

Decision No. 17505

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
The People of the State of California  
on relation of the California Highway  
Commission, for an order authorizing  
the construction of a State Highway  
crossing under the tracks of the  
Southern Pacific Railroad, near Ben  
Ali, Sacramento County, California.

**ORIGINAL**

Application No. 12722.

Mr. T. E. Stanton, for Applicant.

Mr. F. W. Mielke, for Southern Pacific Company.

WHITESELL, COMMISSIONER:

O P I N I O N

In the above entitled application the California Highway Commission asks for authority to construct a State Highway under the tracks of Southern Pacific Company near Ben Ali in Sacramento County, in order to eliminate an existing grade crossing of the State Highway and said railroad at that point. Applicant further asks that the Commission make its order apportioning the cost of such grade separation between the parties.

A public hearing was held on this matter at Sacramento on June 15th, 1926. At the hearing both parties agreed that public convenience and necessity justify the elimination of the existing grade crossing of the State Highway at the location under consideration in this proceeding. The parties, however, did not agree upon the precise plan by which such grade separation should be effected nor have they reached any agreement as to the division of cost thereof.

The plan of grade separation proposed by applicant provides for the construction of a subway underneath the two existing tracks of the Southern Pacific's main line leading from Sacramento to Roseville. This proposed subway provides for a clear roadway width of 30 feet with one 5-foot sidewalk on the northerly side of the roadway. The grades of approach proposed are four (4) per cent.

The existing grade crossing, as well as the proposed subway, has an angle of approximately 40 degrees with the railroad. The highway immediately east of the existing railroad turns northerly through a short radius curve and parallels the right-of-way of the railroad, the center line of the highway being approximately 80 feet from the more easterly track of the Southern Pacific Company. Applicant proposes to construct the subway along the route of the existing highway, except that on the easterly side it is proposed to construct the approach with a 500-foot radius curve, a feature necessary to provide a reasonable sight distance to highway traffic, but which will require the acquisition of additional right-of-way.

The existing pavement of the highway in this location is only 15 feet in width, on each side of which are shoulders, making a total usable roadway width of 32 feet. The width of the right-of-way on both sides of the railroad is 60 feet and no evidence was introduced to indicate that the highway had a valid easement for any other width across the railroad's right-of-way itself.

Southern Pacific Company objects to the plan proposed in two respects:

First: That it provides for a greater width of roadway than present traffic requirements justify; and

Second: That it does not provide for a length of barrel adequate to permit the construction of certain additional trackage across the highway which the railroad has in contemplation to take care of the growing needs of its traffic, particularly freight.

In discussing these objections, representative of the railroad indicated that the Southern Pacific would have no objection to the width of roadway proposed, providing the railroad was not called upon to share in any portion of the expense of the subway that might be incurred in excess of what would be necessary to take care of the existing traffic. The railroad expressed itself as being willing to assume fifty (50) per cent of the cost of a subway having a roadway width of only 23 feet.

Representative of the applicant indicated that the State Highway Commission would have no objection to modifying the plan by increasing the length of the barrel sufficient to take care of the proposed additional trackage, providing the extra cost of such additional length of subway should be borne by the railroad.

From this it appears that the parties are in substantial agreement as to the method of eliminating this grade crossing, except insofar as minor modifications of the plan may affect a division of cost. It also appears that both parties are in substantial agreement as to the principle upon which this cost should be divided; that is, they each contend that the cost of constructing a subway adequate to take care of the present traffic on both the highway and the railroad should be divided equally between the parties but that any additional cost incurred solely for the benefit of one of the parties, such as the provision for future increases in traffic, should be borne solely by that party.

The Southern Pacific introduced considerable testimony purporting to show that the capacity of a 23-foot clear roadway was in excess of the present traffic movement on the State Highway at this location which, it appears from the testimony, amounted, on a normal Sunday in July, 1925, to 5420 vehicles in a 16-hour period. The evidence also indicates that this traffic increased at a rate in excess of 50 per cent a year, which would indicate that present peak day traffic on the highway probably now exceeds

7000 vehicles a day. The applicant also contends that the purpose of constructing a 30-foot roadway is to provide a means of permitting high speed traffic to pass around low speed traffic with reasonable facility but admits that the volume of traffic does not as yet justify the providing of four lanes of traffic at this location. The testimony indicates that opportunity is now provided for such passing of fast traffic around slow moving traffic on the highway in this vicinity and it was further pointed out that prior to the removal of the trestle on this highway just south of North Sacramento, the two-lane traffic way thereon provided was entirely inadequate and resulted in unreasonable congestion. The evidence further indicates that the additional width of five feet to accommodate a sidewalk is necessary not only to provide a safe passageway for pedestrians but also to provide adequate visibility through the subway, both features being important for the safety of the users of the highway.

The Bridge Engineer of the State Highway Commission, while contending that a roadway permitting only two lanes of traffic was at this time inadequate, stated that a roadway permitting three lanes of traffic would allow for a considerable further increase in traffic before becoming congested. He stated that should there be any very great increase in the volume of traffic in the future, it would be necessary to provide for that traffic by the construction of another subway barrel. The objection of the railroad to the proposed width of this subway, appears therefore to be unsound and I am convinced that the width of roadway of 30 feet, proposed by the applicant, is reasonable and necessary to adequately take care of the existing volume of highway traffic at this location, and that any lesser width would not provide for the same traffic capacity as now exists upon this highway on either side of the crossing.

The second objection, relating to the length of the barrel, to provide additional trackage, will now be discussed.

Southern Pacific Company introduced a plan (S.P.Ex.#1) showing a proposed yard development at Ben Ali, which provided for the construction of three additional tracks across the highway. This yard development, it appears, is becoming necessary to take care of the increasing freight business handled into and through Sacramento. It does not appear that there is any proposal at this time to increase the number of main tracks for the actual movement of traffic between this proposed yard and Sacramento. The yard development, as proposed, will be a very substantial augmentation to the railroad's terminal facilities serving Sacramento, the cost of this improvement being estimated at about \$800,000. The additional cost of the subway to enable the railroad to build this yard as proposed would, it is estimated, amount to \$30,000. The proposed yard, as shown on Southern Pacific Company's Exhibit No. 1, provides for a total of 17 additional yard tracks, only two of which are proposed for immediate construction. The remainder of the trackage, it appears, will be constructed from time to time as the growth of business justifies.

The record does not indicate that the Southern Pacific's use of this crossing has been devoted to other than main line operations and there is no evidence that additional main line trackage is either necessary or proposed at this time between Sacramento and Roseville. The additional length of subway desired by the Southern Pacific, therefore, appears to be a provision for a new facility in order to take care of a special class of its traffic in a different and more convenient manner than is possible under present conditions, as well as to provide for future growth of traffic. Under these circumstances, it appears that the cost of the additional length of barrel desired by the Southern Pacific falls in the very class of expense which the company itself contends is not a proper cost to divide between the parties, being solely for the

benefit of one of the parties; namely, Southern Pacific Company. However, if the Southern Pacific elects to have provision made for this additional facility and is willing to assume the additional cost thereof, there certainly can be no valid reason why the plans should not be modified in that respect.

Applicant presented an estimate of cost of the structure proposed (applicant's Exhibit No. 1,) amounting to \$101,442., exclusive of providing pavement widths on the non-depressed portion of the new approaches of a width greater than the existing fifteen foot pavement. The actual work proposed provides for a thirty foot pavement on all the approaches, the inclusion of which will bring the total estimate to \$104,577. Applicant's estimate was not contested as to its accuracy by Southern Pacific Company, except as to a few minor items. These disputed items will be discussed.

Applicant estimates that the cost of pavement, sidewalks, and curbs within the limits of the depressed portion of the subway and approaches at \$11,775 and the cost of a thirty foot pavement on the six hundred feet of non-depressed new approaches at \$5,700. These two items, plus the ten per cent allowance for engineering and contingencies amount to \$19,220. Applicant concedes that the railroad should not be assessed with the cost of providing a wider pavement than now exists on the non-depressed portion of the new approaches. This same principle would appear to apply with equal propriety to the cost of a widened pavement through the entire structure. Taking the cost of the thirty foot pavement at the unit price estimated in applicant's Exhibit No. 1, (\$9.50 per lineal foot) gives a paving cost of \$17,932., which it appears should be assessed seventy-five per cent to the applicant and twenty-five per cent to the railroad.

Another item, designated as "Overhaul-5000 station yards", in amount, \$10,000., Southern Pacific claims can be eliminated, for the reason that it would provide free dumping space for this excavation on its right-of-way. In view of this, it appears proper to reduce the estimate by this item, plus the ten per cent allowance for engineering and contingencies, a total deduction of \$11,000.

Southern Pacific also questions the propriety of including an item of \$8,000. for right-of-way, for the reason that this is for the purpose of improving the highway alignment. It appears that the change of alignment proposed is, in fact, the minimum improvement necessary, in order to provide a safe undergrade crossing and is a proper item to include in the cost of this grade separation.

For purposes of division of cost, the estimate presented by the applicant will be increased by \$3,135. to provide all of the pavement proposed, and reduced by the \$11,000., overhaul item above mentioned, to reach the amount which is to be basically divided between the two parties. To this reduced estimate should be added \$30,000., the amount which it is estimated will be expended for the exclusive benefit of the railroad for providing three additional tracks.

The net effect of these changes will be as follows:

<u>Item No.</u>	<u>Estimated Amounts</u>	<u>Per Cent Of Totals</u>
1. Estimated cost (applicant's Exhibit No.1)	\$101,442.	
2. Plus 15 ft. width of pavement on 600 ft. of non-depressed area. \$2850 plus ten per cent for Engineering and contingencies	3,135.	
3. Total cost of project	\$104,577.	
4. Less overhaul to be eliminated-\$10,000. plus ten per cent for engineering and contingencies	11,000.	
5. Net cost of subway	\$93,577.	
6. Cost of thirty ft. pavement. 1716 lin. ft. at \$9.50 per ft. plus ten per cent.	17,932.	
7. Cost of part of project to be borne equally by applicant and railroad	\$75,645.	

<u>Item No.</u>		<u>Estimated amounts</u>	<u>Per Cent of totals</u>
8.	Applicant's portion of Item 7 - <sup>Brot. Fwd.</sup> \$37,823.	\$75,645.	
9.	Applicant's portion of Item 6 - <u>13,449.</u>		
10.	Total cost to applicant	51,272.	41.5
11.	Southern Pacific Company's portion of Item 7 - 37,822.		
12.	Southern Pacific Company's portion of Item 6 - 4,483.		
13.	Southern Pacific Company's portion (100%) of additional cost of barrel for three additional tracks <u>30,000.</u>		
14.	Total for Southern Pacific Co.	<u>72,305.</u>	58.5
15.	Total cost of project.	\$123,577.	

These estimates can only be considered approximate but we believe they are sufficiently accurate to justify the Commission in apportioning the cost of this total project on the basis of forty-one and one-half (41.5) per cent to the applicant and fifty-eight and one-half (58.5) per cent to the Southern Pacific Company.

The following form of order is recommended:

O R D E R

The People of the State of California on relation of the California Highway Commission, having made application to this Commission for an order authorizing the construction of a State Highway under the tracks of Southern Pacific Company near Ben Ali, in the County of Sacramento, State of California, and for an order apportioning the cost thereof, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

It is hereby found as a fact that public convenience and necessity require the construction of separate grades at the point above indicated, therefore

IT IS HEREBY ORDERED that the People of the State of California, on relation of the California Highway Commission, and



Southern Pacific Company be and they are hereby authorized and directed to construct an undergrade crossing under the tracks of Southern Pacific Company in the vicinity of Ben Ali, County of Sacramento, substantially in accordance with plan attached to the application, said crossing to be constructed at a location designated as Engineer Station No. 169+07.3 on route identified as Road III-Sac-3-B, as shown by the map attached to the application, said undergrade crossing to be constructed subject to the following conditions, namely:

(1) Said undergrade crossing shall be constructed, except as hereinafter provided, substantially in accordance with the plan attached to the application and specifically in accordance with detailed plans which shall hereafter be submitted to the Commission for its approval after having been approved by applicant and by Southern Pacific Company.

(2) Said undergrade crossing shall be constructed with clearances conforming to the provisions of Commission's General Order No. 26-a.

(3) Southern Pacific Company shall have the privilege of requiring the barrel of said subway to be constructed of sufficient length to provide for the construction of three additional tracks thereover.

(4) The cost of constructing said undergrade crossing shall be borne forty-one and one-half ( $41\frac{1}{2}$ ) per cent by applicant and fifty-eight and one-half ( $58\frac{1}{2}$ ) per cent by Southern Pacific Company, provided, however, that should Southern Pacific Company elect not to have the barrel of said subway constructed of a greater length than necessary for the carrying of existing tracks at said crossing, the cost shall, in that event, be borne fifty-five (55) per cent by applicant and forty-five (45) per cent by Southern Pacific Company.

(5) The cost of maintenance of said undergrade crossing shall be borne in accordance with the terms of an agreement herein-

after to be entered into between the interested parties, or, in the event of failure to reach such agreement, in accordance with the terms of a supplemental order by this Commission in this proceeding.

(6) Applicant shall, within one hundred and twenty (120) days of the date hereof, file with this Commission a certified copy of the agreement between the interested parties relative to the division of cost of construction and maintenance of said undergrade crossing. Said agreement shall be subject to the approval of this Commission.

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

(8) If said undergrade 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.

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

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

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 21<sup>st</sup> day of October, 1926.

W. B. ...  
...

Leon ...

...