the business, )  
 assets, goodwill, and equipment )  
 pertaining thereto, to WARREN )  
 DALE CYPERT, doing business as )  
 Dale Cypert Trucking. )

Application No. 54160  
 (Filed July 9, 1973)

O P I N I O N

Dallas H. Black, an individual doing business as Dallas Black Trucking, requests authority to sell and transfer, and Warren Dale Cypert, an individual doing business as Dale Cypert Trucking, requests authority to purchase and acquire the certificate of public convenience and necessity as a cement carrier, as well as certain motor vehicles and other assets. Applicant purchaser also requests authority to execute a promissory note in the amount of \$25,000.

The certificate was granted by Commission Resolution No. 13821 dated June 23, 1964 authorizing the transportation of cement products to and within Fresno and Kings Counties.

The transfer includes four pieces of equipment as well as goodwill. The agreed consideration is \$25,000 to be paid at the rate of \$2,500, or more, per year until paid in full. Payments are due and payable on December 31, commencing December 31, 1973 with interest on the unpaid principal at the rate of 3 percent per annum.

It is alleged that the seller has been in ill health for approximately two years and has been unable to devote the necessary time to the transportation business.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Dallas H. Black and the issuance of a certificate in appendix form to Warren Dale Cypert.

The proposed security issue is for proper purposes.

The money, property, or labor to be procured or paid for by the issue of the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Warren Dale Cypert is 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 December 31, 1973, Dallas H. Black may sell and transfer the operative rights and property referred to in the application to Warren Dale Cypert.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that he has adopted or established, as his own, the 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 transfer. 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-Series. Failure to comply with the provisions of General Order No. 117 Series 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 transfer, the 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 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Warren Dale Cypert, authorizing him 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 by Commission Resolution No. 13821 dated June 23, 1964 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order No. 100-Series.

8. Purchaser 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. 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, he shall make the appropriate tariff filings as required by the General Order.

10. On or after the effective date hereof and on or before December 31, 1973, for the purposes specified in this matter, purchaser may issue a note in the principal amount of not exceeding \$25,000, and may execute and deliver an encumbering document, which documents shall be in substantially the same form as those attached to the application.

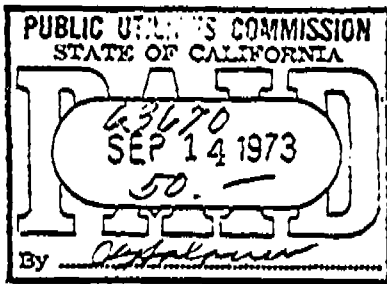
The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

The authority granted by this order to issue an evidence of indebtedness and to execute and deliver an encumbering document will become effective when the issuer has paid the fee prescribed

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by Section 1904(b) of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day of SEPTEMBER, 1973.



President  
William J. Quapp  
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Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

/nb

Appendix A

WARREN DALE CYPERT  
(an individual)  
dba Dale Cypert Trucking

Original Page 1

Warren Dale Cypert, 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 any and all points in the Counties of Fresno and Kings.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

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