

ORIGINAL

Decision No. 86236

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of JAMES WILLIAM LIVESAY, an in-)
dividual, doing business under)
the fictitious name of GOLDEN BAY)
FREIGHT LINES, to transfer a cer-)
tificate of public convenience)
and necessity to GOLDEN BAY)
FREIGHT LINES, a California)
limited partnership, and of)
GOLDEN BAY FREIGHT LINES, a)
California limited partnership,)
to acquire such certificate of)
public convenience and necessity.)

Application No. 56488
(Filed May 18, 1976)

O P I N I O N

James William Livesay, an individual, doing business as Golden Bay Freight Lines (transferor), requests authority to transfer, and James William Livesay and Daniel George Hoxter, doing business as Golden Bay Freight Lines, a California limited partnership (transferees), request authority to acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier.

Said certificate was granted by Decision 60839 dated October 4, 1960, as amended by Decision 74082 dated May 7, 1968, and was acquired by the transferor pursuant to Decision 78541 dated April 13, 1971 in Application 52469. It was registered with the Interstate Commerce Commission and a Certificate of Registration issued thereon in Docket MC-120708 (Sub No. 1) dated March 6, 1964. The certificate authorizes the transportation of general commodities with the usual exceptions over certain highways in San Francisco Territory and between said territory and Saratoga and Los Gatos. Transferor also operates pursuant to permits issued by this Commission which are subject to a separate transfer application.

Transferor is transferring his business from a sole proprietorship to a limited partnership in order to obtain additional financing. In furtherance thereof, he has entered into an agreement with Daniel George Hoxter, his former employee. Transferor has agreed to contribute all of his assets and liabilities totaling \$45,880.00 presently being utilized in the proprietorship to the newly formed limited partnership as a general partner. Daniel George Hoxter, in the capacity of a limited partner, will contribute the sum of \$30,000.00 to the partnership in conformance with the Limited Partnership Agreement filed as Exhibit A to the application. It is alleged that the proposed transfer will continue and perpetuate the transferor's service as previously conducted and there will be no adverse competitive effect upon existing carriers from the transaction. Transferor is a party to Pacific Motor Tariff Bureau tariff publications which the transferees propose to adopt. Notice of the application was made in the Commission's Daily Calendar of May 20, 1976. No protests have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be granted. 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 James William Livesay and the issuance of a certificate in appendix form to James William Livesay, general partner, and Daniel George Hoxter, limited partner, doing business as Golden Bay Freight Lines, a California limited partnership.

Transferees 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 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.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1976 James William Livesay, an individual, may transfer the operative rights referred to in the application to James William Livesay, a general partner, and Daniel George Hoxter, a limited partner, doing business as Golden Bay Freight Lines, a California limited partnership.
2. Within thirty days after the transfer, the transferees 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. Transferees shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred 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 the 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 80-Series. Failure to comply with the provisions of General Order 80-Series may result in 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, a certificate of public convenience and necessity is granted to James William Livesay, a general partner, and Daniel George Hoxter, a limited partner, doing business as Golden Bay Freight Lines, a California limited partnership, authorizing them to operate as a highway common carrier as

defined in Section 213 of the Public Utilities Code between the points set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 60839 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferees shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

7. Transferees 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 April 30 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. Transferees shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If transferees 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 10th day of August, 1976.

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Robert Batimovich, being necessarily absent, did not participate in the disposition of this proceeding.

President
William J. Aguirre

Terrence L. Sturgeon

Alton

Commissioners

James William Livesay, a general partner, and Daniel George Hoxter, a limited partner, doing business as GOLDEN BAY FREIGHT LINES (a California limited partnership)

Golden Bay Freight Lines, a California limited partnership, 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 between all points on or within five statute miles of the following routes:

1. U.S. Highway 101 and State Highway 82 between San Francisco and San Jose, both inclusive.
2. State Highway 17 between Richmond and Los Gatos, both inclusive.
3. Interstate Highway 580, State Highway 238, Interstate Highway 680, State Highway 237 and State Highway 85 between Oakland and Saratoga, both inclusive.

Applicant may serve between any two points named in this appendix whether named in one or more than one of the three numbered paragraphs above.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

Except that pursuant to the authority herein granted carrier shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).

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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.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. 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.
5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

(END OF APPENDIX A)

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