BEFORE THE DEPARTMENT
OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

IN THE MATTER of Green Oil and Field Service's Petition for Declaratory Ruling interpreting the term "oil field supplies" as contained in PSC No. 1915 (Sub A).	)	DECLARATORY RULING T-8854

On October 22, 1985, the Montana Public Service Commission received a written request for a declaratory ruling from Green Oil and Field Services, Inc. a Montana corporation. Green Oil asked this Commission to answer the following question:

> Does the term "oil field supplies" as contained in PSC certificate No. 1915 (sub A) include the transportation of water and waste oil in bulk in tank vehicles?

The Commission determined that it would issue a declaratory ruling on this matter and notified interested parties on January 7, 1986. In that notice the Commission stated that it "does not intend to hold a hearing on this petition unless good cause is shown by motor carrier interest." The Commission made its decision in a scheduled public work session on March 26, 1986.

PSC No. 1915 (Sub A) was owned by James and Donna Pinkerton, d/b/a/ D-J Trucking. On December 20, 1985, this Commission approved the transfer of the certificate to Brian Tatman, who owns a vacuum truck suitable for the transportation of water and waste oil from oil fields. The certificate was reissued in Mr. Tatman's name on January 15, 1986. If the term "oil fields supplies" includes water and waste oil in bulk, Brian Tatman would be able to compete with Green Oil.

The issue raised by Green Oil and Field Services, Inc. hinges on the Commission's authority to define what commodities a certified carrier may haul. Section 69-12-201, MCA, gives the Commission the authority to regulate motor carriers in this state. To carry out its duty to regulate, the Commission issues certificates authorizing carriers to haul stated commodities in a designated area. This conforms with the regulatory process used by the Interstate Commerce Commission. This Commission, by ARM 38.3.204, has adopted the rules of the ICC.

Green Oil and Field Services maintains that because PSC certificate No. 1915 at one time had Sub A authorizing the transportation of oil field supplies and Sub B authorizing the transportation of water, the Commission cannot define oil field supplies to include water. This is incorrect. The Commission has never addressed the question of what items are included in the term "oil field supplies."

The ICC in T.E. Mercer 74 Motor Carrier Cases 459, 5 Federal Carrier Cases 482, ¶31,188 (1946) considered the question of the scope of authority of haulers of oil field supplies. The ICC did not consider whether water or waste oil in bulk is included in the term "oil field supplies" but the ICC recognized regulatory bodies' authority to define commodities and

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to expand the scope of a certificate. In that case the ICC also stated:

> The shippers desire a complete single-line motor carrier service for the transportation of oilfield commodities to and from places in the involved territory.... We are of the view, that the restrictions of authority ... would not be practical or easily enforceable, that they would serve to confuse the shippers and carriers and that they would adversely affect the operation of the natural gas and petroleum industry, contrary to the public interest. id 540.

This Commission agrees with the ICC's analysis of the oil field industry and concludes that the term oil field supplies does include water and waste oil in bulk in tank vehicles. It would be impractical, if not impossible, for this Commission to exclude water and waste oil in bulk from the term oil field supplies. The Commission would not have the resources to enforce such a restriction nor does the Commission consider such a restriction of the term oil field supplies in the public interest.

APPROVED BY THE COMMISSION MAY 19, 1986.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Trenna Scoffield
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

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