

Decision No. _____

86726

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of JACK ARMAS and JEAN ARMAS, a)
co-partnership doing business as)
MARIPOSA EXPRESS, for authority to)
sell and transfer operating rights)
and equipment to MARIPOSA EXPRESS,)
INC., a California corporation and)
for the latter to issue 600 shares)
of its \$100.00 par value capital)
stock and assume certain)
liabilities.)

Application No. 56805
(Filed October 13, 1976)

O P I N I O N

Jack Armas and Jean Armas, a co-partnership, doing business as Mariposa Express (transferor) request authority to transfer and Mariposa Express, Inc., a California corporation, (transferee) requests authority to acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier, to issue capital stock and to assume certain indebtedness.

The certificate was granted by Decision 79401, dated November 23, 1971, in Application 52893 and authorizes transportation of general commodities within an area adjacent to and encompassing Yosemite National Park. A portion of the certificate is subject to a Certificate of Registration issued by the Interstate Commerce Commission in Docket MC-96793 (Sub-No. 1). Transferor also operates under highway carrier permits which are the subject of a separate transfer application and also under a certificate of public convenience and necessity issued by the Interstate Commerce Commission.

All of these operating rights will be transferred to the transferee. The co-partners will be the sole shareholders in the transferee corporation. They desire to reorganize their business so as to operate as a corporation rather than as a partnership.

The corporation proposes to issue 600 shares of \$100 par value common stock to the partners as joint tenants to represent their net worth interest of \$60,000 to be transferred to the corporation. The corporation's pro forma balance sheet of September 1, 1976 indicates the "Hauling Rights" which includes all the aforementioned operating rights valued at \$5,000. The liabilities to be assumed by the corporation include, among others, equipment obligations of \$3,866.38 due after one year.

Transferors are party to Pacific Coast Tariff Bureau, Inc., Agent, tariff publications as are necessary for publication of rates to cover the operations under the certificate to be transferred. Transferee will be required to adopt the tariffs. Applicants have requested a deviation from the Commission's Rules of Practice and Procedure which require wide distribution of the application. Notice of the application was listed in the Commission's Daily Calendar on October 14, 1976. No protests to the application have been received.

After consideration, the Commission finds:

1. The proposed transfer of the intrastate certificate and encumbrance of such operating rights would not be adverse to the California public interest.
2. The proposed stock issue would be for a proper purpose.
3. The money, property or labor to be procured or paid for by the stock herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
4. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.
5. The assumption of debt by transferee as proposed in the application should be authorized.
6. Control of Mariposa Express, Inc., as requested in the application should be authorized.

The Commission concludes that the application should be granted as set forth in the ensuing order. 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 held by Jack Armas and Jean Armas, co-partners and the issuance of a certificate in appendix form to Mariposa Express, Inc., a California corporation. The new certificate issued to Mariposa Express, Inc., will not broaden or change the interstate or foreign commerce rights held by the carrier.

Transferee 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. The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred, the value of the capital stock of Mariposa Express, Inc., or indicative of a conclusion by this Commission that acquisition by one party of not more than 50% of the stock of a corporation constitutes control of the corporation.

O R D E R

1. On or before August 1, 1977 Jack Armas and Jean Armas, co-partners, may transfer the operative rights and the properties referred to in the application to Mariposa Express, Inc., a California corporation.
2. Within thirty days after the transfer the transferee 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. Transferee shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its 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 80-Series. Failure to comply with the provisions of General Order 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, a certificate of public convenience and necessity is granted to Mariposa Express, Inc., a California corporation, authorizing it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 79401 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferee 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. Transferee shall maintain its 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 its operations in such form, content and number of copies as the Commission, from time to time, shall prescribe.

8. Transferee shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If transferee elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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

10. Jack Armas and Jean Armas may control Mariposa Express, Inc., a California corporation.

11. Mariposa Express, Inc., on or after the effective date hereof and on or before August 1, 1977, for the purposes specified in this proceeding, may issue not exceeding a total of 600 shares of its \$100 par value capital stock at an issue price of \$100 per share.

12. Within ninety days after the date hereof, Jack Armas and Jean Armas and Mariposa Express, Inc., shall file reports informing the Commission whether or not the control authorized has been completed.

13. Mariposa Express, Inc., may assume indebtedness as requested in the application.

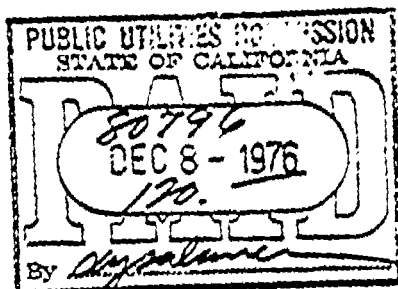
14. Mariposa Express, Inc., shall file with the Commission the report required by General Order 24-B, which order insofar as applicable, is hereby made a part of this order.

15. The authority granted by this order to issue stock will become effective when Mariposa Express, Inc., has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$120. In other respects the effective date of this order shall be twenty days after the date hereof.

A. 56805 - THP - gm

Dated at San Francisco, California, this 7th day of
December, 1976.

William Garrison President
James L. Skirgum
V. Ross
Robert H. Sullivan Commissioners



Mariposa Express, 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 as follows:

Between Merced and Yosemite National Park over State Highway 140 via Midpines and all intermediate points and via Mormon Bar and Wawona and/or Miami Lodge and all intermediate points. From Mariposa to Mormon Bar, thence to Bridgeport via Old Highway and thence to the junction of Old Highway with State Highway 140 southwest of Cathey's Valley. (Subject to Notes 1 and 2)

NOTE 1.--Intrastate commerce only between Midpines and Yosemite National Park and between Mariposa and Yosemite National Park via Wawona and/or Miami Lodge.

NOTE 2.--Service to be performed between certificated points via any and all available streets and highways, including all connecting streets and highways.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 86726, Application 56805.