

Service Date: June 17, 1992

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

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IN THE MATTER of the Application)	TRANSPORTATION DIVISION
of LARRY D. KLINGER DBA BYFORD)	
TRUCKING COMPANY, Roundup, MT)	DOCKET NO. T-9763
for a Class B Montana Intrastate)	
Certificate of Public Convenience)	ORDER NO. 6077c
and Necessity.)	

ORDER ON MOTION FOR RECONSIDERATION

BACKGROUND

On September 11, 1991 the Commission received an application from Larry D. Klinger, dba Byford Trucking Company (Applicant) for a Certificate of Public Convenience and Necessity, Class B, authorizing the transportation of petroleum, petroleum products, petroleum wastes, chemicals and water in single vacuum trucks not exceeding 44,000 pounds GVW between all points and places in the State of Montana, but limited for the purpose of pipeline and refinery maintenance only.

Following a public hearing the Commission issued a final order granting the application on May 7, 1992. Authority was granted with the following limitation: "No part of this authority may be separately transferred or leased."

On May 12, 1992 protestants Ethel M. Ost dba Harvey Ost Oilfield Services and Green Oil and Field Services (Protestants) filed a motion for reconsideration. On June 4, 1992 Applicant filed a memorandum in opposition to the motion for reconsideration.

DISCUSSION

Protestants' motion for reconsideration requests that the authority granted by the Commission be limited to Yellowstone County. This request is based on the following arguments:

- a) That none of the Applicant's supporting shipper witnesses testified to any need outside of Yellowstone County.
- b) The supporting shipper witnesses' testimony of need was limited to Yellowstone County.
- c) Applicant testified to only one instance where he performed pipeline maintenance outside of Yellowstone County and the work was performed without Commission authority.
- d) Applicant's proof at hearing was totally devoid of any evidence of a need for authority outside of Yellowstone County.
- e) Most of the supporting shipper witnesses testified that their companies do not own their own pipelines but contract with pipeline companies for the transportation of their petroleum products. None of the pipeline companies' representatives testified on behalf of Applicant.

The Commission does not find these arguments persuasive. Applicant proposed a specialized cleanup and cleaning service for refineries and pipelines using vacuum trucks. Applicant testified that the service would be used to provide emergency cleanup of oil spills, hydrotesting of pipelines and cleaning of storage tanks located on tank farms. There was shipper testimony from representatives of various refinery and pipeline companies that a need existed for the proposed service.

While three of the four refineries operating in Montana are located in Yellowstone County, and no one from the refinery located in Great Falls appeared to support the application, pipelines and tank farms are located throughout the state. In this regard there was no testimony from the shippers to suggest that their needs would be limited to only pipelines and tank farms located within Yellowstone County. Indeed, one might ask how oil spills and other related emergencies could be limited to a single county. There clearly was ample evidence that the need for the proposed service extended beyond Yellowstone County.

Finally, the ownership of the pipelines is irrelevant. The application must be supported by shipper witnesses who need and will use the proposed service. The shipper witnesses who appeared in support of this application satisfied this criterion.

The motion for reconsideration is hereby denied.

Done and Dated this 17th day of June, 1992 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DANNY OBERG, Chairman

WALLACE W. "WALLY" MERCER, Vice Chairman

BOB ANDERSON, Commissioner

JOHN DRISCOLL, Commissioner

TED C. MACY, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

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