

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the California Highway Commission for an order authorizing the installa- tion of a proposed highway under-pass under The Western Pacific Railroad Company near North Sacramento, Sacramento County.	) ) ) ) ) ) ) ) )	Application No. 10226.
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Paul P. Fratesse and Harlan D. Miller for Applicant.  
James S. Moore, Jr., for The Western Pacific Railroad  
Company.

DECORO, COMMISSIONER:

OPINION ON REHEARING AND RECONSIDERATION

Rehearing on the above entitled application was held at Sacramento on Tuesday, March 24, 1925, upon petition by The Western Pacific Railroad Company. At the rehearing the following stipulations were entered:

(1) By The Western Pacific Railroad Company: Public convenience and necessity require a separation of grades at the location applied for from a highway point of view.

(2) By The Western Pacific Railroad Company: The County Road was in existence prior to 1907 at the time the railroad was built.

(3) By the State Highway Commission: That there would be no saving, by the railroad company in maintenance and depreciation by replacing the portion of the existing wooden railroad trestle across and over the highway and the automatic flagman protecting the highway crossing with the steel and concrete structure of the proposed grade separation.

The first stipulation implies no assumption on the part of the railroad company that it should be required to pay any portion of the cost of the separation and is further conditioned to the effect that it does not include the safety necessity of the separation, as the railroad company considers that conditions at this grade crossing are not hazardous and that no more hazard exists at this point than at any crossing at grade. On account of these conditions and further taking into consideration the fact that there have never been any accidents resulting in injuries or deaths at the existing crossing in a long period of years, the railroad company takes the position that it should not be required to pay any portion of the costs of this separation. However, it is willing, in order to cooperate and help traffic conditions on this main highway, to donate \$7,500. or about 25% of the estimated cost of a subway.

This attitude on the part of railroad companies in regard to an apportionment of the cost of a grade separation based on conditions at the crossing and on the accident record of the crossing has been before the Commission in other applications and is particularly dealt with in Decision No. 10442 (Appl. 7634) (not printed).

The crossing under consideration is on the main trunk highway leading out of Sacramento to the north and east. This highway divides at Roseville, one route proceeding north to points on the east side of the Sacramento Valley and the other route proceeding northeast to Lake Tahoe and vicinity. From 8,500 to 10,000 vehicles pass over this crossing per day. As recently as June of last year three applications (Decision 13704) (not printed) were granted the Highway Commission to separate grades with the Southern Pacific Company at Applegate and Weimar on the Lake Tahoe branch

of this highway. Obviously this lateral route is not as important a road as is the main trunk highway near Sacramento now under consideration. The costs of these three grade separations were each equally divided between the Highway Commission and the railroad.

The Engineering Department of the Commission has, after two different surveys recommended a separation of grades at the point covered in this proceeding without, however, making any recommendation as to division of cost.

I can see no reason for any difference in treatment to be accorded a separation of grades at this particular grade crossing over the usual crossing at grade. The mere fact that both railroad and highway are on trestles and intersect in a plane above the ground level does not in my opinion change the treatment which is generally accorded a similar intersection at the ground level. In fact, the physical conditions at this crossing render a separation of grades easy to accomplish and cheaper in cost than the usual separation. I do not see that the railroad's obligation to separate the grades of this crossing of a primary trunk highway should be less than the obligation of a railroad to abolish grade crossings on the principal branches of the highway.

The trestle on which the highway traffic runs corresponds to the roadway or pavement of a highway laid upon the ground and should be considered as other roadways or pavements are considered in ordinary grade crossing separations. At Sixteenth Street, Sacramento, (Case 1430, Decision 11316, 22 C.R.C. 607) a 20-foot grade crossing was replaced by a subway with two 18-foot clear openings and the costs apportioned equally between the Southern Pacific Company and the City of Sacramento. Traveled width of existing grade crossings should not be a controlling consideration

in apportioning the cost or of determining the dimensions of grade separations by this Commission.

Counsel for the railroad company takes the stand that the building of a 30-foot subway is increasing the facilities of the highway and that the railroad should not be assessed with any part of the cost of increasing such facilities. Counsel cites Decision 12184; 23 C.R.C. 551 (Case 1870), Decision 12172; 23 C.R.C. 529, and Decision 12213; 23 C.R.C. 563 (Application 8996) in which separation of grades was ordered in the City of Bakersfield and in which The Atchison, Topeka and Santa Fe Railway Company was assessed with the full cost of an additional second track as a new railroad facility and contends that a similar policy should be followed in the present case with respect to the widening of the highway. I do not believe that the width of this highway trestle can be considered as an analagous case as I find on inspection in the field that the existing grade crossing is over forty-five feet in width and is composed of two portions of about equal widths; one portion is for the horizontal main trestle of the highway and the other, in the form of two wooden ramps is for the lightly traveled existing roadway on the ground parallel to the trestle. It is possible, at present, by using these ramps, to drive from the trestle to the ground level road, or vice versa, or to continue along the ground level road. The conversion of these wooden ramps into a portion of a thirty foot subway actually diminishes the present width of highway grade crossing and is analagous, to my mind, to the conversion of an existing little used railroad side track into a second main line at a separation of grades and is not in the nature of an increase of facilities.

A subway eighteen feet wide, as desired by the railroad company, could not in any event be constructed except in violation

of General Order 26 of this Commission, which specifies a minimum width of twenty feet between walls of a subway with single opening and widths of twelve feet between walls of a subway with double opening.

The Engineering Department of the Commission testified through Assistant Engineer L. R. Kessing, that the additional cost of constructing a skew span had sometimes been apportioned on other than a 50-50 basis between the interested parties. I am able to find only four cases wherein discussion has been had in regard to difference in costs due to the construction of skew spans and as to the apportionment of the additional costs involved in such construction as compared to a right angle span. These proceedings are as follows:

<u>Decision No.</u>	<u>Appl. No.</u>	<u>Kind of Separation</u>	<u>Locality</u>	<u>Railroad Company</u>	<u>Apportionment of Costs</u>
2026 (5 C.R.C. 945)	1061	Subway	Roseville	S.P. Co.	75% of skew to Highway; 25% to Railroad.
8600 (Not printed)	5579	"	Jacumba	S.D. & A. Ry. Co.	"
13843 (25 C.R.C. 219)	5180	"	Christie	A.T. & S.F. Ry.	Apportioned equally between parties.
13206 (24 C.R.C. 508)	9469	"	Aptos.	S.P. Co.	"

From the above decisions it would appear that no regular precedent has been followed, but in later years with the increase in importance of highway traffic, the tendency has been to consider the skew as a necessary part of highway subway construction to be apportioned equally between the parties.

The science of highway engineering has developed in the

past ten years to a point where it is now comparable to good railroad engineering practice. Excessive curvature, heavy grades and sharp right angle turns are no more tolerated in good practice in the construction of main state and county highways than they are in railroad construction, although the actual limiting curves and grades are not the same for both. The railroad companies should not request operating conditions on important roads which are relatively more burdensome than those which they would approve on their own lines. It has always been the policy of the Commission to endeavor to have the various plans for grade separations, in so far as they relate to the railroad from a structural and operating point of view, submitted to the railroad and declared satisfactory by them. It seems reasonable to ask similar consideration of the railroads to the satisfaction of the State Highway Commission or such other political subdivision as may be involved. This was the policy pursued at Christie and at Aptos and I see no reason why it should not be continued here.

The fact that no serious or fatal accidents have occurred at this crossing, or at any other particular crossing, during a period of from five to ten years is no conclusive measure of the hazard which exists. This principle is illustrated by the accident to the school bus at Proberta crossing, where over a dozen high school children were killed, although the previous history of that long established crossing does not show a serious accident record.

The Western Pacific Railroad Company contends that lack of accidents or the failure to collect damages on crossing accidents represents an amount of zero on which to capitalize an expenditure for a grade separation, but I wish to call attention to the fact that it is the duty of the railroads, the public road

authorities, and this Commission to protect the lives of the citizens of the State and to recognize the hazards to life and limb which exist at this as well as other grade crossings. In the attainment of such protection and the elimination of hazard, it is just as much the duty of this Commission to require that grade separation be properly arranged for highway traffic on the highways of the state as it is to require plans economically designed and suitable for railroad needs. The right of the people to proper, safe and easy access across a line of railroad has already been set forth by this Commission in Decision 6875; 17 C.R.C. 527 (Application 1446), in Decision 14244; 25 C.R.C. 552, (Application 10192) and in Decision 14259 (this proceeding). To this end and in the interests of safety it seems reasonable to insist on the establishment of subway grade separations with a wide span, light grades, a minimum of curvature on the approaching highways, and a reasonably long line of vision through the subway unless physical conditions and topography make the realizing of such installations impossible. These requirements can all be fulfilled at this location.

After taking all of the evidence into consideration, it appears that the former decision of the Commission in this proceeding should be sustained and it will be so ordered.

#### O R D E R

A further public hearing having been held on the above entitled application, after granting of petition for rehearing, the matter being again submitted and now ready for decision,

IT IS HEREBY ORDERED, that the Commission's order in this proceeding in Decision No. 14259, dated November 17, 1924, be and

it is hereby sustained and shall in all respects remain in full force and effect.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30<sup>th</sup> day of April, 1925.

H. B. Randige

C. Seaver

Egerton Shore

Emmanuel Scott

Commissioners.