

Decision No. 91134

DEC 18 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 MADALINE SCANNAVINO, Administratrix
 of the ESTATE OF AL SCANNAVINO, doing
 business as AL SCANNAVINO TRUCKING CO.,
 to transfer, and of MADALINE SCANNAVINO,
 an individual, to acquire a highway
 common carrier certificate of public
 convenience and necessity and associated
 trucking operations.

Application No. 59053
 (Filed August 7, 1979)

O P I N I O N

Applicants request authority pursuant to Sections 851 and 854 of the California Public Utilities Code, to transfer the highway common carrier certificate of public convenience and necessity issued to the late Al Scannavino (Scannavino), an individual, dba Al Scannavino Trucking Co., and of the associated trucking operations to Scannavino's widow and sole heir, Madaline Scannavino (Mrs. Scannavino).

Scannavino, now deceased, held and operated pursuant to a highway common carrier certificate of public convenience and necessity issued by Decision No. 52516, dated January 23, 1956, (Application No. 36101), as amended by:

1. Decision No. 54556, dated February 19, 1957, (Application No. 36101);
2. Decision No. 65901, dated August 20, 1963, (Application No. 45479);
3. Decision No. 66184, dated October 22, 1963, (Application No. 45479);
4. Decision No. 67021, dated March 31, 1964, (Application No. 46169);
5. Decision No. 67518, dated July 14, 1964, (Application No. 46642); and
6. Decision No. 68806, dated March 30, 1965, (Application No. 47321);

and further granted by Decision No. 59700, dated February 23, 1960, (Application No. 41549), as amended by:

1. Decision No. 59891, dated April 5, 1960, (Application No. 41549);
2. Decision No. 60073, dated May 9, 1960, (Application No. 41549); and
3. Decision No. 74082, dated May 7, 1968, (Application No. 48547).

The aforesaid certificate authorizes the transportation of various commodities between various points in the State of California.

The application states that Scannavino died on July 23, 1972. His wife, Mrs. Scannavino, was appointed administratrix of his estate on September 6, 1972. Ownership of Al Scannavino Trucking Co. and of the subject operating rights passed by operation of law to Mrs. Scannavino upon her appointment as administratrix, and Mrs. Scannavino, as administratrix, continued the day-to-day operation of Al Scannavino Trucking Co. By Decree of Final Distribution filed in Docket No. 40595, April 5, 1974, in Department 1 of the Superior Court of the State of California, County of San Joaquin, all the property listed in the inventory attached thereto, including the assets of Al Scannavino Trucking Co., were distributed to Mrs. Scannavino.

Mrs. Scannavino has continued to operate Al Scannavino Trucking Co. in her capacity as an individual since distribution of the estate; however, through oversight, no order was ever requested or obtained from the Commission approving transfer of Scannavino's operating authorities or his trucking business to Mrs. Scannavino in her individual capacity, and the certificates and permits by authority of which the business is operated were not listed as assets of the estate or otherwise mentioned in the Decree of Final Distribution. This application is filed for the

purpose of rectifying this situation and of obtaining proper authority for distribution to Mrs. Scannavino of the assets of Al Scannavino Trucking Co., including its operating rights.

By the filing of an Inventory of Appraisement, a copy of which is attached to the application as Appendix V, Scannavino's estate has been partially reopened for the purpose of determining any further inheritance tax obligation which may arise from value attributed to the subject operating rights. However, the Decree of Final Distribution distributes to Mrs. Scannavino, absolutely, any property of Scannavino not described in the inventory and discovered after the date of filing of the decree, and no further order of the court is necessary to accomplish the transfer of the subject operating rights to Mrs. Scannavino.

Al Scannavino Trucking Co. is not a party to intrastate through routes or joint rates with any other carriers.

There has been no suspension or discontinuance of the service of Al Scannavino Trucking Co. since the death of Scannavino.

Al Scannavino Trucking Co. publishes its own tariff, designated as Local Freight Tariff No. 5. Mrs. Scannavino will adopt these existing tariff rates upon approval of this application.

Attached to the application as Appendix VI is a copy of the balance sheet and income statement of Al Scannavino Trucking Co. for the period ended December 31, 1978. The balance sheet discloses a net worth of \$494,694. The income statement discloses net income before taxes of \$119,747.

A copy of the application was mailed to the California Trucking Association and notice of filing appeared on the Commission's Daily Calendar of August 9, 1979. No protests to the application have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. 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 presently held by Mrs. Scannavino, administratrix of the estate of Scannavino, and the issuance of a certificate in appendix form to Mrs. Scannavino, an individual. This certificate will be restated, but such restatement will not change or broaden the authority transferred.

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.

O R D E R

IT IS ORDERED that:

1. Madaline Scannavino, administratrix of the estate of Al Scannavino, may transfer the operative rights and property referred to in the application to Madaline Scannavino, an individual. This authorization shall expire if not exercised by February 29, 1980, or within such additional time as may be authorized by the Commission.
2. Within thirty days after the transfer the transferee shall file with the Commission written acceptance of the certificate.
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 she has adopted or established, as her 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 No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the transferee shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the transferor for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. 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 Madaline Scannavino, an individual, authorizing her 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 of this decision.

6. The certificate of public convenience and necessity granted by Decision No. 52516, as amended by Decisions Nos. 54556, 65901, 66184, 67021, 67518, and 68806, and Decision No. 59700, as amended by Decisions Nos. 59891, 60073, and 74082, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

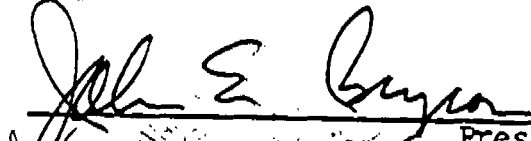
7. Transferee shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.


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


9. Transferee shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If transferee elects not to transport collect on delivery shipments, she shall make the appropriate tariff filings as required by the General Order.


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


Dated Dec 18 1979, at San Francisco, California.



President








Commissioners

Madaline Scannavino, an individual, 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 the following:

I. General Commodities

- a. Between all points and places in the counties of Sacramento, San Joaquin, Stanislaus and Contra Costa.
- b. Between San Francisco Territory, as described in Note A hereof, on the one hand, and all points and places in the counties of Sacramento, San Joaquin, Stanislaus, Contra Costa and the City of Cloverdale, on the other hand, using all available routes between said points.

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.

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3. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
4. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
5. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
6. Logs.
7. Articles of extraordinary value.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
10. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

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II. Livestock

Between the points hereinafter described, including all intermediate points, with the right to serve off-route points within fifty (50) statute miles of said routes.

- (1) Interstate Highway 5 between the Mexico-California boundary line and its junction with U.S. Highway 101 in the City of Los Angeles; thence via U.S. Highway 101 to the California-Oregon State Line.
- (2) State Highway 1 between its junction with Interstate Highway 5 near Capistrano Beach, and its junction with U.S. Highway 101 near El Rio.
- (3) State Highway 111 between the Mexico-California boundary line and its junction with State Highway 86 near Heber; thence via State Highway 86 to its junction with Interstate Highway 10 near the City of Indio; thence via Interstate Highway 10 to its junction with Interstate Highway 5 in the City of Los Angeles; thence via Interstate Highway 5 to its junction with State Highway 99 at Wheeler Ridge; thence via State Highway 99 to its junction with Interstate Highway 80 in the City of Sacramento; thence via Interstate Highway 80 to its junction with State Highway 113 near the City of Davis; thence via State Highway 113 to its junction with Interstate Highway 5 near the City of Woodland; thence via Interstate Highway 5 to the California-Oregon State Line.
- (4) Interstate Highway 80 between the City of Sacramento and its junction with State Highway 65 near the City of Roseville; thence via State Highway 65 to its junction with State Highway 70 near Olivehurst; thence via State Highway 70 to its junction with State Highway 20 in the City of Marysville; thence via State Highway 20 to its junction with State Highway 99 in the City of Yuba City; thence via State Highway 99 to the City of Red Bluff.

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- (5) State Highway 97 between the City of Weed and Dorris.
- (6) Interstate Highway 15 between the City of San Diego and its junction with Interstate Highway 15E near Murietta; thence via Interstate Highway 15E to its junction with Interstate Highway 15 near Devore; thence via Interstate Highway 15 to its junction with U.S. Highway 395 near Hesperia; thence via U.S. Highway 395 to the Nevada-California State Line near Topaz Lake.
- (7) U.S. Highway 395 between the Nevada-California State Line near Hallelujah Junction and the California-Oregon State Line at New Pine Creek.
- (8) State Highway 299 between the City of Alturas and the City of Redding.
- (9) State Highway 36 between Johnstonville and the City of Red Bluff.
- (10) State Highway 70 between its junction with U.S. Highway 395 at Hallelujah Junction and the City of Marysville.
- (11) Interstate Highway 80 between its junction with the California-Nevada State Line and the City of Berkeley.
- (12) U.S. Highway 50 between its junction with the California-Nevada State Line at Stateline and its junction with State Highway 99 in the City of Sacramento; thence via State Highway 99 to its junction with State Highway 4 in the City of Stockton; thence via State Highway 4 to its junction with Interstate Highway 5 in the City of Stockton; thence via Interstate Highway 5 to its junction with Interstate Highway 205 (Business) near Banta; thence via Interstate Highway 205 (Business) to its junction with Interstate Highway 205 west of the City of Tracy; thence via Interstate Highway 205 to its junction with Interstate Highway 580 near Mountain Home; thence via Interstate Highway 580 to its junction with Interstate Highway 80 in the City of Emeryville; thence via Interstate Highway 80 to the City of San Francisco.

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- (13) State Highway 152 between its junction with State Highway 99 near Califa and the City of Gilroy.
- (14) State Highway 41 between Yosemite Village and the City of Paso Robles.
- (15) State Highway 198 between Three Rivers and its junction with U.S. Highway 101 at San Lucas.
- (16) State Highway 63 between its junction with State Highway 110 near Squaw Valley and the City of Tulare.
- (17) State Highway 65 between the City of Bakersfield and its junction with State Highway 198 near Exeter; thence via State Highway 198 to its junction with State Highway 245; thence via State Highway 245 via Badger to its junction with State Highway 180; thence via State Highway 180 to Grant Grove Village.
- (18) State Highway 190 between Tipton and Springville.
- (19) State Highway 46 between its junction with State Highway 99 at Famoso, and Cholame.
- (20) State Highway 166 between its junction with State Highway 99 at Mettler and its junction with State Highway 33 at the City of Maricopa; thence via State Highway 33 to the City of Coalinga.
- (21) State Highway 166 between its junction with State Highway 99 at Mettler and its junction with U.S. Highway 101 near the City of Santa Maria.
- (22) State Highway 58 between the City of Bakersfield and its junction with Interstate Highway 15 near the City of Barstow; thence via Interstate Highway 15 to its junction with the California-Nevada State Line.

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- (23) Interstate Highway 10 between the City of Los Angeles and its junction with the California-Arizona State Line at the City of Blythe.
- (24) Interstate Highway 5 between the City of Los Angeles and its junction with State Highway 14; thence via State Highway 14 to its junction with U.S. Highway 395 near Inyokern; thence via U.S. Highway 395 to its junction with U.S. Highway 6 in the City of Bishop; thence via U.S. Highway 6 to its junction with the California-Nevada State Line near Benton.
- (25) Interstate Highway 40 between the City of Barstow and its junction with National Trails Highway at Ludlow; thence via National Trails Highway to its junction with Interstate Highway 40 near Mountain Springs Summit; thence via Interstate Highway 40 to the California-Arizona State Line near the City of Needles.
- (26) State Highway 71 between the City of Pomona and its junction with Interstate Highway 15E near Murietta.
- (27) Interstate Highway 8 between the City of San Diego and the California-Arizona State Line near Winterhaven.

III. Crushed grapes in bulk in tank equipment; Grape Concentrates in bulk in tank equipment; Grape Juice in bulk in tank equipment; Liquors, vinous, in bulk, or in cases; Wine, in bulk in cases.

Between points located on or within fifteen (15) statute miles of the following highways.

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- (a) Interstate 5 between the City of Los Angeles and its junction with State Highway 99 at Wheeler Ridge; thence via State Highway 99 to the City of Sacramento; thence via Interstate Highway 80 to its junction with State Highway 113 near the City of Davis; thence via State Highway 113 to its junction with Interstate Highway 5 at the City of Woodland; thence via Interstate Highway 5 to the City of Redding.
- (b) Interstate Highway 80 between the City of Sacramento and its junction with State Highway 65 near Roseville; thence via State Highway 65 to its junction with State Highway 70 near Olivehurst; thence via State Highway 70 to its junction with State Highway 20 in the City of Marysville; thence via State Highway 20 to its junction with State Highway 99 in the City of Yuba City; thence via State Highway 99 to its junction with Interstate Highway 5 at the City of Red Bluff; thence via Interstate Highway 5 to the City of Redding.
- (c) U.S. Highway 101 between the City of Salinas and the City of Ukiah.
- (d) State Highway 12 between the City of Sebastopol and Cordelia.
- (e) State Highway 29 between the City of Napa and the City of Calistoga.
- (f) State Highway 17 between the City of Oakland and the City of San Jose.
- (g) Interstate Highway 5 between the City of San Diego and its junction with U.S. Highway 101 in the City of Los Angeles; thence via U.S. Highway 101 to the City of Santa Barbara.

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RESTRICTION

Carrier shall not, as a highway common carrier, transport wine or vinous liquors in cases between Madera County, on the one hand, and, on the other hand, any point located on or within fifteen (15) statute miles of State Highway 99 and Interstate Highway 5 south of Madera County or on or within fifteen (15) statute miles of Interstate Highway 5 between the City of San Diego and its junction with U.S. Highway 101 in the City of Los Angeles; thence via U.S. Highway 101 to the City of Santa Barbara.

NOTE A

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

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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.

(END OF APPENDIX A)

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