

91133 DEC 18 1979

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of KERN VALLEY TRUCKING for an)
in-lieu certificate of public)
convenience and necessity to)
operate as a highway common)
carrier.)

Application No. 59000
(Filed July 17, 1979)

O P I N I O N

Kern Valley Trucking (KVT) is a corporation with principal place of business at 1272 Gossage Avenue, Petaluma, CA 94952. KVT is authorized to operate as a certificated highway common carrier of general commodities, with the usual exceptions, in an area generally embraced by San Francisco and Sacramento on the north and the Los Angeles basin on the south, pursuant to D.84804 (1975). KVT also operates pursuant to radial highway common carrier and highway contract carrier permits issued by this Commission, which authorize transportation of general commodities between all points in California. In addition, it operates in interstate and foreign commerce pursuant to authority issued by the Interstate Commerce Commission.

By this application, KVT seeks (1) enlargements of its certificate of public convenience and necessity as stated on pages 2, 3, and 4 of the application; (2) deletion of three exceptions in its present certificate resulting in additional enlargements, as specified on page 4 of the application; (3) a certificate of public convenience and necessity in lieu of that authorized by D.84804, incorporating the sought enlargements (Appendix B to the application); and (4) findings enabling it to engage concurrently in intrastate, interstate, and foreign commerce. With respect to concurrent interstate and foreign

commerce authority, notice of the application has been published in the Federal Register. KVT proposes to subscribe to rates and rules covering the proposed service as published by the Western Motor Tariff Bureau. Assertedly, those rates and rules generally would be on a level comparable with rates and rules in Minimum Rate Tariff 2.

KVT states it has been operating as a highway common carrier, conducting operations under its state and federal certificates for many years. It contends that it has provided high quality, reliable, overnight service for pickup and delivery of both truckload and less-than-truckload shipments, Monday through Friday, between all points within its certificated area. As a result, its customers have repeatedly requested similar service to and from points within the additional area involved in this application. Accordingly, KVT commenced intrastate operations to points within the proposed expanded area under its radial highway common carrier permit.

Applicant believes that as a result of enactment of Senate Bill 860 (1977), regular daily operations beyond its certificated area have been properly undertaken pursuant to the authority of its radial highway common carrier permit. The carrier points out that the legislation eliminated from the definition of highway common carrier the requirement that operations be performed over regular routes or between fixed termini. That legislation also eliminated the classification of radial highway common carrier and allowed those holding radial permits to convert such permits to certificated authority. Radial carriers were allowed to continue operations pursuant to their permits pending conversion.

KVT seeks to obtain highway common carrier authority and thereby resolve any present or future legal ambiguity concerning the propriety of its continued daily operations within the sought extended area. Applicant believes that the current level and continuous growth of its business in the extended area demonstrates a clear public need for the type of service proposed.

KVT sent notice of the application to all (14) highway common carriers with which it believes the proposed additional service might be competitive. Notice also was sent to the California Trucking Association, which would publish notice of the matter in its weekly publication. The matter was published in the Federal Register and was noticed on the Commission's Daily Calendar of July 20, 1979. There are no protests.

Findings of Fact

1. Applicant possesses the experience, financial ability (Appendix D to the application), and equipment (Appendix E to the application) to provide the proposed additional service.
2. The rates proposed for the additional service are justified.
3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in Appendix B to the application, and also require that applicant be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by this decision.
4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

The Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. Since there are no protests, and since the public will benefit from immediate institution of the service, the following order should be effective the date of signature.

Kern Valley Trucking 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Kern Valley Trucking, a corporation, authorizing it 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 of this decision.

2. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by D.84804, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3(b).

3. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and amend or file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series.
- (e) Applicant 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 March 31 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.

- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

The effective date of this order is the date hereof.

Dated DEC 18 1979, at San Francisco, California.

John E. Guyan

President
James L. Ferguson

Edward W. Howell

Charles J. DeLoach

Ronald W. Smith

Commissioner

Kern Valley Trucking, a California corporation, 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:

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, briefcases, 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).
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.

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Decision 91133, Application 59000.

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. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

I. Via the following routes:

1. Between that portion of Los Angeles Basin Territory described in Note 1 hereof, and Wheeler Ridge, inclusive, via Interstate Highway 5 including points within five (5) statute miles laterally therefrom.
2. Between Wheeler Ridge and Fresno, inclusive, via State Highway 99 including points within twenty-five (25) statute miles laterally therefrom.

Including points within a ten (10) statute mile radius of the following:

- a. The junction of State Highways 99 and 180 within the City of Fresno.
- b. The junction of State Highways 198 and 41 near Lemoore.
- c. The junction of State Highway 180 and Fresno County Road J-19, also known as Valley Road, near Squaw Valley.

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Decision 91133, Application 59000.

3. Between Fresno and Dunnigan, inclusive, via State Highway 99 and Interstate 5 including points within a twenty (20) statute mile radius of the corporate limits of the City of Sacramento, including the off-route points of Escalon, Riverbank and Oakdale.
4. Between Fresno and Lincoln, inclusive, via State Highway 99, Interstate Highway 80 and State Highway 65 including points and places within a twenty (20) statute mile radius of the corporate limits of the City of Sacramento, including the off-route points of Escalon, Riverbank and Oakdale.
5. Interstate Highways 5 and 205 (Business) between Stockton and Tracy, inclusive.
6. State Highway 33 between its junction with Interstate Highway 205 near Tracy, and Mari-copa, including the off-route points of Huron, Kettleman City and Ford City.
7. State Highway 14, including points within ten (10) statute miles laterally therefrom between its junction with Interstate Highway 5 near San Fernando and a point five (5) statute miles north of Lancaster, inclusive, including the off-route points of Quartz Hill, Pearblossom and Rosemond.
8. Between points in San Francisco Territory, as described in Note 2 hereof and Sacramento via Interstate Highway 80 including all points within five (5) statute miles laterally therefrom.
9. Between points in San Francisco Territory, as described in Note 2 hereof, and Sacramento via Interstate Highway 80 to its junction with Interstate Highway 580 in the City of Emeryville; thence via Interstate Highway 580 to its junction with State Highway 24 in the City of Oakland; thence via State Highway 24 to its junction with State Highway 4 near the City of Concord; thence via State Highway 4 to its junction with State Highway 160 near the City of Antioch; thence via State Highway 160 including all points within five (5) statute miles laterally of said highways.

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Decision 91133, Application 59000.

9. Between points in San Francisco Territory as described in Note 2 hereof, and Modesto via Interstate Highway 580 to its junction with State Highway 132 west of Vernalis; thence via State Highway 132, including all points within five (5) statute miles laterally of said highways.
10. Interstate Highway 5 between Wheeler Ridge and its junction Interstate Highway 205, near Banta, including all points within five (5) statute miles laterally thereof.
11. Between Tracy and the junction of Interstate Highways 205 and 580 near Mountain House via Interstate Highways 205 and 205 Business.
12. On and within twenty (20) statute miles of the following named highways.
 - a. State Highway 1 between San Francisco and Carmel.
 - b. State Highway 65 between its junction with Interstate Highway 80 near Roseville and its junction with State Highway 70 near Olivehurst; thence via State Highway 70 to its junction with State Highway 20 in Marysville; thence via State Highway 20 to its junction with State Highway 99 in Yuba City; thence via State Highway 99 to its junction with Interstate Highway 5 near Red Bluff.
 - c. Interstate Highway 5 between Sacramento and Redding.
 - d. Interstate Highway 80 between Sacramento and Floriston.
 - e. State Highway 505 between Vacaville and Dunnigan.

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Decision 91133, Application 59000.

13. On and within ten (10) statute miles of the following named highways:
- a. Interstate Highway 5 between Los Angeles and the California-Mexico boundary line including points in San Diego Territory as described in Note 3 hereof.
 - b. Interstate Highways 15 and 15E between San Diego Territory, as described in Note 3 hereof, and San Bernardino.
 - c. U.S. Highway 101 between Los Angeles and Ventura.
 - d. Interstate Highway 10 between Los Angeles and Blythe.
 - e. U.S. Highway 101 between San Francisco and Salinas.
 - f. State Highway 17 between Oakland and Santa Cruz.
 - g. State Highway 156 between Castroville and Hollister.
 - h. State Highway 68 between its junction with State Highway 1 near Monterey and Salinas.
 - i. Interstate Highway 680 between its junction with Interstate Highway 780 near Benicia, and San Jose.
 - j. Interstate Highway 780 between its junction with Interstate Highway 680 near Benicia and its junction with Interstate Highway 80 near Vallejo.
 - k. Interstate Highway 8 between San Diego Territory as described in Note 3 hereof, and Winterhaven.
 - l. State Highway 86 between its junction with Interstate Highway 10 near Indio and its junction with Interstate Highway 8 near El Centro.

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Decision 91133, Application 59000.

14. Through routes and rates may be established between any and all points specified in subparagraphs 1 through 13 above.
15. For operating convenience only, applicant is authorized to traverse State Highway 14 between a point thereon five (5) statute miles north of Lancaster, and Mojave, and State Highway 58 between Mojave and a point thereon twenty-five (25) statute miles east of State Highway 99, serving no points or places on, or laterally from State Highways 14 and 58.

Note 1

The portion of Los Angeles Basin Territory for which authority is granted herein includes that area embraced by the following boundaries:

Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to Chatsworth Street; northeasterly along Chatsworth Street to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundaries to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to and including the City of Redlands; westerly along Interstate Highway 10 to Interstate Highway 15 (U.S. Highway 395); southerly along Interstate Highway 15 to State Highway 91; southwestly along State Highway 91 to State Highway 55; southerly along State Highway 55 to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1, thence northerly along an imaginary line to point of beginning.

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Decision 91133, Application 59000.

Note 2

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

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Decision 91133, Application 59000.

Note 3

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S-17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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Decision S1133 , Application 59000.