

Decision No. 66379**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TONY MERLINO and)
 THERESA MERLINO, his wife, for a)
 private crossing over railroad)
 tracks owned by Western Pacific)
 Railroad. }

Application No. 44909

ORDER OF DISMISSAL

The above application was filed on November 1, 1962,
 and was amended on February 7, 1963.

The application alleges that applicants own a parcel
 of land in Santa Clara County where applicants will construct
 a restaurant and bar; it further alleges that the Western Pacific
 Railroad tracks cover the northeasterly portion of said property
 due to an easement and unless a private crossing is authorized
 and constructed over said tracks applicants will be blocked from
 entering or leaving the restaurant site; the application then
 requests this Commission to order a crossing over said tracks and
 an apportionment of the expense of construction.

Public hearings were held before Examiner Fraser on
 June 18 and July 25, 1963. It was stipulated that the parties
 were working on a settlement and during the first week in October
 both of the parties wrote to this Commission and requested that
 the application be dismissed.

Good cause appearing,

IT IS ORDERED that the application of Tony Merlino and Theresa Merlino, his wife, for a private crossing over railroad tracks owned by Western Pacific Railroad be, and it is, dismissed without prejudice.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 26th day of NOVEMBER, 1963.

William J. Brund
 President

Arthur E. Hatch

Wesley B. King

George T. Grover

Fredrick B. Hallock
 Commissioners