

Decision No. 83464**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CHARLES DE SALVO,
FRANK DE SALVO, SR., and FRANK T.
DE SALVO, JR., owners of all of
the issued and outstanding capital
stock of P & K MATERIALS, INC., to
sell, and of THE FLINTKOTE COMPANY
to purchase, the aforesaid capital
stock of P & K MATERIALS, INC.

Application No. 55064
(Filed July 26, 1974)

O P I N I O N

P & K Materials, Inc., (P & K) obtained authority from this Commission as a cement carrier pursuant to California PUC Resolution No. 13823 dated June 23, 1964 which provides for operation in Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties (Resolution No. 13823, Sub. No. 11, Application No. 46420, File No. T-74,038). P & K operated under this authority from the date of acquisition to April 15, 1972, when Charles De Salvo, Frank De Salvo, Sr., and Frank T. De Salvo, Jr., who owned all the issued and capital stock of P & K, sold the stock to Flintkote for \$125,000. While negotiations were in progress and prior to the sale of stock, Section 854 was added to the Public Utilities Code. It requires that authorization be obtained from the Commission before acquiring control of a public utility. It is alleged that the parties were not aware of Section 854 and had no knowledge of its requirements. It is requested that the Commission approve the sale by the shareholders of the common capital stock of P & K and the purchase of said stock by Flintkote on April 15, 1972.

Flintkote is a nationwide operator in construction and highway building and also builds treatment facilities for water and waste. Flintkote's 1972 Annual Report shows \$441 million in sales for

the year, with earnings of \$16.7 million. It is a Massachusetts corporation authorized to do business in California, with its principal local office in Los Angeles.

Findings

1. Flintkote's purchase of all stock issued by P & K on April 15, 1972 is not adverse to the public interest.
2. Applicants transferred ownership of the stock of P & K in good faith, without realizing that prior authorization had to be obtained from this Commission.
3. The transfer of control to Flintkote should be approved.
4. A public hearing is not necessary.

We conclude that the application should be granted. The action taken herein shall not be construed as a finding of value of the capital stock of P & K.

O R D E R

IT IS ORDERED that the Flintkote Company may purchase the stock of P & K Materials, Inc. and may control P & K Materials, Inc.

IT IS FURTHER ORDERED that the alter-ego restriction contained in Resolution No. 13823, insofar as it pertains to P & K Materials, Inc., is hereby amended to read as follows:

"Whenever the carrier engages other carriers for the transportation of property of The Flintkote Company or customers or suppliers of said corporation, carrier shall not pay such carriers less than 100% of the applicable filed tariff rates for transportation actually performed by such other carriers."

The effective date of this order is the date hereof.

Dated at Los Angeles, California, this 17th
day of SEPTEMBER, 1974.

Thomas L. Stearns
President
William J. Stearns
William J. Stearns
William J. Stearns
William J. Stearns
Commissioners