

Decision No. 12438

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application of)
The Western Pacific Railroad Company)
for permission to construct a spur)
track at grade across Martha Street) Application No. 9268
and Fifth Street, public streets, in)
the City of San Jose, County of Santa)
Clara, State of California.)

BY THE COMMISSION:

O R D E R

The Western Pacific Railroad Company, a corporation, having on July 27, 1923, filed with the Commission an application for permission to construct a spur track at grade across Martha Street and Fifth Street 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 (Resolution No. 1149) has been granted by the 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 Martha Street and Fifth Street, 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 The Western Pacific Railroad Company to construct a spur track at grade across Martha Street and Fifth Street in the City of San Jose, County of Santa Clara, State of California, described as follows:

Beginning at a point in the center line of The Western Pacific Railroad Company's track as the same now exists on Fifth Street, San Jose, said point being approximately one hundred fifty-three (153) feet southerly of the southerly line of Martha Street; thence in a northwesterly direction with switch and turnout to the left approximately eighty (80) feet; thence on a curve to the left approximately eighty-three (83) feet and crossing the southerly line of Martha Street approximately twenty (20) feet easterly of the westerly line of Fifth Street; thence on a curve to the right approximately one hundred sixteen (116) feet to a point eight and one-half (8-1/2) feet easterly of the westerly line of Fifth Street, and crossing the northerly line of Martha Street approximately fifteen (15) feet easterly of the westerly line of Fifth Street; thence in a northerly direction approximately one hundred forty-six (146) feet to a point approximately forty (40) feet southerly of the southerly line of Lewis Street and approximately four hundred twenty-five (425) feet from the point of beginning.

All of the above as shown by the map 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 streets now graded, with the top of rails flush with the pavement, and with grades of approach not exceeding one (1) 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 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 2nd day of August, 1923.

C. L. Seaver
H. B. Brundage
Waring M. Austin

Commissioners.