

Decision No. 12396

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application
of Peninsular Railway Company, a
corporation, for permission to
construct, maintain and operate
its track at grade across King
Road and portions of Alum Rock
Avenue and Berryessa Road in the
County of Santa Clara, California.

} Application No. 9227

BY THE COMMISSION:

ORIGINAL

ORDER

Peninsular Railway Company, a corporation, having on July 18, 1923, filed with the Commission an application asking for permission to construct its track at grade across a portion of Alum Rock Avenue near its intersection with King Road or Thirty-fifth Street, and at grade across a portion of King Road or Thirty-fifth Street near its intersection with Alum Rock Avenue in the City of San Jose, County of Santa Clara, State of California, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary, that the necessary franchise or permit (Ordinance No. 1867) has been granted by the City Council of said City of San Jose for the construction of said crossings at grade and it further appearing that it is not reasonable nor practicable to avoid grade crossings with said portions of

Alum Rock Avenue and King Road, said application also asking for permission to construct its track at grade across a portion of King Road near its intersection with Alum Rock Avenue, at grade across Mc Kee Road at its intersection with King Road, at grade across a portion of King Road near its intersection with McKee Road, at grade across Maybury Road at its intersection with King Road, at grade across portion of King Road near its intersection with Berryessa Road and at grade across a portion of Berryessa Road near its intersection with King Road in the County of Santa Clara, State of California, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit has been granted by the Board of Supervisors of said County of Santa Clara for the construction of said crossings at grade, and it further appearing that there is only a moderate amount of highway traffic on any of those portions of said county roads at the points of the said crossings, that it is not reasonable nor practicable to avoid grade crossings with said county roads at this time, and that this application should be granted subject to the conditions hereinafter specified,

IT IS HEREBY ORDERED that permission be and it is hereby granted Peninsular Railway Company to construct its track at grade across a portion of Alum Rock Avenue near its intersection with King Road or Thirty-fifth Street and at grade across a portion of King Road or Thirty-fifth Street near its intersection with Alum Rock Avenue, in the City of San Jose, County of Santa Clara, State of California, described as follows:

Commencing at a point in the center line of Santa Clara Street (formerly Alum Rock Avenue) which is 500 feet westerly from the point of intersection of said center line with the center

line of King road, and running thence easterly along said center line of Santa Clara Street to a point 338 feet westerly from said center line of King road and thence curving to the left (crossing the center line of King Road at a point 237 feet northerly from the intersection of the center line thereof with the center line of Santa Clara Street) to a point 10 feet westerly from the easterly line of King Road, which is 329 feet (measured parallel to said easterly line of King Road) northerly from the center line of Alum Rock Avenue.

All of the above as shown by the maps attached to the application; said crossings to be constructed subject to the following conditions, viz:

- (1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.
- (2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said Alum Rock Avenue and King Road now graded, with the top of rails flush with the pavement, and with grades of approaches not exceeding two (2) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.
- (3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.
- (4) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.
- (5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judg-

ment, the public convenience and necessity demand such action.

IT IS HEREBY FURTHER ORDERED, that permission be and it is hereby granted Peninsular Railway Company to construct its track at grade across a portion of King Road near its intersection with Alum Rock Avenue, at grade across McKee Road at its intersection with King Road, at grade across a portion of King Road near its intersection with McKee Road, at grade across Maybury Road at its intersection with King Road, at grade across a portion of King Road near its intersection with Berryessa Road and at grade across a portion of Berryessa Road near its intersection with King Road in the County of Santa Clara, State of California, described as follows:

Commencing at a point in the center line of King Road 237 feet northerly from the intersection of said center line of King Road with the center line of Alum Rock Road and thence curving to the left to a point 10 feet westerly from the easterly line of King Road and 329 feet (measured parallel to said easterly line of King Road) northerly from the center line of Alum Rock Avenue; thence northerly and parallel to said easterly line of King Road and 10 feet westerly therefrom, 2237 feet to a point 100 feet northerly from the northerly line of McKee Road; thence by a reverse curve to a point on the westerly side of King Road 10 feet easterly from the westerly line thereof and 348 feet measured parallel to said westerly line of King Road northerly from the northerly line of McKee Road, thence northerly parallel to said westerly line of King Road and 10 feet easterly therefrom 6140 feet more or less to a point 175 feet more or less (measured parallel to the said westerly line of said King Road and the northerly extension thereof) from the center line of Berryessa Road; thence on a proper curve to the right over King Road and Berryessa Road to the private right of way of said Peninsular Railway Company lying southerly of and adjoining the southerly line of said Berryessa Road.

All of the above as shown by the maps attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good

and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said roads now graded with the top of rails flush with the pavement, and with grades of approach not exceeding two (2) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) If and when King Road between Berryessa Road and Alum Rock Avenue shall have become a sufficiently important traffic artery to carry a vehicular traffic normally in excess of one thousand vehicles per day at least two of the grade crossings of King Road herein authorized shall be abolished.

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

(5) The authorization herein granted for the installation of said crossings will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings 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.

This order shall become effective three (3) days after the making thereof.

Dated at San Francisco, California, this 27th day of July, 1923.

C. Seaver

Irving Martin
Egerton Shaw

Commissioners.