

Decision No. 90447 JUN-19 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHN W. HECK, an individual, of Tulare, California, for a permit to operate as a dump truck carrier. (File 372.70)

Application No. 58476 (Filed November 20, 1978)

- John W. Heck, for himself, applicant.
- John Robert Lawson, for R & L Transport, protestant.
- James D. Martens, for California Dump Truck Owners Association, interested party.
- Eugene C. Conord, for the Commission staff.

O P I N I O N

John W. Heck requests a dump truck carrier permit.

Public hearing was held before Administrative Law Judge Daly on February 14, 1979 at Fresno and was submitted.

From 1959 to 1974 applicant was engaged in an extensive dump truck operation throughout the State. The corporation, of which he was president, owned and operated approximately 20 units of equipment. The operation was discontinued in 1974, and the permitted authority was allowed to expire rather than be sold.

During the same period of time applicant was also engaged in a partnership arrangement with John J. Taylor (Taylor), doing business as Heck and Taylor Equipment Company. The partnership has never been dissolved.

At the present time applicant is operating a tractor and two dump truck trailers for the purpose of hauling granite into subdivisions located in Visalia, which are owned by Taylor. Applicant owns half interest in the tractor, and Taylor owns the other half interest. The two trailers are owned by Taylor but are being purchased by applicant

pursuant to a term agreement. All equipment is covered by required liability insurance and was checked and approved by the California Highway Patrol in August 1978.

As of August 14, 1978, applicant indicated a net worth in the amount of \$18,428.

According to applicant, he has received requests from five dump truck brokers to provide service as a subhauler during peak periods. He testified that his operation will primarily consist of hauling granite for Taylor and providing service as a subhauler for brokers upon request and that such activities will be confined to the Visalia and Tulare areas. He further testified that the equipment will be operated in a safe manner and that it will not have an adverse effect upon the highways nor upon existing dump truck carriers.

The only protestant to the application testified that his company, an existing dump truck carrier, would have no protest if the requested authority were restricted to subhauling operations only.

Neither the California Dump Truck Owners Association nor the staff made a presentation.

After consideration the Commission finds that:

1. Applicant is presently engaged in an arrangement with Taylor in hauling granite to subdivisions located in the Visalia area, which are owned by Taylor.

2. Applicant owns half interest in a tractor and is in the process of purchasing two dump truck trailers.

3. Applicant proposes to use his dump truck equipment primarily for the purpose of hauling granite for Taylor, but when not so engaged, applicant proposes to use such equipment as a subhauler in the Visalia and Tulare areas.

4. Applicant has had extensive experience as a dump truck operator.

5. 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 operations.

- (b) His equipment is presently being used on the highways in Tulare County 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.
- (d) Applicant has resided in the State of California for not less than 90 days next preceding the filing of the application.

6. 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 for operations within the County of Tulare.

O R D E R

IT IS ORDERED that the Executive Director shall issue a dump truck carrier permit to John W. Heck authorizing operations within the County of Tulare.

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

Dated at San Francisco, California, this 19th day of JUNE 7, 1979.

John E. Bryson
President

George L. Sturgeon

Robert G. ...

David J. ...

Leonard W. ...
Commissioners