

**ORIGINAL**

Decision No. 1524

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
 the COUNTY OF ORANGE for an order  
 authorizing the construction and main-  
 tenance of two crossings, one over the  
 Southern Pacific Railroad Company's  
 tracks and right-of-way, and the other  
 over the Pacific Electric Railway Com-  
 pany's tracks and right-of-way, near  
 the California State Highway between  
 the towns of Huntington Beach and  
 Newport Beach, in Orange County, Cali-  
 fornia.

Application No. 15198.

L. W. Blodgett, for Applicant.

Messrs. Mumper, Hughes and Robertson,  
 by Baldwin Robertson, for Harold G.  
 Ferguson Corporation.

C. W. Cornell, for Pacific Electric  
 Railway Company and Southern Pa-  
 cific Company.

BY THE COMMISSION:

O P I N I O N

In this proceeding the County of Orange requests per-  
 mission to construct a public road at grade across the tracks and  
 right-of-way of Pacific Electric Railway Company and Southern Pa-  
 cific Company in the vicinity of Huntington Beach.

Public hearings were held in this matter before Examiner  
 Gannon at Huntington Beach and Los Angeles.

It is proposed by the Harold G. Ferguson Corporation,  
 realty developers, to subdivide and place on the market a tract of  
 ocean frontage of approximately 1,500 feet by 170 feet deep, lo-  
 cated about one mile south of Huntington Beach. This land is

separated from the state highway by the rights-of-way of Pacific Electric Railway and Southern Pacific Company's line between Huntington Beach and Newport Beach. Orange County requests permission to construct a public crossing at grade across the tracks of Pacific Electric Railway Company and Southern Pacific Company for the purpose of developing the property of the Harold G. Ferguson Corporation. At the point of crossing, as proposed in the application, the track of Southern Pacific Company joins the track of Pacific Electric Railway Company and both companies use the single track of the latter company from this point south. At the hearings applicant was allowed to amend its application, whereby the location of the proposed crossing was moved approximately ninety (90) feet south, so that the crossing would cross only the track of Pacific Electric Railway Company.

The minimum grade of approach that could be constructed to the east at the proposed crossing would be 6-1/2 per cent due to the fact that the highway and track are located approximately eighty-one (81) feet apart and the elevation of the track is about 5.4 feet above that of the highway. In the event that the Southern Pacific Company's track was extended parallel with the Pacific Electric Railway Company's track and at the same elevation, the grade of approach would be prohibitive, as this track would be located between the existing track of Pacific Electric and the state highway.

The territory to be served by this proposed crossing is in one ownership and is now undeveloped with no one actually occupying the property. It is claimed by the owners of this land that the crossing is necessary for the purpose of selling lots to prospective buyers. It was clearly shown that there is

no existing public convenience and necessity now existing. The granting of this application was opposed by the interested carriers on the ground that the public hazard that would be incident to the establishment of the proposed crossing and resulting interference to railroad operation could not be justified from the standpoint of public convenience to be afforded by the crossing.

The Commission has heretofore given expression to its attitude where similar circumstances were involved. In Decision No. 3478 (County of Fresno, 10 C.R.C. 506), the following language is used: \* \* \* \* \* "It will undoubtedly be beneficial to the realty company which laid out the town but the Commission has often stated that it could not grant permission for new crossings to be opened for this reason only. \* \* \* \* \* The Commission again declares, in its Decision No. 1739 (City of Santa Cruz, 5 C.R.C. 269), \* \* \* \* \* The Commission, in grade crossing cases, has at many times held that it would not grant permission for a highway to cross the tracks of a railroad at grade solely for the sake of developing any subdivision projects, promoting real estate or increasing the price of property. \* \* \* \* \*

It appears to the Commission, in the instant case, that the establishment of a public crossing at grade is not warranted, not only for the lack of public convenience and necessity but also that the conditions surrounding the location are not reasonably satisfactory for a grade crossing.

#### O R D E R

County of Orange, having made application for permission to construct a public road at grade across the track of Pacific Electric Railway Company, in the vicinity of Huntington Beach, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and

ready for decision, therefore,

IT IS HEREBY ORDERED that the above entitled proceeding be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this 10<sup>th</sup> day of September, 1929.

Thos S. Lott

C. Seavey

Ernest J. ...

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Commissioners.