

Decision 15703.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of  
The People of the State of California,  
on relation of the California Highway  
Commission, for an order authorizing  
the construction of a State Highway  
crossing under the tracks of the  
Pacific Electric branch of the Southern  
Pacific Railroad at Branagan, near  
Newport Beach, Orange County, California.

Application No. 11,068.

BY THE COMMISSION:

O R D E R

The People of the State of California on relation of the California Highway Commission, filed the above entitled application with this Commission on the 6th day of May, 1925, asking for authority to construct a State Highway crossing under the tracks of the Southern Pacific Company at Branagan, near Newport Beach, Orange County, California. It appears that the line of railroad covered by this proceeding is owned by the Southern Pacific Railroad Company and leased to Southern Pacific Company.

The Highway Commission in the application requested that this Commission apportion the costs of constructing the underpass between the applicant and the railroad but subsequent to the filing of this application, the Highway Commission, as first party, and the Southern Pacific Railroad Company and Southern Pacific Company, as second parties, have, on October 9, 1925, entered into an agreement providing among other things that two-thirds of the cost of constructing the underpass is to be paid by the Highway Commission and one-third is to be paid by the parties of the second part and that the

cost of paving and surfacing the highway is to be borne by the Highway Commission. The agreement also provides that the maintenance of the grade separation shall be borne as follows:

"The railroad companies shall maintain, repair and renew at their sole cost and expense, the railroad tracks, ties, ballast and guard rails, also the steel work and floor system of said subway, and the Highway Commission shall maintain, repair and renew at its sole cost and expense the foundations, abutments and wing walls of said subway, also the highway including the grading, surfacing, paving and drainage system thereof."

It appears to the Commission that the present proceeding is not one in which a public hearing is necessary; that said agreement appears equitable; and that both parties have notified the Commission, in writing, that the agreement meets with their approval. It further appears that the application should therefore be granted, subject to certain conditions hereinafter specified, therefore,

IT IS HEREBY ORDERED, that permission and authority be and it is hereby granted to California Highway Commission to construct a State Highway crossing under the tracks of the Southern Pacific Company at Branagan, near Newport Beach, Orange County, California, at the location shown by the plan attached to the application and marked Exhibit "A", subject to the following conditions:

(1) Said crossing shall be constructed at Highway Commission Engineer's Station 738+19.44 on road designated as Road VII - Ora - 60-A, and at an angle of  $68^{\circ} 39'$  with the tracks of Southern Pacific Company.

(2) Clearances at said undergrade crossing shall be in conformity with those specified in this Commission's General Order No. 26-a.

(3) Said under crossing shall be made and constructed in accordance with plans and specifications to be prepared and approved by the parties to this proceeding which plans shall then be subject to the approval of this Commission.

(4) The cost of constructing and maintaining said crossing shall be apportioned between the Highway Commission and the Southern Pacific Company in accordance with that certain agreement hereinbefore mentioned as having been entered into by the interested parties on the 9th day of October, 1925.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of the said crossing.

(6) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes this order shall become effective twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of November, 1925.

H. B. Burdige  
C. C. Cheney  
George D. Squires  
Ernest Scott  
Leon A. White  
 (Commissioners)