

Decision No. 91151

DEC 18 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of NELSON WESTERN, a corporation,))
to lease a certificate of public)
convenience and necessity to)
operate as a highway common)
carrier to A&B GARMENT DELIVERY,)
a corporation.)

Application No. 55232
(Filed October 3, 1974)

FINAL OPINION AND ORDER

Pursuant to Decision 83688 dated November 6, 1974 in this proceeding, authority was granted to A&B Transportation Services, Inc., formerly A&B Garment Delivery, a California corporation. to temporarily lease the intrastate highway common carrier certificate of Nelson Western, a California corporation, pending the issuance of a final decision by the Interstate Commerce Commission in a Section 5 application for the sale and transfer of the Nelson Western operating authorities. The Interstate Commerce Commission has issued its decision in that proceeding under Docket No. MC-F-12068 and the applicant's attorney has filed a copy of the same bearing a service date of October 19, 1979.

The certificate was granted by Decision 61616 dated March 7, 1961 in Application 42912 and amended by Decision 74540 dated August 13, 1968 in that proceeding. It authorizes the transportation of general commodities between points in the Los Angeles Basin Area and between points in that area and points in San Francisco and San Diego Territories serving specified intermediate points.

The transfer is subject to the exclusive and plenary jurisdiction of the Interstate Commerce Commission under Section 11343 (formerly Section 5) of the Interstate Commerce Act, 49 USCA Section 11343. The Interstate Commerce Commission's order approves the acquisition as applied for.

The price paid for the certificate at public auction was \$50,000 which was paid in the form of an offset against an outstanding debt owed to A&B Transportation Services, Inc. by Nelson Western.

A&B Transportation Services, Inc. holds a certificate of public convenience and necessity as a highway common carrier which authorizes the transportation of general commodities, subject to certain exclusions, and wearing apparel, between territories and points in an area covering the central part of California. The certificate was granted by Decision 89429 dated September 19, 1978 in Application 58145.

After consideration, this Commission finds that the proposed transfer would not be adverse to the public interest of California and concludes that it should be authorized. We further find that the transfer herein involved will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for the revocation of the certificates presently held by Nelson Western and A&B Transportation Services, Inc., and the issuance of an in lieu certificate in appendix form to A&B Transportation Services, Inc.

A&B Transportation Services, Inc. is placed on notice that operating 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 paid to the State as consideration for the grant of such rights. Such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or cancelled at any time by the State, which is not in any respect limited as to the number or rights which may be given. The authorization granted shall not be construed as a finding of value of the rights to be transferred.

O R D E R

IT IS ORDERED that:

1. In accordance with the approval of the Interstate Commerce Commission, Nelson Western, a California corporation, may transfer the operating rights referred to in the application to A&B Transportation Services, Inc., a California corporation. The authorization shall expire if not exercised by March 31, 1980 or within such additional time as may be authorized by this Commission.

2. Within thirty days after the transfer, A&B Transportation Services, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. A&B Transportation Services, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its 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. 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 A&B Transportation Services, Inc., a California corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the route set forth in Appendix A of this decision.

5. The certificates of public convenience and necessity granted by Decision No. 61616, as amended by Decision 74540, and Decision 89429 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

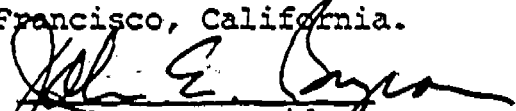
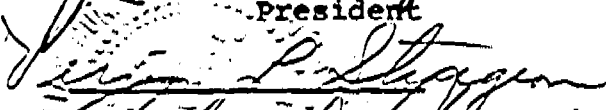
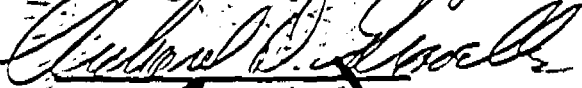


6. A&B Transportation Services, Inc. shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. A&B Transportation Services, Inc. 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.

8. A&B Transportation Services, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If A&B Transportation Services, Inc. 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 shall be on the date hereof.

Dated DEC 18 1979, at San Francisco, California.


President




Commissioner

A&B Transportation Services, Inc., 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. Garments, clothing and wearing apparel when transported on garment hangers, matching accessories and other commodities incidental thereto, including costume or novelty jewelry, when shipped in van-type trucks in company with garments, clothing and wearing apparel on hangers.

Between all points and places within the Los Angeles Basin Area described in Note A, attached hereto and made a part hereof.

II. Hanging or cartoned garments, clothing and wearing apparel and component parts used in the manufacture thereof, as defined in Note B hereof, handbags and costume jewelry:

Between all points and places within the following described territory, or within 25 statute miles of any point therein:

Beginning at Mussel Point on Bodega Head following an imaginary line drawn northeasterly to the City of Marysville, thence southerly along State Highway 70 and continuing on State Highway 99 to its junction with State Highway 198; easterly on State Highway 198 to the junction of State Highway 65; southerly on State Highway 65 and continuing on State Highway 99, thence Interstate Highway 5 to the prolongation of the corporate boundary of the City of San Fernando; westerly and northerly along said prolongation and the corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street and its prolongation to Interstate Highway 10; southerly and easterly along Interstate Highway 10 to the City of Indio; thence following an imaginary line southwesterly to San Ysidro; thence westerly along the International Boundary Line to the Pacific Ocean; thence northerly along the shoreline of the Pacific Ocean to the point of beginning.

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Service under Paragraph II shall be restricted against transportation of shipments of wearing apparel on hangers, between the City of Los Angeles, on the one hand, and points in San Diego County, on the other hand.

<p>III. A. Apparel, wearing Bags, cloth Bags, hand Bath robes Belts Blouses Buttons Cloth Cloth, piece of goods Clothing Clothing accessories Containers, clothes Draperies Dry goods Fittings, tailored Footwear Furnishings, men's Garments</p>	<p>Gloves Hangers, clothes Hosiery Jewelry, costume Lining, clothes Luggage Patterns Shirts Shoes Suspenders Tapes, cloth Textiles Thread Ties Towels Trimmings, tailored Umbrellas Yarns</p>
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B. General Commodities not named above when transported:

- a. To or from retailers of garments, not including retailers which sell garments incidentally, such as (but not limited to) hardware stores, drug stores, grocery stores; and,
- b. Between retailers of the commodities specifically named in Paragraph III-A above, wholesalers of the commodities specifically named in Paragraph III-A above, and manufacturers of the commodities specifically named in Paragraph III-A above; and
- c. To or from fashion shows.

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1. Between all points and places within San Francisco Territory as described in Note C below and within five statute miles of the boundary thereof.
2. Between all points and places on and within five statute miles laterally of the following highways:
 - a. U.S. Highway 101 between San Francisco and Santa Rosa, inclusive;
 - b. State Highway 37 between Ignacio Junction and Sears Point, thence via State Highway 121 to Napa, including the off-route point of Sonoma.
 - c. Interstate Highway 80 between San Francisco and North Sacramento, inclusive;
 - d. State Highway 29 between the junction of said highway with Interstate Highway 80 and Napa, inclusive;
 - e. Between San Francisco and Sacramento, inclusive, via Interstate Highway 80, Interstate Highway 580, Interstate Highway 205, and Interstate Highway 5, including the off-route point of Pleasanton.
 - f. State Highway 4 between the junction of said highway with Interstate Highway 80 and Stockton, inclusive, including the off-route points of Port Chicago and Byron;
 - g. State Highway 24 between Oakland and its junction with State Highway 4 near Concord, thence via State Highway 4 to Pittsburg, inclusive, including the off-route points of Moraga;
 - h. Interstate Highway 680 between Warm Springs and Martinez, inclusive;
 - i. State Highway 99 between Stockton and Modesto, inclusive;

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- j. State Highway 33 between the junctions of said highway with Interstate Highway 5 near Tracy and State Highway 132 near Vernalis, inclusive; and
 - k. State Highway 132 between the junction of said Highway with State Highway 33 near Vernalis and Modesto, inclusive.
- 3. Between all points and places within 10 statute miles of the City of Sacramento.
 - 4. Between all points and places within 10 statute miles of the City of Stockton.
 - 5. Between all points and places within 5 statute miles of the City of Santa Rosa.
 - 6. Except that pursuant to the authority herein granted carrier shall not transport any shipments of:
 - a. 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).
 - b. 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.
 - c. 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.

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- d. 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.
- e. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
- f. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- g. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
- h. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

IV. 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.

B. Service under Paragraphs I, II and III above shall be restricted against the transportation of fur, fur garments or fur wearing apparel, but not including imitation furs, imitation fur garments or wearing apparel or fur-trimmed cloth garments or wearing apparel.

C. Service under Paragraph III shall be restricted against transportation of property sold by a retail merchant from said retail merchant's store or warehouse to the purchaser thereof.

V. General Commodities as follows:

- 1. Between all points in Los Angeles Basin Region as described in Note D hereof.
- 2. Between Los Angeles Basin Region as described in Note D hereof, on the one hand, and on the other hand, all points and places in San Diego Territory as described in Note E hereof.

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3. Between Los Angeles Basin Region as described in Note D hereof and San Diego Territory as described in Note E hereof, on the one hand, and on the other hand all points and places on the following named or numbered streets or highways and all points within five (5) statute miles laterally thereof:
- a. Interstate Highway 5 between Los Angeles and San Diego
 - b. State Highway 1 between Los Angeles and Capistrano Beach.
 - c. State Highway 76 between Oceanside and Lake Henshaw, inclusive.
 - d. Unnamed county roads from Bonsall to Fallbrook and from Fallbrook to Interstate Highway 15.
 - e. Interstate Highway 15 between the southern boundary of Riverside County and San Diego.
 - f. State Highway 78 between its junction with Interstate Highway 5 near Carlsbad and San Pasqual, inclusive.
 - g. San Diego County Road S-6 from Rincon Springs through Valley Center to Escondido.

RESTRICTION:

No service shall be rendered between points in San Diego Territory as described in Note E hereof.

In rendering service pursuant to sub-paragraphs 1, 2, and 3 of Paragraph V, applicant shall not transport any shipment of:

New 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), between Los Angeles Basin Region as described in Note D hereof and Vista.

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4. Between all points and places in Los Angeles Basin Region as described in Note D hereof, on the one hand, and on the other hand, San Luis Obispo, Stockton and San Francisco Territory as described in Note C hereof via the following named and numbered streets and highways serving all points and places within five(5) statute miles laterally thereof:
- a. U.S. Highway 101 between Los Angeles and San Luis Obispo.
 - b. State Highway 1 between Los Angeles and its junction with U.S. Highway 101 near El Rio.
 - c. Interstate Highway 5 from Los Angeles to its junction with State Highway 99 at Wheeler Ridge, thence via State Highway 99 to Stockton.
 - d. State Highway 4 (Charter Way) between its intersection with State Highway 99 near Stockton and El Dorado Street; thence via El Dorado Street to its junction with Interstate Highway 5; thence via Interstate Highway 5 to its junction with Interstate Highway 205 (Business) near Banta; thence via Interstate Highway 205 (Business) and Interstate Highway 205 to its junction with Interstate Highway 580; thence via Interstate Highway 580 to its junction with Interstate Highway 80 in the City of Emeryville; thence via Interstate Highway 80 to San Francisco.

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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.
5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.

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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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
- *10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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.

*Exclusion applicable to operations under Subparagraph 4 of Paragraph V only.

NOTE A

LOS ANGELES BASIN AREA

LOS ANGELES BASIN AREA includes all points within the following boundary:

Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said City to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of said southern boundary of the San Bernardino National Forest and the San Bernardino-Riverside County Line, thence in a southerly and westerly direction along said County boundary to a point thereon distant 5 statute miles east of the intersection of said County boundary and State Highway 91, thence generally southerly and southwesterly along a line generally paralleling and distant 5 statute miles from State Highway 91, State Highway 55, Interstate Highway 5, Laguna Canyon Road, and the prolongation thereof to the Pacific Ocean, thence along the coastline of the Pacific Ocean to the point of beginning.

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NOTE B

PARAGRAPH II COMMODITIES

Aprons	House dresses
Bathrobes	Jackets
Bathing suits	Jerkins
Bed jackets	Jodphurs
Belts	Jumpers
Blouses	Laces
Boleros	Leggings
Brassieres	Lingerie
Breeches	Lumber jackets
Buckles, loops and slides	Maternity dresses
Buttons	Measuring devices, tailoring
Button blanks	Mittens
Caps	Neckwear
Capes	Needles
Cloaks	Negligees
Coats	Nightgowns
Costumes	Overalls
Coveralls	Overcoats
Designs	Outer water repellent garments
Dickies	Pajamas
Dresses	Pants
Dungarees	Party dresses
Elastics	Patterns
Embroidery	Pedal pushers
Evening gowns	Piece goods, cut and uncut
Eyelets and eyelet hooks	Pinafores
Fasteners, slide and snap	Pins
Fur	Petticoats
Fur coats	Play suits
Fur goods	Polo shirts
Furs	Racks
Gloves	Rainwear
Gowns	Riding breeches
Guimpes	Robes
Gym pants	Rompers
Gym suits	Sarongs
Hampers	Shirts
Handkerchiefs	Shoes
Hats	Shorts
Hangers, garment	Ski pants
Hooks and eyes	Skirts
Hoovers	Slacks
Hose supporters	Slack sets
Hosiery	Slips
Housecoats	Slipover sweaters

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PARAGRAPH II COMMODITIES (CONT'D.)

Smocks
Snow suits
Sport jackets
Sport shirts
Sweaters
Suits
Sun suits
Suspenders
Thimbles
Thread
Ties
Topcoats
Trousers
Trunks
Underwear
Vestees
Vests
Water repellent garments
Wraps
Zippers

NOTE C

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

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SAN FRANCISCO TERRITORY (CONT'D.)

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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NOTE D

LOS ANGELES BASIN REGION

Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly along Sunset Boulevard to Interstate Highway 405; northerly on Interstate Highway 405 to Chatsworth Drive; north easterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundaries to State Highway 38 (Mill Creek Road); westerly along State Highway 38 to Bryant Street; southerly along Bryant Street to Yucaipa Boulevard; 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 its intersection with Interstate Highway 15-E; southerly along Interstate Highway 15-E to Van Buren Boulevard; westerly along Van Buren Boulevard to its intersection with State Highway 91 in the City of Arlington; southwestly and westerly along State Highway 91 to State Highway 55; southerly along State Highway 55 and its prolongation to the shoreline of the Pacific Ocean; westerly and northerly along said shoreline to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to the point of beginning.

NOTE E

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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