4—"Our field people report that occasionally our distributors or jobbers (an oil company) in the farm belt area of Iowa, Kansas, Nebraska, etc. insist on our using a co-op trucker, even though we pay the freight, and charges are assessed at the common carrier level—with no expense saving whatsoever to us. At first we attempted to resist using these truckers, but for reasons with which we do not entirely agree, our Marketing people prevailed upon us to comply when such requests are made." (Underlined wording added.)

From these examples you can see that farm cooperatives are not hesitant about soliciting traffic that obviously is in no way related to farm business. The above examples, to illustrate this point, cover hardware, glass, chemicals, and petroleum products. Some farmer cooperatives use the Northwest Case as the basis for open solicitation of traffic managers to haul freight of any kind on a negotiated rate basis beyond any regulatory jurisdiction of the ICC. Two specific examples of this type of solicitation are cited below and on the following page.

The first example of an open solicitation for general freight by a farmer cooperative is the following ad that appeared in the "Wall Street Journel" a short time ago. The other example is the solicitation form letter shown on the next page.

TRANSPORTATION DIRECTORS

We are an Agricultural Co-op fully qualified under the recent Northwest decision to haul your product as back-hauls incident to our business of hauling perishable commodities into the north. If you have loads from the north into the southwest, we may be able to work together advantageously. For further information call, or write: National Growers' Marketing Association, Route #5, Farmers Market, Greenville, South Carolina, Telephone 239–7609, George Dumit, General Manager, Kenneth Moody, Dispatcher.

One disturbing feature about both the form letter and ad cited above is the reference therein to the Northwest Case decision. In both instances, this decision is used as the legal basis for the solicitation of freight of any kind. While brief reference is made to the incidental and necessary test and back-haul limitation set forth by the court, it is inconceivable to us that the shipper will be able to know whether or not his traffic complies with these standards. While the shipper may be able to determine whether his traffic is part of a farmer cooperative's back-haul, he would know little else without checking the cooperative's records. The shipper likewise will find it very difficult, if not impossible, to check whether the farmer cooperative itself is bona fide and to determine if his traffic falls within the broad 50/50, member/nonmember test governing such a cooperative's overall business.

The danger is that as more shippers decide to use farmer cooperatives to benefit from low, negotiated rates, their competitors will soon be forced to do likewise.

UNITED AGRICULTURAL TRANSPORTATION ASSOCIATION OF AMERICA,
MARKETING CO-OP,
Lynwood, Calif.

Attention: Traffic Manager.

AT LAST A BREAKTHROUGH ON HIGH FREIGHT RATES! ! !

DEAR SIR: "Supreme Court sanctions co-op backhauls". The Ninth Circuit Court of Appeals in the Northwest Co-op v. ICC case. The decision of that court was that co-ops could back-haul regulated goods if it was necessary to their operation. This means that if a co-op has a rig in Chicago and it can't get an exempt load right away, it can pick up anything and return home rather than return empty. . . . And, the co-op can do it without ICC authority of any kind. The only limitation is that more than half of the co-ops' business must be in farm-related goods.

The above is now the law of the United States! Co-ops can do exactly as we have stated. The Supreme Court turned thumbs down on the ICC and the Justice Department who had wanted the Court to rule in their favor. AND, the SUPREME COURT made its one sentence decision in a record three days!

We are allowed to haul 49% of our total freight for non-members which we need to get our trucks back from the east, as we haul from the West Coast to the East Coast for our members. Our members are all farmers and ranchers.

We have ample insurance for your protection. All of our equipment are late model trucks and our Vans are 40' in volume. As per the "Bill" quoted above