

Decision No. 15634

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
SOUTHERN PACIFIC RAILROAD COMPANY
and its lessee, SOUTHERN PACIFIC
COMPANY, for authority to sell to
Roy O. Long of the City of Berkeley,
County of Alameda, State of
California, certain real property in
the City of Berkeley, County of
Alameda, State of California, herein-
after particularly described.

Application No. 11543.

In the matter of the application of
the CITY OF BERKELEY for an order
authorizing a street crossing at grade
across the tracks and right of way of
the Southern Pacific Company at the
intersection of its Shattuck Avenue
Line and Addison Street in the City
of Berkeley, California.

Application No. 11582.

In the matter of the application of
SOUTHERN PACIFIC COMPANY for an order
authorizing the construction at grade
of two spur tracks across a portion
of Stanford Place and across Center
Street in the City of Berkeley,
County of Alameda, State of California.

Application No. 11625.

E. J. Foulds, for the Southern Pacific Company.

E. J. Sinclair, City Attorney, and Oscar T. Barber,
for the City of Berkeley.

W. I. Brobeck, for Key System Transit Company.

BY THE COMMISSION:

O P I N I O N

In Application No. 11543, the Southern Pacific Company asks
for permission to sell the portion of its station grounds at Shattuck
Avenue and University Avenue, Berkeley, lying north of Addison Street
as extended across their property.

In Application No. 11582, City of Berkeley seeks permission to extend Addison Street across the tracks and right-of-way of the Southern Pacific Company.

In Application No. 11625, (as amended at the hearing), the Southern Pacific Company asks permission to install a spur track along and across a portion of Shattuck Avenue south of Center Street.

These applications, as will be indicated hereinafter, deal with related matters and by stipulation at the public hearing on August 25th, 1925, before Examiner Austin, they were consolidated for the purpose of hearing and decision.

The Southern Pacific Company proposes to sell to Roy O. Long of Berkeley, California, certain real property particularly described hereinafter and in general described as the northerly portion of the present station grounds of Southern Pacific Company, near the intersection of University Avenue and Shattuck Avenue in the City of Berkeley. The consideration agreed upon for this sale is \$485,124.80. This property is, at the present time, classed as operative, being a portion of applicant Southern Pacific Company's station grounds and occupied by two spur tracks used for storage of express, mail and baggage cars. A plan is proposed whereby these track facilities can be relocated in such a manner that the same public interest will be served satisfactorily. No objection has been raised to the disposal of this property by Southern Pacific Company. On the contrary, a number of important business interests in Berkeley urge that the transaction be approved. Insofar as Application No. 11543, considered by itself, is concerned, it should be granted.

In Application No. 11625, as amended at the time of the hearing, Southern Pacific Company asks for permission to install a

spur track diverging from a point on the center line of their easterly main line track, as now located on Shattuck Avenue, near the north property line of Allston Way, and extending therefrom in a northerly direction a distance of about 200 feet across a portion of Shattuck Avenue in the manner shown in Southern Pacific Company's Exhibit No. 1. It is this track which will be used for the purpose of loading and unloading baggage, mail and express cars and is intended to serve the same public interest as the two spur tracks above referred to and now located on the property which applicant proposes to dispose of. Representatives of the Post Office Department and the American Railway Express Company testified that insofar as their respective needs were concerned, the proposed spur track would satisfactorily serve them. The City of Berkeley has consented to the construction of this track, as evidenced by the filing of Ordinance No. 14613, N.S. The Commission's Transportation Engineer recommended that the spur track be protected by the installation of curbs, located outside of the ties in such a manner that vehicles are prevented from passing over or blocking the track. No objection to the construction of the spur track appearing, Application No. 11625 should be granted.

The City of Berkeley, in Application No. 11582, asks for permission to construct Addison Street at grade across the tracks and right-of-way of the Southern Pacific Company's Shattuck Avenue Line.

Shattuck Avenue is the principal north and south business street in Berkeley and one of its most important traffic arteries. There is, at Addison Street, a double track interurban line of the Southern Pacific Company, a single track interurban line of the Key System and a single track street car line of the Key System, in addition to two way vehicular traffic on either side of the street. As a further complication, at the point of the proposed crossing of Addison Street, the westerly side of Shattuck Avenue, including the Southern Pacific interurban tracks, is separated from the easterly side by the width of the Southern Pacific Station grounds, a distance of about

100 feet. The traffic situation along this street is far from ideal and has been made the subject of study by a committee of engineers, representing the two transit companies, the City of Berkeley and this Commission. The report of this committee was introduced in evidence in this proceeding as Commission's Exhibit No. 1, to which reference will later be made.

Addison Street, it appears, is open from Shattuck Avenue easterly to Oxford Street, a distance of one block and westerly from Shattuck Avenue to the water front. Addison Street is paralleled by University Avenue, 278 feet north, the latter being Berkeley's principal east and west traffic axis, 100 feet in width, extending from Oxford Street to the West Berkeley waterfront. The next street south of Addison Street is Center Street, which is open from Grove Street east across Shattuck Avenue to Oxford, connecting with an entrance to the University of California.

Southern Pacific Company does not oppose the granting of the Addison Street crossing.

Evidence as to necessity for this crossing was given mainly by representative business interests in the vicinity. It appears that the granting of this crossing will open up the business district at this location by giving better access from the east side to the west side of Shattuck Avenue and vice versa. It is expected that the opening will increase property values in the vicinity and thus add to the taxable wealth of the City. Many witnesses testified that the granting of the crossing would be to the best interests of the City.

It further appears that if Addison Street were opened, traffic would be diverted thereto from both University Avenue and Center Street, thus lessening the volume of traffic on both of these two streets.

Mr. August Vollmer, Chief of Police of the City of Berkeley, testified that there would be no undue hazard at the proposed crossing. He further testified that a semaphore system for the control of traffic on Shattuck Avenue from University to Dwight Way, which would also have control over interurban trains on Shattuck Avenue, was under consideration by the City and which, if installed, should provide adequate protection at this crossing, although he stated that the control for interurban trains was not fully worked out. He stated that the curbing off of the interurban tracks, so as to properly define the street area in which vehicles are permitted, would tend to decrease the hazard.

Witness representing the Traffic Bureau of the Police Department, estimated that the vehicular traffic on Addison Street, if opened, would be double that now crossing Shattuck Avenue at Channing Way. The record shows that the traffic at Channing Way is about 1000 vehicles per day. He also testified that in his opinion the public would insist that the Key System operate its trains during all portions of the day so as to not block Addison Street while standing at the station.

Mr. J. C. McPherson, Superintendent for Southern Pacific Company, expressed the opinion that, due to the operation of trains over this crossing at slow speed, no protection would be needed if the crossing were granted, and stated that it might be arranged to stop their southbound trains and such of the northbound trains as did not now stop before crossing.

Mr. A. G. Mott, Transportation Engineer for the Commission, testified that protection of the crossing by requiring Southern Pacific trains to stop was not in the public interest and that it would result in delay to passengers riding on the trains. Such a policy of grade crossing protection would, if carried out at other crossings on Shattuck Avenue, reduce the interurban service to nothing more than a local street car line and deprive the citi-

zens of Berkeley and the public generally, that have occasion to use that line, of fast and adequate transportation to San Francisco. He questioned the practicability of protecting this crossing by automatic signal control. It was pointed out that due to the fact that Addison Street is adjacent to a station stop on the Southern Pacific and the terminal of the Key System, that any effective and safe automatic control would cause excessive delays either to the vehicular traffic or the railroad traffic or both. It was recommended that protection for this crossing, if authorized, should be provided by the stationing of a uniformed police officer in effective control of all traffic, both vehicular and railroad, at the crossing during the hours of 7 A.M. to 8 P.M. daily.

Mr. Mott pointed out that the opening of Addison Street across the Southern Pacific would create a hazardous condition at the crossing of the Key System Transit Company's tracks, at which point there are a total of 54 movements northbound and 54 movements southbound daily over the Key System's interurban track and 336 movements northbound and 118 movements southbound over the street car track. He recommended that southbound interurban train movements on the Key System track at this point be prohibited if Addison Street is opened.

As a further means of protection of the Addison Street crossing, it was recommended that the street area devoted to vehicular traffic, should be curbed off from the Southern Pacific right-of-way so as to restrict the driving of vehicles over railroad tracks to well defined limits of the crossing where some protection may be afforded.

As before stated, there was introduced in evidence a report of Committee of Engineers representing the City of Berkeley, Southern Pacific Company, Key System Transit Company and the California Railroad Commission, on relief of traffic conditions along Shattuck Avenue and Adeline Street from University Avenue to the southerly limits of the City. It appears that the recommendations above noted,

affecting safety of traffic if the Addison Street crossing is constructed, are not inconsistent with the conclusions and recommendations given in the Joint Engineering Committee's report with reference to Shattuck Avenue.

Among these recommendations there was also one to the effect that some five crossings over the tracks of Southern Pacific along Adeline Street be closed. Although there appears in this record no objection to the closing of these streets, and it is entirely probable that it would be in the public interest to thus eliminate the public hazard at these points, it appears to this Commission that since these crossings are located so as to serve an entirely different portion of the City of Berkeley, the conditions at these crossings are not sufficiently related to the subject matter of the present proceedings to justify the Commission taking any action with regard to them in the present decision.

It appears, after consideration of the evidence, that the proposed crossing, if authorized, should be protected between the hours of 7 A.M. to 8 P.M. daily by the stationing of a uniformed police officer in control of all traffic at the crossing. All interurban train movements on the east side of Shattuck Avenue, formerly known as Stanford Place, should be made in a northbound direction only. There are two important reasons for imposing this restriction, first the track upon which these Key Route trains operate is close to the property line and with a building constructed upon the property north of the proposed Addison Street crossing, a serious obstruction to view will result; and second, movements of these trains against the current of normal traffic at this point will increase the confusion of a crossing situation which, at best, will be complicated. The interurban tracks of Southern Pacific Company should be curbed off so as to prevent vehicular travel thereover between Center Street and University Avenue, except at the actual crossing at Addison Street.

No evidence was introduced with respect to the equitable division of cost of a uniformed police officer for the protection of this crossing, if required. It is possible that the most equitable division of cost could be arrived at by negotiation after reasonable opportunity between these parties. The present order, therefore, will provide that the cost shall be divided in accordance with an agreement between the City of Berkeley and Southern Pacific Company, filed with this Commission for approval within six months of the date of this order, or in the absence of the filing of such an agreement, which shall meet with the approval of this Commission, at that time, said cost shall be divided in accordance with the provisions of a supplemental order of this Commission.

After a careful consideration of all of the evidence, it is concluded that public convenience and necessity justify the opening of Addison Street only on condition that it be made a safe and convenient crossing by providing adequate protection and a good quality of crossing construction. The application of the City of Berkeley will therefore be granted, subject to the carrying out of the conclusions previously arrived at respecting the safety of the crossing.

O R D E R

The above entitled applications having been filed with this Commission, a public hearing having been held, the matter being under submission and ready for decision, therefore,

IT IS HEREBY ORDERED that said Southern Pacific Railroad Company and its lessee, Southern Pacific Company, be and they are hereby authorized to sell to Roy O. Long of the City of Berkeley, County of Alameda, State of California, that certain real property in the City of Berkeley, County of Alameda, State of California, particularly described as follows:

BEGINNING at the intersection of the southerly line of University Avenue with the westerly line of Shattuck Avenue, (65 feet wide, formerly Stanford Place); thence South $6^{\circ} 40'$ East along the said westerly line of Shattuck Avenue (formerly Stanford Place), a distance of 277.00 feet to a point; thence South $2^{\circ} 36'$ West a distance of 0.768 feet to a point in the northerly line of Addison Street produced easterly; thence South $79^{\circ} 23' 30''$ West along said easterly production of the northerly line of Addison Street, a distance of 104.512 feet to a point distant 18.50 feet easterly at right angles from the surveyed center line between the present operated double tracks of the Southern Pacific Railroad Company's Shattuck Avenue Electric Line; thence North $6^{\circ} 40'$ West, parallel to and 18.5 feet at right angles easterly from the said surveyed center line, a distance of 22.943 feet to a point; thence northerly parallel to and 18.50 feet at right angles easterly from the said surveyed center line, on a series of compound curves, concave to the left and of decreasing radii as follows:

(a) Radius 3838.246 feet, an Arc distance 30.145 feet

(b) Radius 1928.414 feet, an Arc distance 30.291 feet

(c) Radius 1291.821 feet, an Arc distance 38.289 feet

thence continuing northerly on a series of compound curves, concave to the left of increasing radii as follows:

(d) Radius 1928.414 feet Arc distance 30.291 feet

(e) Radius 3838.246 feet Arc distance 30.145 feet

to end of curve (the tangent to the first curve of the series is the last described course); thence North $11^{\circ} 57' 07''$ West parallel to and 18.5 feet at right angles easterly from the said surveyed center line (tangent to last described curve), a distance of 75.028 feet to a point in the said southerly line of University Avenue; thence North $79^{\circ} 18' 30''$ East along the said southerly line of University Avenue, a distance of 119.840 feet to the point of beginning. Containing an area of 30,320.3 square feet equals 0.696 of an acre, more or less.

for a consideration of Four Hundred and Eighty-five Thousand, One Hundred and Twenty-four and 80/100 Dollars (\$485,124.80); subject to the following conditions, viz:

(1) Nothing herein contained shall be construed as a determination by the Commission of the value of this property, or any portion thereof, for any purpose other than the transfer herein authorized.

(2) Applicant, Southern Pacific Company, shall within ninety (90) days of the date hereof, furnish this Commission with a certified copy of the instrument by which the transfer herein authorized is made.

IT IS HEREBY FURTHER ORDERED, that permission and authority be and it is hereby granted to the City of Berkeley, County of Alameda,

State of California, to construct Addison Street at grade across the tracks and right-of-way of Southern Pacific Company, as follows:

Beginning at the southwest corner of lot 26 as said lot is shown on the map entitled "Terminal Tract" filed in the office of the County Recorder of Alameda County April 15, 1878, said point being the intersection of the northern line of Addison Street with the eastern line of Shattuck Avenue, formerly known as Stanford Place, and running thence westerly parallel with the southern line of University Avenue two hundred fifty (250) feet; thence at right angles southerly fifty-nine (59) feet; thence easterly parallel with the Southern line of University Avenue two hundred fifty (250) feet to a point, thence northerly at right angles, a distance of fifty-nine (59) feet to the point of beginning.

Excepting from the above described area, the area of all public streets or avenues contained therein.

and as shown by the maps (Exhibits "A", "B" and "C"), attached to the application, said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing shall be borne by applicant, City of Berkeley. The cost of maintenance of that portion of said crossing outside of lines two (2) feet outside of the outside rails shall be borne by applicant, City of Berkeley. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company. No portion of the cost herein assessed to applicant, City of Berkeley, for the construction or maintenance of said crossing, shall be assessed by applicant, City of Berkeley, in any manner whatsoever, to the operative property of the Southern Pacific Company.

(2) The crossing shall be constructed of a width to conform to the existing width of Addison Street and at an angle of approximately 85 degrees to the railroad and with grades of approach not greater than two (2) per cent, shall be constructed substantially in accordance with Standard No. 3, as specified in General Order No. 72 of this Commission, shall be protected by a suitable overhead crossing sign, shall be suitably curbed so as to prevent the unauthorized use of the track and right-of-way of Southern Pacific Company between University Avenue and Center Street, except at said crossing of Addison

Street, and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Said crossing shall be protected by the stationing of a uniformed police officer in control of all traffic at the crossing during the hours 7 A.M. to 8 P.M. daily. Cost of said officer or officers shall be divided in accordance with an agreement between Applicant, City of Berkeley, and Southern Pacific Company, to be hereafter filed with and subject to the approval of this Commission, provided that if such agreement has not been executed and filed with this Commission within six months of the date of this order, said cost shall be divided in accordance with a supplemental order in this proceeding.

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

(5) If said crossing shall not have been installed within one (1) year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(6) Applicant, City of Berkeley, shall not permit traffic to move over the crossing herein authorized until arrangements have been made to eliminate all southbound movements of interurban trains over tracks of the Key System Transit Company on the easterly side of Shattuck Avenue (Stanford Place) across Addison Street.

IT IS HEREBY FURTHER ORDERED, that permission and authority be and it is hereby granted to Southern Pacific Company to construct a spur track at grade in a portion of Shattuck Avenue in the City of Berkeley, County of Alameda, State of California, as follows:

Commencing at a point on the easterly line of that certain thirty-five foot strip in Shattuck Avenue, Berkeley, California, reserved to the Southern Pacific Railroad Company for railroad purposes, said point being distant eighty-five feet, more or less, measured northerly along said easterly line from the northerly line of Allston Way, thence northerly and parallel with the easterly line of Stanford Place or Shattuck Avenue, as it exists between Allston Way and Center Street, a distance of one hundred

and eighteen feet, more or less, to the southerly line of a park or grass plot now existing in said Shattuck Avenue between Allston Way and Center Street.

and as shown by the map (Drawing No. 3917), filed as Southern Pacific Company's Exhibit No. 1, on August 25th, 1925, said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing said spur track crossing shall be borne by applicant, Southern Pacific Company.

(2) Said spur track shall be curbed off from the paved portion of the street by the construction of suitable curbs parallel with the rail and distant therefrom not more than three (3) feet, said curbing to effectively prevent the occupancy of the track by vehicles.

(3) Applicant, Southern Pacific Company, shall remove crossover and single track branch-off now installed near Addison Street, immediately upon completion of said crossing herein authorized.

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

(5) If said crossing shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of the crossings herein authorized 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.

For all other purposes the effective date of this order

shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 13th day of
November, 1925.

C. Cleary
George D. Squires.

Leon Whitell
Commissioners.

I hereby concur in all
portions of the above opinion opinion
addressed except the third
and the sixth provisions of this
order as set forth on page eleven thereof.

Emmuel White
Commissioner

I concur with the opinion expressed by
Commissioner Deane

H. H. Brundage
Commissioner