

ORIGINAL

Decision No. 12856

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application of
Southern Pacific Company for an order
authorizing the construction at grade
of a spur track across a portion of
40th Avenue, in the City of Oakland,
County of Alameda, State of California.) } Application No. 9538

BY THE COMMISSION:

ORDER

Southern Pacific Company, a corporation, having on November 20, 1923, filed with the Commission an application for permission to construct a spur track at grade across Fortieth Avenue in the City of Oakland, County of Alameda, 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. 27994 N.S.) has been granted by the City Council of said City of Oakland for the construction of said crossing at grade, and it further appearing that it is not reasonable nor practicable to avoid a grade crossing with said Fortieth Avenue, 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 Southern Pacific Company to construct a spur track at grade across Fortieth Avenue in the City of Oakland, County of Alameda, State of California, described as follows:

Beginning at a point, said point being the intersection of the southeasterly line of 40th Ave. and the southwesterly line of the Central Pacific Railway Company's right of way of their line from Oakland to Niles; thence northwesterly 46.9 feet, more or less, along the said southwesterly right of way line to a point; thence southeasterly in a curve to the left, of radius of 387.25 feet, 48.9 feet to a point on the said southeasterly line of 40th Avenue; thence northeasterly along the said southeasterly line of 40th Avenue 7.8 feet, more or less, to the point of beginning.

All of the above as shown by the map (Western Division Drawing S-325) attached to the application; said crossing to be constructed subject to the following conditions, viz:-

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first condition shall be borne by applicant.

(2) Said crossing shall be so constructed that grades of approach not exceeding two (2) per cent will be feasible in the event that the construction of roadway along said Fortieth Avenue shall hereafter be authorized and so that said grade crossing of Fortieth Avenue may 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 crossing.

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

(5) This order is made upon the express condition

that Fortieth Avenue is not now actually constructed and open to travel at the point of crossing and said order shall not be deemed an authorization for the construction of an opening of said street to public use and travel across said railroad track.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation maintenance and protection of said crossing 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 22nd day of November, 1923.

W. S. ...
H. B. ...
James ...
Robert ...
J. T. Whitting
Commissioners.