



THE ATTORNEY GENERAL
OF TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

AUSTIN 11, TEXAS

November 5, 1956

Affirmed by C-126

Honorable Homer Garrison, Jr., Director
Texas Department of Public Safety
Austin, Texas

Opinion No. S-218

Re: Requirement of a permit for transportation of pipe by a contractor for installation of a pipe line contracted for as a turnkey job when the pipe is furnished by the pipe line company and the contract includes an amount for the pipe's transportation.

Dear Colonel Garrison:

You submit to us the following problem:

A turnkey job contractor contracts with a pipe line company to build a pipe line and as an incident to this contract agrees to haul pipe owned by the pipe line company from the nearest railhead and through incorporated cities to the site of construction stringing the pipe along the ditch in preparation for the completion of the pipe line, and as an item of the contract the cost of transporting the pipe is included. Is the turnkey job contractor required to obtain a permit from the Railroad Commission of Texas before transporting the pipe?

Under this set of facts, the turnkey job contractor is "transporting property for compensation or hire" and is a contract carrier within the meaning of Subsection (h) of Section 1, Article 911b, Vernon's Civil Statutes. New Way Lumber Company v. Smith, 128 Tex. 173, 96 S.W.2d 282 (1936).

Nor does the turnkey job contractor come within the exceptions of Section 1a (1) of Article 911b.

SUMMARY

A contractor who has a turnkey job contract for the installation of a pipe line and as an incident to the contract transports pipe owned by the pipe line company from

the railhead, stringing it along the ditch, and charges the pipe line company for the transportation is a contract carrier subject to the provisions of the Motor Carrier Act, Article 911b, V.C.S.

Yours very truly,

APPROVED:

Mert Starnes
Oil and Gas Division

W. V. Geppert
Reviewer

J. C. Davis, Jr.
Reviewer

L. W. Gray
Reviewer

Davis Grant
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Gordon Thrall
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