

ORIGINAL

APR 10 1979

Decision No. 90162

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CHARLES WHITSON dba )  
CHARLES WHITSON PLUMBING, for a )  
permit as a dump truck carrier )  
within a 50 mile radius of )  
Willow Creek, Humboldt County. )  
(File No. 372.70.) )

Application No. 58439  
(Filed October 27, 1978)

Charles Whitson, for himself, applicant.  
James D. Martens, for California Dump Truck Owners  
Association, interested party.  
Michael R. Flaherty, for the Commission staff.

O P I N I O N

Charles Whitson is an electrical and plumbing contractor in Humboldt County. He also provides excavating service and installs septic tanks. He has applied herein for a dump truck carrier permit.

Public hearing was held before Administrative Law Judge Fraser on January 17, 1979 at Eureka and the matter was submitted.

Applicant testified that he is a plumbing and electrical contractor who also does ditching, excavating, pipeline construction, and grading. He has operated in Humboldt County since 1945 and is now located on Highway 96 three miles north of Willow Creek, which is 40 miles east of Arcata on Highway 299. Applicant has a large (10-12 yards) dump truck and a small (5 yards) dump truck which are used in his contracting business. The vehicles will be available for public hauling when they are not being used on plumbing jobs. He has six permanent employees, including three with a Class A driver's license. His business grossed \$250,000 in 1977 and 1978 receipts will be about 10 percent higher.

Applicant employs a mechanic to lubricate the trucks, to change oil, and perform safety checks. A serious breakdown would require service from a garage in Eureka. His equipment has been checked and approved by the California Highway Patrol. He testified that the equipment will be operated in a safe manner; that it is covered by adequate liability insurance; and that its operation will not have an adverse effect upon the highways nor upon existing dump truck carriers.

He testified that despite frequent inquiries, he has been unable to find a dump truck permit available for sale. He has had difficulty in obtaining dump truck carriers to assist on his own jobs. There is a severe shortage from April to October, when most excavating work is done. He introduced letters from Mercer Fraser Company, operators of a rock crusher near Willow Creek, and Reservation Ranch, a timber, logging, and road building company; both stated they would use applicant's ten-yard dump truck if the requested permit is issued. He testified that there have been at least fifteen other inquiries regarding the availability of his trucks.

The staff representative testified that dump truck permits have recently been selling for amounts ranging between \$1,000 and \$5,000; and that many operators prefer to purchase a permit rather than face the expense of a hearing and the possible loss of the filing fee if the application is denied.

The representative from the California Dump Truck Owners Association stated there is a severe dump truck shortage in Humboldt County. He stated that a survey was made of the Humboldt dump truck owners and there is no opposition to this application. After consideration the Commission finds that:

1. Applicant is presently engaged as a plumbing, electrical, and excavating contractor in Humboldt County.

2. Applicant will use his dump truck equipment primarily in his contracting business; but when not so engaged, he proposes to use his equipment as a for-hire carrier within a 50-mile radius of Willow Creek in Humboldt County.

3. Applicant has been assured by a large contractor and a logging company that they will utilize applicant's equipment during high demand periods.

4. Dump truck owners in Humboldt County and vicinity are unable to supply sufficient trucks to satisfy the demand during the peak period between April and October.

5. Applicant has been a contractor and excavator in Humboldt County since 1945 and has resided in the State of California continuously since that date.

6. Applicant has demonstrated by a preponderance of the evidence that:

- (a) He possesses sufficient operating knowledge and financial ability to initiate and continue the proposed operation.
- (b) His equipment is presently being used on the public highways in the vicinity of Willow Creek and its proposed future use will not endanger the safety of said highways or impair the condition or maintenance of them directly or indirectly.
- (c) His proposed operation will not unnecessarily burden the public highways, is necessary to serve the public, and will not impair the ability of presently permitted dump truck carriers to provide adequate service at the lowest possible reasonable rates.

7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that applicant should be granted a dump truck carrier permit authorizing operations within a 50-mile radius of Willow Creek. There is a need for applicant's proposed service; and in view of that present need and since there is no opposition to granting the requested authority, the following order should be effective the date of signature.

O R D E R

IT IS ORDERED that the Executive Director shall issue a dump truck carrier permit to Charles Whitson, dba Charles Whitson Plumbing, authorizing operations within a 50-mile radius of Willow Creek.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10<sup>th</sup> day of APRIL, 1979.

John E. Boyer  
President

George L. Stinson

Robert A. Wood

Paul J. Smith

Donald J. Smith  
Commissioners