

LAW OFFICES

Harold E. Miller & J. Randall Miller

MELLON BANK BUILDING
ALTOONA, PENNSYLVANIA 16601



May 21, 1987

RECEIVED

MAY 22 1987

Pennsylvania Public Utility Commission
P. O. Box 3265
North Office Building
Harrisburg, PA. 17120

SECRETARYS OFFICE
Public Utility Commission

RE: Application James M. Simondale

A-107645

Gentlemen:

I am herewith enclosing original of application together with two copies of application for transfer of contract carrier rights in the above matter together with the necessary exhibits including the purchase agreement between the transferor and transferee as well as contract with Shipper with respect to the rights in said matter.

Enclosed also please find postal money order in the amount of \$125.00 representing the filing fee in said matter.

Very truly yours,

Harold E. Miller

Harold E. Miller
Attorney at Law

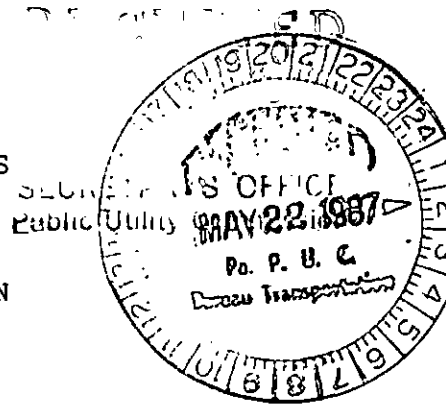
HEM/mjb
Enclosures

*6/10
called atty miller
about statement of
unpaid business debts of Times
6/11 talked with millers Sec.
they will be sending in
statement of unpaid business debts of Times
7/23 talked with millers Sec.
she will be sending statement of
unpaid debts "none"*

DOCUMENT
FOLDER

APPLICATION FOR APPROVAL OF TRANSFER
AND EXERCISE OF COMMON OR CONTRACT CARRIER RIGHTS

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION



Application of James M. Simondale
(~~Applicant~~/Transferee)

for approval of the transfer and to exercise the right
as a contract carrier, described at Docket
common-contract

No. A-106002, Folder No. 1, issued to

Robert W. Himes
Transferor

for transportation of Property
persons-property

PUC Use Only
Docket No. A-107645
Folder No. _____

SEE INSTRUCTIONS BEFORE COMPLETING APPLICATION

1. James M. Simondale
(Full and correct name of ~~applicant~~/transferee)

2. James M. Simondale Trucking and Excavating
(Trade name, if any)

The trade name has not been registered with the Secretary of the
(has or has not)

Commonwealth on _____ (attach copy of stamped registration form).
(date)

3. R. D. #4 Box 404D
(Business Street Address) (P.O. Box, if any)

Tyrone Pa. 16686 (814)632-8590
City State Zip Telephone

4. Applicant's attorney (for this application) is:
Harold E. Miller Mellon Bank Building, Altoona, Pa. (814)943-1462
(Name) (Address) (Telephone)

5. Any notice, process or order of the PUC should be served upon:
Harold E. Miller Mellon Bank Building, Altoona, Pa. 16601
(Name) (Address)

6. Applicant does not hold Pa. PUC authority under Docket
(does or does not)
Number N/A and operates as a N/A carrier.
(common or contract)

7. Applicant does not hold Interstate Commerce Commission authority
(does or does not)

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
JUL 27 1987
ENTRY No. mw at Docket No. N/A

BEGINNING

APPL.
COMPL.
MVIC.
CHECKED BY mw

8. Applicant is (check one):

Individual.

Partnership. Attach copy of partnership agreement and list names and addresses of partners below (use additional sheet if necessary).

N/A

(Name)

(Address)

Corporation. Organized under the laws of the State of _____ and qualified to do business in Pennsylvania by registering with the Secretary of the Commonwealth on _____ (Attach copy of Certificate of Incorporation or Authority and statement of charter purpose). Include as an attachment a list of corporate officers and their titles and the names, addresses and number of shares held by each stockholder.

9. If applicant, its stockholders or partnership members are in control of or affiliated with any other carrier, state name of carrier(s), Docket Number(s) and nature of control or affiliation.

N/A

10. Applicant proposes to acquire all of the operating rights (all or part)

now held by transferor. Attach sheet describing rights to be transferred to applicant and rights to be retained by transferor, if any. If any rights are to be omitted, give reasons.

11. The reason for the transfer is Transferor no longer engaged in trucking. Operating now solely as an excavation contractor.

12. The total amount of consideration to be paid is \$ 1,000.00 and was determined as follows: Consideration paid for transfer of permit. No vehicles or equipment being transferred.

and will be paid as follows: payment upon approval of transfer of permit.

13. Applicant is financially able to furnish adequate service to the public and submits Schedule "C" as a statement of financial condition.

14. Attach the following, as appropriate (check those attached):

- Sales Agreement. (Required)
- Partnership Agreement.
- Trade Name registration certificate.
- Certificate of Incorporation or Authority.
- Statement of corporate charter purpose.
- List of corporate officers and stockholders.
- List of equipment to be used to render service. (summarize by type)
- Operating authority to be transferred/retained.
- Equipment and other property to be transferred. (Schedules "A" & "B")
- Statement of Financial Condition (Schedule "C")
- Bilateral contract(s), if transferring contract carrier rights.
- Statement of unpaid business debts of transferor and how they will be satisfied.
- Copy of short form certificate showing date of death of transferor and name of executor/trix.

15: Transferor attests that all general assessments and fines are paid, that no annual reports are due and agrees to continue to render the service which is to be transferred until this application is approved, whereupon transferor will surrender said certificate or permit for cancellation.

16. Transferee agrees to assume and pay any General Assessments that may be made against transferor as a common carrier for any and all operating periods up to the actual date of approval of the transfer.

WHEREFOR, Transferee and Transferor pray that the Commission grant the Transfer as herein requested.

Transferee sign here:
(Corporate Seal)

James M. Simondale
(each partner must sign)
James M. Simondale

5-21-87
(Date)

Transferor sign here:
(Corporate Seal)

Robert W. Himes
Robert W. Himes

5-21-87

INSTRUCTIONS TO BE FOLLOWED IN PREPARING APPLICATION
No Application Will Be Accepted From a Minor

1. A separate application must be filed for each type of service, such as common carrier of persons on schedule; contract carrier of persons; transportation of persons on call or demand; transportation of persons in group and party service; common carrier of property; contract carrier of property.
2. It is not required that applicant be represented by an attorney, unless applicant is a corporation.
3. The original application signed at the place designated, duly verified by affidavit and two copies of same must be filed at the office of the Pennsylvania Public Utility Commission P.O. Box 3265, North Office Building, Harrisburg, PA 17120. A filing fee of One Hundred Twenty Five Dollars (\$125.00) is required and shall be paid by certified check or money order, made payable to the Commonwealth of Pennsylvania.
4. Carriers with Pa. PUC authority need not complete Paragraph 14 - Statement of Financial Condition if its latest Annual Report is on file at the Commission. You need only to reference same.
5. Copies of trade name registration form and certificate of incorporation of authority are not required from currently certificated/permitted carriers.
6. If space provided in form is not sufficient, prepare on separate sheet, attach it to application and give it the same number as question or statement to which it refers.
7. THIS APPLICATION FORM IS ONLY TO BE USED IN APPLYING FOR A TRANSFER OF RIGHTS UNDER EXISTING CERTIFICATES, PERMITS OR LICENSES. No application will be entertained for a transfer of rights which have been canceled or which for other reasons are obsolete.

AFFIDAVIT OF TRANSFEROR/SELLER (Natural Person)

COMMONWEALTH OF PENNSYLVANIA :
: ss:
BLAIR County :

Robert W. Himes, being duly sworn (affirmed) according to law, deposes and says that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and he expects to be able to prove the same at the hearing hereof.

Robert W. Himes X
Signature of Affiant

Sworn and subscribed before me this 21st
day of May 1987
My Commission Expires _____

MARIA J. BENNETTI, Notary Public
Altoona, Blair County, Pa.
My Commission Expires Oct. 24, 1988

Maria J. Bennette
Signature of Official Administering Oath

AFFIDAVIT OF TRANSFEROR/SELLER (Corporation)

COMMONWEALTH OF PENNSYLVANIA :
: ss:
_____ County :

_____, being duly sworn (affirmed) according to law, deposes and says that he is _____ of _____ (Office of Affiant)

_____ ; that he is authorized to and does make (Name of Corporation)

this affidavit for it; and that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and that he expects the said _____ (Name of Corporation)

to be able to prove the same at the hearing hereof.

Signature of Affiant

Sworn and subscribed before me this _____
day of _____ 19 _____
My Commission Expires _____

Signature of Official Administering Oath

AFFIDAVIT OF TRANSFEREE/~~APPLICANT~~ (Natural Person)

COMMONWEALTH OF PENNSYLVANIA :
: ss:
BLAIR County :

James M. Simondale, being duly sworn (affirmed) according to law, deposes and says that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and he expects to be able to prove the same at the hearing hereof.

James M. Simondale
Signature of Affiant

Sworn and subscribed before me this 21st

day of May 19 87.

My Commission Expires _____

MARIA J. BENNETTI, Notary Public
Alltoona, Blair County, Pa.
My Commission Expires Oct. 24, 1988

Maria J. Bennett
Signature of Official Administering Oath

AFFIDAVIT OF TRANSFEREE/APPLICANT (Corporation)

COMMONWEALTH OF PENNSYLVANIA :
: ss:
_____ County :

_____, being duly sworn (affirmed) according to law, deposes and says that he is _____ of _____
(Office of Affiant)

_____ ; that he is authorized to and does make
(Name of Corporation)

this affidavit for it; and that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and that he expects the said _____
(Name of Corporation)

to be able to prove the same at the hearing hereof.

Signature of Affiant

Sworn and subscribed before me this _____

day of _____ 19 _____

My Commission Expires _____

Signature of Official Administering Oath

SCHEDULE "A"

DESCRIPTION OF EACH PASSENGER VEHICLE, TRUCK, TRACTOR, TRAILER, SEMI-TRAILER, TAXICAB OR OTHER MOTOR VEHICLE TO BE TRANSFERRED FROM CERTIFICATE OR PERMIT HOLDER TO APPLICANT

| Name of Manufacturer (1) | Year of Manufacture (2) | Description | | | | | Date Purchased (8) | Condition When Purchased (New or Used) (9) | Original Cost (10) | Cost of Additions Betterments, and Improvements (11) | Total Cost (12) | Depreciation (13) | Total Cost Less Depreciation (14) | Estimated Present Value (15) | Encumbrance (16) |
|----------------------------------|----------------------------|---------------------|----------------------|-----------------|------------------------------|-----------------------|-----------------------|-----------------------------------------------|-----------------------|---------------------------------------------------------|--------------------|----------------------|--------------------------------------|---------------------------------|---------------------|
| | | Type Of Body (3) | Engine Number (4) | Capacity (5) | Manufacturer's Number (6) | Miles Operated (7) | | | | | | | | | |
| None | | | | | | | | | | | | | | | |
| Total columns 10 to 16 inclusive | | | | | | | | | | | | | | | |

State who is to assume encumbrance and how it will be satisfied _____

SCHEDULE "B"

DESCRIPTION OF EACH OTHER ITEM OF PROPERTY TO BE TRANSFERRED FROM CERTIFICATE OR PERMIT HOLDER TO APPLICANT

| Description (A) | Date of Purchase, Installation or Construction (B) | Original Cost (C) | Depreciation (D) | Original Cost Less Depreciation (E) | Estimated Present Value (F) | Encumbrance (G) |
|--------------------------------|-------------------------------------------------------|----------------------|---------------------|----------------------------------------|--------------------------------|--------------------|
| None | | | | | | |
| Total columns C to G inclusive | | | | | | |

State who is to assume encumbrance and how it will be satisfied _____

SCHEDULE "C"

STATEMENT OF FINANCIAL CONDITION

ASSETS

| | | |
|----------------------------------------------|----|------------------|
| Motor vehicle equipment | \$ | <u>25,850.00</u> |
| Buildings and structures | \$ | <u>10,236.00</u> |
| Other property | \$ | <u>20,738.00</u> |
| Cash | \$ | <u>19,000.00</u> |
| Accounts receivable | \$ | <u>2,000.00</u> |
| Notes receivable | \$ | <u>None</u> |
| Materials and supplies (inventory) | \$ | <u>4,000.00</u> |
| Other assets (attach schedule) (Mobile home) | \$ | <u>15,000.00</u> |
| Total Assets | \$ | <u>96,824.00</u> |

LIABILITIES

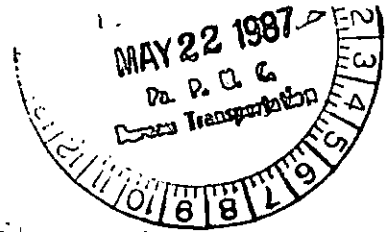
| | | |
|---------------------------------------------------|----|------------------|
| Mortgages payable | \$ | <u>None</u> |
| Equipment obligations | \$ | <u>2,500.00</u> |
| Accounts payable | \$ | <u>None</u> |
| Notes payable | \$ | <u>3,000.00</u> |
| Other liabilities (attach schedule) | \$ | <u>None</u> |
| Reserve for depreciation - motor vehicles | \$ | <u>12,700.00</u> |
| Reserve for depreciation - buildings & structures | \$ | <u>4,179.00</u> |
| Reserve for depreciation - other | \$ | <u>20,738.00</u> |
| Net worth (individual or partnership) | \$ | <u>53,707.00</u> |
| Capital stock (corporations only) | \$ | <u>None</u> |
| Surplus (corporations only) | \$ | <u>None</u> |
| Total Liabilities | \$ | <u>96,824.00</u> |

OPERATING AUTHORITY

To transport, as a contract carrier, limestone and lime, in dump vehicles, for Narehood Limestone, Inc., from its facilities located in the township of Snyder, Blair County, to points in the counties of Blair, Centre, Huntingdon, Cambria, Clearfield, Mifflin and Jefferson, no haul to exceed an airline distance of Fifty (50) statute miles from point of origin to point of destination, with the right to return refused, damaged or returned shipments to the point of origin.

List of Equipment

| <u>Name of Mgf.</u> | <u>Year</u> | <u>Type of Body</u> | <u>Mgf. No.</u> | <u>Capacity</u> |
|---------------------|-------------|-------------------------|-----------------|-----------------|
| Mack | 1975 | R.D.685 Conventional | RD685S4713 | 58,400 |



PURCHASE AGREEMENT

THIS AGREEMENT entered into this 5 day of May, 1987, by and

between:

ROBERT W. HIMES, of the Borough of Tyrone, County of Blair and State of Pennsylvania hereinafter referred to as SELLER;

AND

JAMES M. SIMONDALE, of R. D. 4, Box 404D, Tyrone, Huntingdon County, Pennsylvania, hereinafter referred to as BUYER.

WHEREAS, the said Robert W. Himes is the owner and purchaser of a Pennsylvania Public Utilities Contract Carrier Permit Number A.00106002, Folder One which Permit the Seller has offered to sell unto the Buyer upon the following terms and conditions:

1. The Buyer will purchase from the Seller contract carrier Permit A.00106002, Folder One for the sum of One Thousand Dollars (\$1,000.00), said sum to be payable upon approval of transfer of said Permit by the said Public Utilities Commission.

2. The said Seller warrants that all assessments and fines required by the said Pennsylvania Public Utilities Commission have been paid and that no annual reports are due and further agrees to continue to render the service which is to be transferred until said application has been approved at which time Seller will surrender said Permit to the Buyer.

3. The Seller and Buyer do further understand and agree that no vehicles or equipment are to be transferred to Buyer and that the only asset

being transferred in accordance with this Agreement is the above referred
to Permit.

IN WITNESS WHEREOF, the parties hereto have set their hands and
seals the day and date first above written.

Robert W. Himes

Robert W. Himes
Seller

James M. Simondale

James M. Simondale
Buyer

RECEIVED

MAY 2 1987

AGREEMENT

SECRETARYS OFFICE

THIS AGREEMENT entered into this ____ day of May, 1987, by and with the Pennsylvania Public Utility Commission

between NAREHOOD LIMESTONE INC., a subsidiary of New Enterprise Stone and Lime, Inc., with its principle place of business being located at Box 6, Tyrone, Pennsylvania, hereinafter referred to as the "Shipper",

AND

JAMES M. SIMONDALE, of R. D. 4, Box 404D, Tyrone, Huntingdon County, Pennsylvania, hereinafter referred to as the "Carrier".

WHEREAS the "Carrier" desires to enter into an Agreement with "Shipper" to transport property pursuant to the rules and regulations of the Pennsylvania Public Utility Commission under the following terms and conditions:

1. That the said "Carrier" is the owner and operator of the following equipment to be used in the transportation of property for "Shipper" under the terms and conditions of this agreement:

(a) 1975 Mack Conventional Dump Truck

2. "Carrier contracts with "Shipper" to transport, as a contract carrier limestone, and lime, in dumptruck from the facilities of Narehood Limestone, Inc., in the Township of Snyder, Blair County, Pennsylvania, to points in the Counties of Blair, Centre, Huntingdon, Cambria, Clearfield, Mifflin, and Jefferson; no haul to exceed fifty (50) miles and return of refused, damaged or returned shipments to point of origin.

3. "Shipper" agrees that during the period from the effective date of the issuance of a contract carrier permit by the Pennsylvania Public Utility Commission until this contract is terminated in writing as provided

herein and shall offer to "Carrier" minimum shipments of Five Thousand (5000) tons per year.

4. "Shipper" agrees to pay "Carrier" the following rates for transportation of property described in the within agreement:

Schedule and Rate of Charges Per Ton

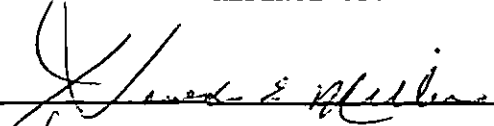
| | |
|---------------|--------|
| 0 - 10 miles | \$1.00 |
| 10 - 20 miles | \$1.75 |
| 20 - 30 miles | \$2.50 |
| 30 - 40 miles | \$3.25 |
| 40 - 50 miles | \$3.75 |

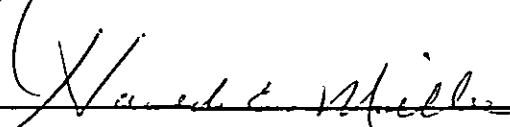
Mileage will be determined by the odometer reading of the vehicle used.

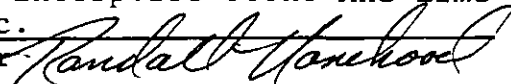
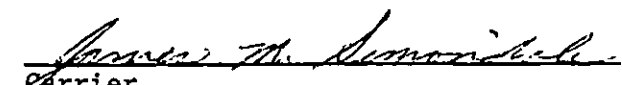
5. This contract shall be for the term of one (1) year from the issuance of a Contract Carrier Permit by the Pennsylvania Public Utility Commission and shall remain in effect for a period of successive years from the end of the initial period, unless either party hereto terminates this contract upon thirty (30) days notice in writing addressed to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed on the date above mentioned.

SIGNED IN THE PRESENCE OF:





Narehood Limestone, Co. (subsidiar
Of New Enterprise Stone And Lime
Co., Inc.
Shipper 

Carrier

LAW OFFICES

Harold E. Miller & J. Randall Miller

MELLON BANK BUILDING
ALTOONA, PENNSYLVANIA 16601

Telephone (814) 943-1462

July 23, 1987

Mrs. Marlene Wendt
Penna. Public Utility Commission
P. O. Box 3265
Harrisburg, PA. 17120

A-107645

RE: Application of James M. Simondale

Dear Mrs. Wendt:

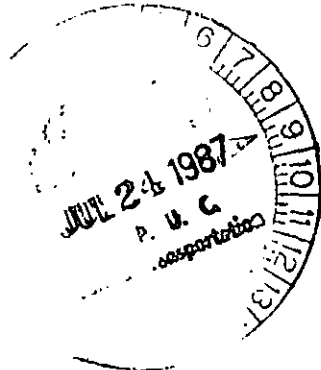
This is to advise you that I have reviewed the matter of any outstanding claims of any kind against the transferror in this matter and wish to advise at this point in time there are no outstanding claims of any type or nature against Robert W. Himes, Transferror in said case.

Very truly yours,

Harold E. Miller

Harold E. Miller
Attorney at Law

HEM/mjb



August 7, 1987

IN REPLY PLEASE
REFER TO OUR FILE

Harold E. Miller
Attorney at Law
Mellon Bank Building
Altoona, PA 16601

A-00107645 - Application of James M. Simondale, t/d/b/a James M. Simondale Trucking and Excavating.

Dear Sir:

Acknowledgement is made of an application filed by you on behalf of James M. Simondale Trucking and Excavating for the rights of Robert W. Himes.

The application has been captioned as attached and will be submitted for review, provided no protests are filed on or before August 31, 1987. If protests are filed, you will be advised as to further procedure.

This application is accepted with the understanding that Robert W. Himes will continue to render the service covered by his certificate and comply with all the rules of the Commission, including the carrying of continuous insurance, until final disposition is made of the application by the Commission.

You are further advised that the above application will be published in the Pennsylvania Bulletin of August 8, 1987.

Very truly yours,

David Ehrhart
Supervisor - Application Section
Bureau of Transportation

DE:RP:nm
cc: Applicant
R.D. 4, Box 404D
Tyrone, PA 16686

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
AUG 10 1987
ENTRY No. *AD*

A-00107645 JAMES M. SIMONDALE, t/d/b/a JAMES M. SIMONDALE TRUCKING AND EXCAVATING (R.D. #4, Box 404D, Tyrone, Blair County, PA 16686) - contract carrier - limestone and lime, in dump vehicles, for Narehood Limestone, Inc., from its facilities located in the township of Snyder, Blair County, to points in the counties of Blair, Centre, Huntingdon, Cambria, Clearfield, Mifflin and Jefferson, no haul to exceed an airline distance of fifty (50) statute miles from point of origin to point of destination, with the right to return refused, damaged or returned shipments to the point of origin; which is to be a transfer of the right authorized under the permit issued at A-00106002 to Robert W. Himes, subject to the same limitations and conditions. Attorney: Harold E. Miller, Mellon Bank Building, Altoona, PA 16601.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

SERVICE OF NOTICE OF MOTOR CARRIER APPLICATIONS

AUG - 8 1987

DATE _____ SERVICE _____

BUREAU OF TRANSPORTATION
CONTRACT CARRIER
JULY 1987

A-00107645

Application of James M. Simondale, t/d/b/a James M. Simondale Trucking and Excavating, for the right to begin to transport, as a contract carrier, by motor vehicle, limestone and lime, in dump vehicles, for Narehood Limestone, Inc., from its facilities located in the township of Snyder, Blair County, to points in the counties of Blair, Centre, Huntingdon, Cambria, Clearfield, Mifflin and Jefferson, no haul to exceed an airline distance of fifty (50) statute miles from point of origin to point of destination, with the right to return refused, damaged or returned shipments to the point of origin; which is to be a transfer of the right authorized under the permit issued at A-00106002 to Robert W. Himes, subject to the same limitations and conditions.

MW:nm
7/27/87

Application received: 5/22/87
Application docketed: 7/27/87

NH

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
AUG 10 1987
ENTRY No.

AUG 31 1987

Protests due on No Hearings _____
Protests due on Hearings - (5 days prior to date of hearing)
Notice of the above application was mailed to all certificate holders and railroad companies in the service area as noted above.

PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

The addressee named hereunder has paid Pennsylvania Public Utility Commission for the following bill, subject to final collection of check or money order tendered for such payment.

James M. Simondale
R.D. #4, Box 404D
Tyrone, PA 16686

RECEIVED
AUG 19 1987

Date August 17, 1987

CR 125701 A

DOCUMENT
FOLDER

In re application of James M. Simondale, t/a
James M. Simondale Trucking
A-00107645.....\$125.00

Revenue account 001780-017601-120 (ck)
MO 34517774518 870519 \$125.00
Checks _____ Currency _____
Utility account 50:26

C. Joseph Meisinger
For Department of Revenue