

**ORIGINAL**Decision No. 84967

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)  
 of NAVAJO FREIGHT LINES, INC., a)  
 New Mexico corporation to )  
 acquire a portion of the Certif- )  
 icate of Public Convenience and )  
 Necessity of DIRECT MOTOR )  
 TRANSPORT, INC., a California )  
 corporation, and transfer same )  
 pursuant to Section 851, et )  
 seq., of the California Public )  
 Utilities Code. )

Application No. 55831  
 (Filed July 25, 1975  
 Amended August 11, 1975)

O P I N I O N

Direct Motor Transport, Inc., a California corporation, (seller) requests authority to sell and transfer, and Navajo Freight Lines, Inc., a New Mexico corporation, (purchaser) requests authority to purchase and acquire a portion of a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 60574, dated August 16, 1960, as amended by Decision No. 63090, dated January 9, 1962, both in Application No. 42101. Thereafter, the certificate was transferred to seller's predecessor by Decision No. 72728, dated July 11, 1967 in Application No. 49413, transferred to seller by Decision No. 73900 dated March 26, 1968, in Application No. 50059 and again amended by Decision No. 74082, dated May 7, 1968, in Application No. 48547. The certificate is registered with the Interstate Commerce Commission in Docket No. MC-120678, Sub. No. 1.

The certificate, as amended, authorizes transportation of general commodities, with the usual exclusions between points within the Los Angeles Basin Territory and between points in such territory, on the one hand, and places south thereof and within 15 miles of U.S. Highways 101 (Interstate Highway 5) and 101-A to the California-Mexican border, on the other hand. The applicants propose the sale and transfer of that portion of the certificate authorizing operations between points in the Los Angeles Basin Territory, on the one hand and, Oceanside and San Diego, on the other hand. The proposed transfer, insofar as the interstate Certificate of Registration is concerned was approved by the Interstate Commerce Commission, pursuant to Section 5 of the Interstate Commerce Act, in Docket No. MC-F-11889, and reissued to purchaser as Certificate No. MC-76032 (Sub. No. 298.)

Applicant purchaser presently holds the following certificates of public convenience and necessity authorizing operations as a highway common carrier.

1. Transportation of freight between Stockton and Manteca with no service to intermediate points, issued by Decision No. 9895, dated December 20, 1921, in Application No. 6264, transferred several times, amended, and acquired by purchaser pursuant to Decision No. 54053, dated November 5, 1956, in Application No. 38452, as amended by Decision No. 74082, dated May 7, 1968, in Application No. 48547.
2. Transportation of general commodities, with the usual exclusions between points in the San Francisco-East Bay Cartage Zone and between points in such zone, on the one hand, and points on U.S. Highway 101 between Belmont and San Jose, inclusive, on the other hand. Such authority issued by Decision No. 58787, dated July 2, 1959, in Application No. 35554, amended by Decision No. 74082, dated May 7, 1968, in Application No. 48547 and acquired by purchaser pursuant to Decision

No. 75377, dated March 4, 1969, in Application  
No. 50805.

3. Transportation of general commodities, with the usual exclusions between points in the San Francisco Territory and between points on various routes in the general area east of the San Francisco Bay Area and points within 25 miles laterally of such routes. The authority was issued by Decision No. 61441, dated February 7, 1961, in Application No. 42722, and acquired by seller pursuant to Decision No. 75688, dated May 20, 1969, in Application No. 50978, as amended by Decision No. 77869, dated October 27, 1970, in Application No. 50978.

Consideration for the sale of the operating authority is the sum of \$35,000 of which \$10,000 was paid upon execution of the Purchase and Sale Agreement and the balance of \$25,000 in cash is to be paid on consummation of the transaction.

Seller is a party to all Western Motor Tariff Bureau, Inc., Agent, Tariff publications as are necessary for publication of rates to cover its operating rights, both as to intrastate and interstate and foreign commerce operations. Purchaser proposes to adopt those tariffs to the extent that they cover the operating right to be transferred.

The consolidated balance sheet of purchaser and its subsidiaries as of December 31, 1974 shows total assets of \$69,690,650, total liabilities of \$54,040,253 and indicates net worth of \$15,650,397. A copy of the application has allegedly been sent to the California Trucking Association and notice of the filing of the application and its amendment appeared in the Commission's Daily Calendars of July 30, 1975 and August 13, 1975, respectively.

The applicants request relief from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure which requires wide dissemination of the application. The relief is

requested on the basis of Rule 87 which permits deviation from the rules in order to secure just, speedy and inexpensive determination of the issues presented. In support thereof, the applicants allege that the transactions will have no adverse effect on the shipping public or any other carriers. No protests to the application have been received.

After consideration, the Commission finds:

1. The requested deviation from its Rules of Practice and Procedure should be authorized;
2. The proposed transfer would not be adverse to the public interest.

The Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. The operating rights will be restated in new certificates. The new certificates issued to the applicants will not broaden or change the interstate or foreign commerce rights held by the carriers. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by Direct Motor Transport, Inc., and Navajo Freight Lines, Inc., and the issuance of in lieu certificates in appendix form to Direct Motor Transport, Inc., and Navajo Freight Lines, Inc.

Applicants 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 holder a full or partial monopoly of a class of business. This monopoly feature may be modified or cancelled at any time by the State, which is not in any respect limited as to the number of rights which

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

O R D E R

IT IS ORDERED that:

1. On or before March 1, 1976, Direct Motor Transport, Inc., a corporation, may sell and transfer the operating rights referred to in the application, as amended, to Navajo Freight Lines, Inc., a corporation.
2. Within thirty days after the transfer, applicants shall file with the Commission written acceptance of the certificates and the purchaser shall file with the Commission a true copy of the bill of sale or other instrument of transfer.
3. Applicants 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 filing 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 filings of tariffs set forth in the Commission's General Order No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.
4. 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, certificates of

public convenience and necessity are granted to Navajo Freight Lines, Inc., and Direct Motor Transport, Inc., authorizing them to operate as highway common carriers as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in the Appendices attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decision No. 60574, as amended, Decision No. 9895, as amended, Decision No. 53787, as amended, and Decision No. 61441, as amended, are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.


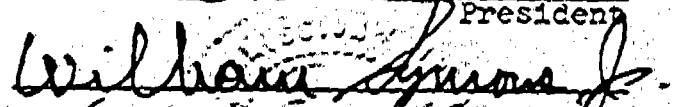
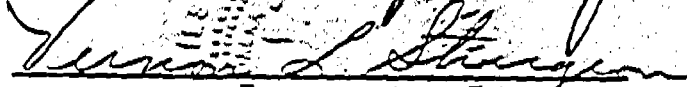

7. Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

9. The applicants are granted a deviation from Rule 37 of the Commission's Rules of Practice and Procedure to the extent requested.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 7<sup>th</sup> day of October, 1975.

  
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President  
  
\_\_\_\_\_  
William L. Harrison  
  
\_\_\_\_\_  
Leonard Ross  
  
\_\_\_\_\_  
Commissioners

Navajo Freight Lines, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities, subject to the restrictions noted:

1. (a) Between all points and places in the San Francisco-East Bay Cartage Zone as described in Note A hereto.  
(b) Between points in the San Francisco-East Bay Cartage Zone, on the one hand, and points on U.S. Highway No. 101 between Belmont and San Jose, both inclusive, on the other hand.
2. Between all points and places in the San Francisco Territory as described in Note B hereto.
3. Between all points and places on and within 25 miles laterally of the following highways:
  - a. Interstate Highway 580, U.S. Highway 205 and Interstate Highway 5 between Hayward and Stockton, inclusive.
  - b. Interstate Highway 80 between Richmond and Sacramento, inclusive.
  - c. State Highway 12 between its junction with Interstate Highway 80 near Fairfield and Lodi, inclusive.
  - d. State Highway 24, State Highway 4 and State Highway 160 between Oakland and Sacramento, inclusive.
  - e. State Highway 4 between its junction with Interstate Highway 80 near Pinole and Stockton, inclusive.

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- f. State Highway 99 between Fresno and Sacramento, inclusive.
- g. State Highway 120 between its junction with Interstate Highway 5 near Lathrop and Oakdale, inclusive.
- h. State Highway 33 and Interstate Highway 5 between the junction of Interstate Highway 5 and Interstate Highway 205 near Tracy and Mendota, inclusive.
- i. State Highway 130 between Mendota and Fresno, inclusive.
- j. State Highway 152 between Los Banos and Califa, inclusive.
- k. State Highway 140 between Gustine and Merced, inclusive.
- 4. Through routes and rates may be established between any and all points described in paragraphs 2 and 3, a through k, above.
- 5. Carrier may use any and all highways and roads between the areas described for operating convenience only.
- 6. Between Stockton, on the one hand, and Manteca, on the other hand, using any and all highways and roads between such points.
- 7. Between all points and places in the Los Angeles Basin Territory, as described in Note C hereto, on the one hand, and San Diego and Oceanside, on the other hand, via Interstate Highway 5.

Restriction: To the extent of any duplication of the operative rights authorized herein, such operative rights may not be separated to permit Navajo Freight Lines, Inc., to sell or transfer one portion of this certificate authority and retain another portion of this certificate authority to perform the same service.

Applicant shall not transport any shipments of:

- 1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff No. 4-B.

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2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination or such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transfer.
8. Logs.
9. Commodities requiring special equipment and handling because of unusual size, weight, or shape.
10. Articles of extraordinary value as set forth in Rule No. 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
11. Trailers coaches and campers, including integral parts and contents where the contents are within the trailer coach or camper.

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## Note A

## SAN FRANCISCO-EAST BAY CARTAGE ZONE

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary: Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to

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San Pablo Avenue (State Highway 123) to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

## Note B

## SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to

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Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

Note C

#### LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State

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Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

(END OF APPENDIX A)

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Direct Motor Transport, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities:

1. Between all points and places in the Los Angeles Basin Territory, as described in Note A hereto.
2. Between points and places in the Los Angeles Basin Territory, on the one hand, and points and places south thereof, except Oceanside and San Diego, on and within 15 miles of Interstate Highway 5 to the California-Mexican border, on the other hand.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff No. 4-B.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.

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5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Commodities requiring special equipment and handling because of unusual size, weight, or shape.
10. Articles of extraordinary value as set forth in Rule No. 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
11. Trailer coaches and campers, including integral parts and contents where the contents are within the trailer coach or camper.

## Note A

## LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 113, approximately two miles west of Chatsworth; easterly along State Highway 113 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to MacLay Avenue; northeasterly along MacLay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and

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San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

(END OF APPENDIX B)

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