

Decision No. 83727**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GROVE GUNITE CORPORATION, a corporation, to acquire, and VERDUGO TRUCKING, INC., a corporation, to transfer a portion of a Cement Carrier Certificate of Public Convenience and Necessity, pursuant to Sections 851-854 of the California Public Utilities Code.

Application No. 55188
(Filed September 18, 1974)

In the Matter of the Application of ENTERPRISE MATERIALS CORPORATION, a corporation, to acquire, and VERDUGO TRUCKING, INC., a corporation, to transfer a portion of a Cement Carrier Certificate of Public Convenience and Necessity, pursuant to Sections 851-854 of the California Public Utilities Code.

Application No. 55189
(Filed September 18, 1974)

O P I N I O N

Verdugo Trucking Co., Inc. requests authority to sell and transfer, and Enterprise Materials Corporation and Grove Gunite Corporation request authority to purchase and acquire, portions of a certificate of public convenience and necessity authorizing operations as a cement carrier.

The certificate was granted by Resolution No. 13827, Sub. 15, dated June 23, 1964 in File No. T-74,578 and authorizes the transportation of cement to and between points within the counties of Orange, San Diego, Kern, San Bernardino, Inyo, Santa Barbara, Ventura, and Los Angeles. Applicant seller proposes to transfer that portion of the certificate authorizing operations within the counties of Santa Barbara, Ventura, and Los Angeles to Grove Gunite Corporation for a cash consideration of \$5,000, and the remaining portion of the certificate

to Enterprise Materials Corporation for a cash consideration of \$4,000. Applicant Enterprise Materials Corporation is presently engaged as a cement carrier and as of June 30, 1974 indicated a net worth in the amount of \$17,354. Applicant Grove Gunit Corporation is presently engaged in the guniting of swimming pools and as of May 31, 1974 indicated a net worth in the amount of \$172,577.

After consideration the Commission finds that the proposed transfers would not be adverse to the public interest and concludes that they should be authorized. We further find with reasonable certainty that the project involved in these proceedings 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 transfers are completed, the revocation of the certificates presently held by Verdugo Trucking Co., Inc. and Enterprise Materials Corporation and the issuance of certificates in appendix form to Grove Gunit Corporation and Enterprise Materials Corporation.

The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

Purchasers are 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 holders 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 April 1, 1975, Verdugo Trucking Co., Inc. may sell and transfer the operative rights referred to in the application to Grove Gunit Corporation and Enterprise Materials Corporation.

2. Within thirty days after the transfer purchasers shall file with the Commission written acceptances of the certificates and the purchasers shall file with the Commission true copies of the bill of sale or other instrument of transfer.

3. Purchasers shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the authority granted by this decision to show that they have adopted or established, as their 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 shall comply with the Commission's General Order No. 117-Series. Failure to comply with the provisions of the General Order No. 117-Series may result in cancellation of the operating authority granted by this decision.

4. In the event the transfers authorized in paragraph 1 are completed, effective concurrently with the effective dates of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Grove Gunit Corporation and Enterprise Materials Corporation, authorizing them to operate as cement carriers, as defined in Section 214.1 of the Public Utilities Code, between the points set forth in Appendices A and B, respectively, attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decision No. 80733 in Application No. 53539 and Resolution No. 13827, Sub. 15, in File T-74,578 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchasers are placed on notice that if they accept the certificates they will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. Purchasers shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Purchasers shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchasers elect not to transport collect on delivery shipments, they 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 19th day of NOVEMBER, 1974.

William L. Benson President
[Signature]
[Signature]
Robert E. McElvaine Commissioners

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

Grove Gunitite 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, 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 Grove Gunitite Corporation engages other carriers for the transportation of property of Grove Gunitite Corporation, or customers or suppliers of said corporation, Grove Gunitite Corporation shall not pay such other carriers rates and charges less than the rates and charges published in Grove Gunitite Corporation's tariffs on file with this Commission.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 83727, Applications Nos. 55188 & 55189.

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 Inyo, Kern, Los Angeles, Orange, San Bernardino, San Diego, 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 B)

Issued by California Public Utilities Commission.

Decision No. 83727, Applications Nos. 55138 & 55189.