

ORIGINALDecision No. 67734

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CAPISTRANO SADDLE CLUB, a corporation,
 to construct an overpass over the
 right-of-way of the Atchison, Topeka
 and Santa Fe Railway Company near the
 Rancho Viejo overpass of the Santa Ana
 Freeway north of San Juan Capistrano,
 California

Application No. 46777

(Filed July 6, 1964)

Rutan & Tucker, by N. H. Smedegaard, for
 applicant.

Jayne C. Billey, Jr., for The Atchison,
 Topeka & Santa Fe Railway Company;
R. F. Nuttman, for Orange County;
 interested parties.

W. F. Hibbard, for the Commission staff.

O P I N I O N

By the above-entitled application, filed on July 6, 1964, the Capistrano Saddle Club (applicant), a corporation, seeks authority to construct an overpass over the rails and right of way of The Atchison, Topeka and Santa Fe Railway Company (railway) near San Juan Capistrano, California. A public hearing on the application was held before Examiner Rogers in Santa Ana, California, on August 4, 1964. Evidence was presented, the matter was argued and submitted and it is ready for decision.

Applicant is a California corporation. It owns real property in the County of Orange situated on the west side of U. S. Highway 101 (not the San Diego Freeway). It intends to operate a golf course, recreational facilities and a subdivision in this

property. The main line of the railway between Los Angeles and San Diego is immediately adjacent to and on the west side of U. S. Highway 101 in this area. Applicant has acquired real property on the east side of U. S. Highway 101 and intends to construct an overpass from the east side thereof over said highway across the railway right of way and into the subdivision area mentioned (Exhibit 1).

The detailed plans of construction call for an entrance on the east side of U. S. Highway 101 at which point there will be a guardhouse with guards on duty 16 hours per day. Immediately east of the guardhouse is a circular ramp leading back to U. S. Highway 101. This ramp is protected by equipment (spring guards) which prevents vehicles from entering, and the purpose of the ramp is to permit the exit of unauthorized vehicles without the necessity of proceeding into the subdivision area. Immediately east of this ramp there is to be a gate similar to a railroad crossing gate, which will be operated by the guards during the periods they are on duty. During the eight hours the guards are not on duty, the gates will be operated by keys in the possession of the property owners or other authorized persons. The egress from the subdivision on the opposite side of the gate will also be protected by tire damaging spring guards. It is the plan of the applicant that no persons will be permitted in or out of the subdivision and golf course area except owners of property, members of the club, tradesmen and business invitees, or invitees of residents and the latter will only be able to enter or leave the premises by contacting the guards. All authorized persons will be furnished the above referred to keys which will enable them to open the gates during the hours the guards

are not available. There is a private crossing over the tracks into the property from U. S. Highway 101 at present. The applicant will barricade and padlock this entrance when the overpass is established so that literally the only entrance or exit to the area will be via the overpass herein referred to.

Applicant has executed an agreement with the railway whereby applicant has been granted a license to construct and maintain the overpass referred to at its own expense. This overpass will cross the track at a height of approximately 24 feet above the top of the rail and will have a 24-foot roadway (Exhibit E). Applicant and the railway have executed a permanent agreement for the construction and maintenance of the overpass (Exhibit 5).

The applicant has partially constructed the approach ramps to the overpass. Its sales of property and club memberships are being held up pending decision by this Commission and applicant requests that a decision be rendered as soon as possible.

Upon the evidence herein, the Commission finds that:

1. Applicant is a California corporation engaged in the business of selling real property and operating a private club in Orange County, among other things; applicant intends to construct an overpass over the main line of the railway in Orange County, both ends of which will be on real property owned by applicant; applicant intends to sell real property and organize a golf club on said real property owned by it in Orange County; applicant intends to limit access and egress to said club and real property to club members, owners of portions of said real property and their authorized invitees, guests, and tradesmen; authorized persons will be required

to use the overpass and pass through a gate to secure entrance into the area.

2. There will be no method of ingress or egress to said property other than the overpass herein referred to and proposed to be constructed and said overpass and gate will be guarded 16 hours per day and only authorized persons will be permitted by the guards to enter the area during the guarded 16-hour period; during the remaining eight hours each day, entrance may be secured by operating the gates by means of keys which will be issued to authorized persons only.

The Commission concludes that the application should be granted.

O R D E R

IT IS HEREBY ORDERED that Capistrano Saddle Club is authorized to construct a private crossing at separated grades over the track of The Atchison, Topeka and Santa Fe Railway Company, near San Juan Capistrano, Orange County, at the location as shown by map attached to the application. Construction and maintenance expense shall be borne in accordance with an agreement entered into between the parties relative thereto.

Within thirty days after completion pursuant to this order applicant shall so advise the Commission in writing. This

authorization shall expire if not exercised within two years unless time be extended or if conditions are not complied with.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 18th day of August, 1964.

Fredrick B. Holbrook
President
[Signature]
[Signature]
George J. Traver
Stella La Bernard
Commissioners