

Decision No. 18530.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
PACIFIC ELECTRIC RAILWAY COMPANY, a
corporation, for authority to sell
certain property along its Huntington
Beach Line in the City of Huntington
Beach, California.

Application No. 13,759.

BY THE COMMISSION:

O R D E R

In this application Pacific Electric Railway Company, a corporation, asks permission to sell to the Pacific Electric Land Company for the sum of One hundred thirteen thousand and fifty-two (113,052.00) dollars, certain real property, hereinafter described, which is located in the City of Huntington Beach and which applicant alleges is not used or useful in the present or prospective performance of its railroad operations or its duty to the public. The property proposed to be transferred is shown on the map (C.E.K. 1381) attached to the application and is more particularly described as follows:

A strip of land of varying width, being a portion of Sections 4, 3, 10, 11 and 14, T. 6 S., R. 11 W., S.B. B. and M., said strip of land being more particularly described as being 32 feet on the left or northeasterly side, and extending throughout the line of the ordinary high tide of the Pacific Ocean on the right or south-westerly side, of the following described line, to-wit:

Beginning at a point in the North and South quarter section line of Section 4, T. 6 S., R. 11 W., S.B.B. and M., and southerly 2401.5 feet, a little more or less, from the North quarter section corner of said Section 4; thence from said point of beginning, South 44° 37' 15" East, 3405.34 feet to the point of beginning of a 1°-curve to

the left; thence southeasterly along said 1° curve to the left, 476.72 feet to the end of said 1° curve to the left; thence South 49° 23' 15" East, 6340.88 feet to the point of beginning of a 2° tapered curve to the right; thence southeasterly along said 2° tapered curve to the right, 223.54 feet to the end of said 2° tapered curve to the right; thence South 45° 31' East, 102.03 feet to the point of beginning of a 2° tapered curve to the left; thence southeasterly along said 2° tapered curve to the left, 223.54 feet to the end of said curve; thence South 49° 23' 15" East, on a line parallel to and 32 feet southwesterly from the southwesterly line of Ocean Avenue as shown on map of Huntington Beach recorded in Book 3 of Miscellaneous Maps of Orange County, California, at page 36 thereof, 3603 feet, a little more or less, to a point in the northwesterly line of "A" Street in Off Addition to Pacific City, as shown on map of said Addition made by S. H. Finley C.E., in 1903.

EXCEPTING therefrom any portion of said strip of land lying between the southwesterly prolongation of the southeasterly line of Ninth Street and the southwesterly prolongation of the northwesterly line of Second Street, as said Ninth Street and Second Street are shown on above mentioned map of Huntington Beach.

ALSO EXCEPTING the northeasterly 60 feet of said strip of land lying between the North and South quarter section line of above mentioned Section 4 and the southwesterly prolongation of the southeasterly line of said Ninth Street.

ALSO EXCEPTING the northeasterly 82 feet of said strip of land lying between the southwesterly prolongation of the northwesterly line of said Second Street and the northwesterly line of "A" Street in above mentioned Off Addition to Pacific City.

TOGETHER with any and all accretions thereto on the southwesterly side of the property hereby conveyed.

The application recites that this Commission, by Decision No. 17,340, dated September 14th, 1926, and by Decision No. 17503, dated October 19th, 1926, on Application No. 13,149, authorized the execution of an oil lease agreement involving the above-described property from the Pacific Electric Railway Company and Huntington Beach Company to Standard Oil Company of California.

The application further recites that said lands were conveyed by deed dated April 4th, 1907, from Huntington Beach Company to Los Angeles Interurban Railway Company, predecessor

in interest to applicant, and that said deed contained, among others, the following reservations in favor of Huntington Beach Company:

"Excepting and reserving also the right to require from the party of the second part, from time to time as may be desired, conveyances to the party of the first part of such parcels of land out of said first herein described strip of land as may lie Southwesterly of the line running parallel to the Southwesterly line of Ocean Avenue and extension sixty (60) feet distant therefrom and not occupied by the railway tracks and buildings of the party of the second part, as the party of the first part may require for the purpose of constructing thereon hotels, bathhouses, wharves and approaches thereto, and pavilions or buildings for other purpose or public enjoyment or entertainment, with the necessary and convenient grounds and approaches thereto, which said lands when so conveyed shall be used for the purposes aforesaid, and for none other.

"THIS CONVEYANCE is made upon the following conditions, restrictions and limitations, created and reserved for the benefit of the party of the first part, its successors and assigns, as covenants running with the land:

"That the said land hereby conveyed shall be used only for railroad purposes; that no buildings shall be constructed thereon except such as are necessary for railroad purposes; that the said land will not, nor will any part thereof, be used as storage yards for unsightly freight; that no erections, constructions or excavations shall be made thereon tending to mar the appearance of the beach or the view from said Ocean Avenue; that such buildings as may be erected for railway purposes shall be of neat appearance, and that the said land shall not be used for cottages or private residences of any description, nor for other private purposes, except that, if any portion, of the first described strip of land lying below the bluff and above the ordinary tide lines, shall hereafter at any time be found suitable for subdivision purposes and private use, it may be so used by the parties hereto, and said land is excepted from the operation of this conveyance, except as follows, to-wit:

"That the party of the second part shall be entitled to an undivided one-fifth thereof, subject to the right of the party of the first part to plat and subdivide the same, and when such platting and subdivision shall be accomplished, then such lots shall be divided between the parties hereto under and pursuant to the provisions of the agreement in writing dated June 4, 1903, between the Pacific Electric Railway Company, a corporation, as

party of the first part, and said Huntington Beach Company, as party of the second part; it being understood and agreed, however, that no buildings shall at any time be constructed upon lots so located below the bluff the tops of which shall reach above the horizontal plane of the present bluff."

The application sets forth that said property is subject to a trust deed or mortgage in favor of United States Mortgage and Trust Company, dated September 1st, 1911; that for the purpose of making the lease agreement to the Standard Oil Company of California, applicant secured a release from United States Mortgage and Trust Company; that in order to secure said release it was necessary, under the terms of the mortgage, to contract for the sale or exchange of the property being released; that accordingly applicant contracted to sell said property to the Pacific Electric Land Company for said sum of One hundred thirteen thousand and fifty-two (113,052.00) dollars.

The Commission is of the opinion that this is not a matter in which a public hearing is necessary, that the property it is proposed to transfer is not needed by Pacific Electric Railway Company in the performance of its railway operations or in its duty to the public; that applicant is receiving a reasonable price for the property and that this application should be granted, therefore

IT IS HEREBY ORDERED that Pacific Electric Railway Company, applicant herein, be and it is hereby authorized to sell and convey to the Pacific Electric Land Company for the sum of One hundred thirteen thousand and fifty-two (113,052.00) dollars, the hereinbefore described parcels of land, subject, however to the oil lease agreement covering said property authorized in Decision No. 17,340, dated September 14th, 1926, and by Decision No. 17,503, dated October 19th, 1926, in Application No. 13,149.

The authority herein granted shall become effective
on the date hereof.

Dated at San Francisco, California, this 20th
day of June, 1927.

Edmund East
H. B. Brundage
Chas. E. Bennett
Leon Whitehall
Thos. S. Howard

Commissioners.