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ORIGINAL

Decision No. 90386 JUN 5 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RICHARD OSBORN )  
CONSTRUCTION COMPANY of Garden )  
Grove, California, for a permit )  
to operate as a dump truck )  
carrier. (File No. 372.70) )

Application No. 58638  
(Filed January 30, 1979)

Robert F. Peterson, Jr., Attorney at Law,  
for 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

Applicant Richard Osborn, dba Richard Osborn Construction Company, requests the issuance of a dump truck carrier permit.

After notice, public hearing was held on the application before Administrative Law Judge William A. Turkish on March 26, 1979 at Los Angeles, and was submitted upon the receipt of late-filed Exhibit 4. Concurrent briefs, if desired, were to be filed by April 13, 1979. No briefs were filed by any of the appearances.

No protests to the application were filed, nor raised, before, during, or subsequent to the hearing.

Applicant's principal place of business is located in Garden Grove, California, but his equipment is maintained in a storage yard located in the city of Cucamonga. Applicant has operated a storm drain construction business since 1962.

In addition to several trucks now operating on the public highways, applicant owns and operates a 1973 10-wheel Chevrolet dump truck. As of December 31, 1978, applicant indicates a net worth in the amount of \$86,113.52.

According to the testimony of applicant, he is the sole owner of his business. He presently employs six employees but has employed as many as twenty at one time. Applicant has undertaken major construction projects in Orange and Los Angeles Counties, although he has also performed minor projects in Riverside County. Applicant stated his intention to expand his operations to San Bernardino, Ventura, Imperial, and San Diego Counties. Applicant's prior experience consists of 18 years as an operating engineer during which time he has operated virtually all equipment relative to engineering projects. The witness stated that although the dump truck is used currently in his own business, he intends to use it as a for-hire carrier for others during periods when not needed for his own use.

Applicant testified that he uses three different companies to maintain his construction equipment, including the dump truck, and that he personally supervises the maintenance of the dump truck. He will submit his dump truck for inspection by the California Highway Patrol, as required, and will comply with all recommendations of that agency. He further testified that he conducts mandatory job and safety sessions for his employees and has conducted these safety sessions for two to three years. He stated that his projects have good safety records. He also stated that his dump truck is covered by adequate insurance and that its operation will not have an adverse effect upon the public highways nor upon the operations of existing dump truck operators.

According to applicant, he has been assured by a dump truck broker and at least two engineering firms that they will utilize his dump truck services if he is issued a permit. He introduced letters from J. R. Trucking, Byron L. Crume, Inc., and Fleming Engineering, Inc., which indicate that they are always in need of dump trucks, that there is a shortage of dump trucks in southern California, that they can keep applicant's dump truck busy with work, and that they support the issuance of a permit to applicant. In addition to the companies previously mentioned, applicant testified that he has similar expectations of dump truck work from Valverde Construction Company in Ontario. He also stated that he has an optimistic view about the construction industry in southern California and expects a big demand for dump trucks. He stated that he purchased a dump truck because it was needed in his construction projects and he was unable to get any dump trucks through a broker. He also testified that on some jobs he does not have a need for the dump truck and it is during such periods that he intends to use his truck as a for-hire carrier by others.

Augustine Rangel, project manager for Valverde Construction Company, testified in support of applicant's application for a permit. He testified to experiencing difficulty in obtaining dump trucks in the past which caused his company to purchase its own dump truck. He also stated that his company still had to utilize outside carriers on its jobs and on those occasions experienced some difficulties in obtaining dump trucks. He stated that if applicant were issued a permit, his firm would use applicant's dump truck services, if available.

The staff representative recommends that applicant be granted the permit.

Findings of Fact

1. Applicant is presently engaged in the storm drain construction business.
2. Applicant proposes to use his dump truck equipment primarily in his storm drain construction business, but when not needed on certain projects, applicant proposes to use such equipment as a for-hire carrier within and between the counties of Los Angeles, Orange, Ventura, San Bernardino, Riverside, Imperial, and San Diego.
3. There is a shortage of dump truck carriers to meet the demands of shippers and brokers in the southern California area, especially during seasonal high demand periods.
4. Applicant has been assured by one dump truck broker and several engineering and construction firms that they will utilize applicant's dump truck equipment during high demand periods.
5. Applicant has had a considerable number of years of experience in the construction business, operating various types of construction equipment, including dump trucks.
6. Applicant has demonstrated by a preponderance of the evidence that:
  - (a) He is a fit and proper person to receive a permit as a dump truck carrier and possesses sufficient operating knowledge and financial ability to perform the proposed operation.
  - (b) His equipment is presently being used on the public highways within and between the counties of Los Angeles, Orange, Ventura, San Bernardino, Riverside, Imperial, and San Diego, and his

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. Applicant has resided in the State of California for not less than 90 days next preceding the filing of his application.

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

Conclusion of Law

The Commission concludes that applicant should be granted a dump truck carrier permit authorizing operations within and between the counties of Los Angeles, Ventura, Orange, San Bernardino, Riverside, Imperial and San Diego. There is a present need for applicant's proposed service, and, in view of that present need and the lack of any protest, the following order should be effective the date of signature.

ORDER

IT IS ORDERED that the Executive Director shall issue a dump truck carrier permit to Richard Osborn, dba Richard Osborn Construction Company, authorizing operations within and between the counties of Los Angeles, Orange, Ventura, San Bernardino, Riverside, Imperial, and San Diego.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5<sup>th</sup> day of JUNE, 1979.

John E. Gurnea  
President  
Herman L. Shugart  
Richard D. Clark  
Philip J. Shively  
Thomas W. Quinn  
Commissioners