

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of application of
 Southern Pacific Company for an
 order authorizing the construc-
 tion at grade of a spur track across
 Escobar Street, in the Town of Mar-
 tinez, County of Contra Costa,
 State of California.

Application No. 12642.

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

Southern Pacific Company, applicant herein, on March 17th, 1926, filed with this Commission an application for an order authorizing the construction of a spur track at grade across Escobar Street in the Town of Martinez, County of Contra Costa, in a location substantially as shown by Drawing No. M-130, Sheet 2, dated March, 1926, attached to the application. This application contemplated the abandonment of an existing spur track across Escobar Street about two hundred feet west of the proposed location and the new spur. The spur to be abandoned was then being used to serve the same industry as the new spur. It was also contemplated that an existing local road entering Escobar Street at the point opposite the proposed new crossing would be moved approximately one hundred feet east, apparently for the purpose of avoiding the hazard incident to a railroad crossing being superimposed upon a junction of two highways. Based upon these representations our engineers recommended that the crossing at the location proposed be authorized, notwithstanding the fact that Escobar Street at this point is an important county highway, carrying heavy through traffic between points west of Martinez and east of Bay Point. Accordingly, an ex-parte order was issued on April 9, 1926, (Decision No. 16435) granting the

authority sought in the application subject to certain conditions.

Upon subsequent field inspection by one of our engineers, it appeared that the crossing, then in process of installation, was being constructed in an unsatisfactory manner. It further appeared that the crossing had not been located as authorized in Decision No. 16435, but in a location approximately one hundred feet east of the authorized location and at the junction of the newly constructed road with Escobar Street.

Upon calling these facts to the attention of the management of the Southern Pacific Company, the Commission was advised as follows:

"Upon investigation I find that due to confusion in the plans of the Shell Oil Company this crossing was constructed, as shown on attached map, about one hundred feet east of the authorized location.

It develops that track located in position authorized would not fit in with existing trackage within Shell Oil Company's plant without the expenditure of a considerable sum of money and if consistent, would appreciate the Commission issuing a supplemental order authorizing the construction of this crossing at the location shown in red on attached map. If such authority is received crossing will be placed in first class condition and old crossing, shown in yellow, will then be abandoned.

We regret very much the error that was made in constructing this track but trust the Commission will see fit to authorize its retention in present location."

Thereafter, on September 10, 1926, Supplemental Application was filed by applicant asking authority to construct the proposed track at the location where it was actually installed rather than at the authorized location. Inasmuch as the location where the crossing was actually installed appears to be more hazardous to highway traffic than the location authorized, authority to construct and operate the crossing in the location actually installed will be granted only upon the condition that two automatic flagmen be provided for the protection of highway traffic.

SUPPLEMENTAL ORDER

IT IS HEREBY ORDERED, that Decision No. 16435, dated April 9th, 1926, in the above entitled matter be and the same is hereby vacated and set aside.

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 across Escobar Street, in the Town of Martinez, County of Contra Costa, State of California, as follows:

"BEGINNING at a point in the southerly line of Escobar Street, said point being 68 feet more or less, measured westerly along the said southerly line of Escobar Street from the intersection of said southerly line of Escobar Street and the westerly line of Fairview Road; thence proceeding in a northeasterly direction on the arc of a curve concave to the right a distance of 114 feet more or less to a point in the southerly line of the Southern Pacific Railroad Company's right-of-way, said point being distant 28 feet more or less, measured easterly along said southerly line of the Southern Pacific Railroad Company's right-of-way, from the intersection of the southerly line of the said Southern Pacific Railroad Company's right-of-way and the westerly line of the Fairview Road produced northerly;"

and as shown in red on Drawing M-130, Sheet 2, revised October 15, 1926.

The above crossing shall be identified as Crossing No. B-35.8-S.

Said crossing, to be constructed subject to the following conditions, and not otherwise:

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

(2) Said crossing shall be constructed substantially in accordance with Standard No. 3 in General Order No. 72 of this Commission and shall be constructed without superelevation and of a width to conform to that portion of said street now graded, and

with grades of approach not exceeding three (3) 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) Two automatic flagmen of a type and installation in accordance with plans or data approved by the Commission shall be installed and maintained for the protection of this crossing. Said automatic flagmen shall be controlled manually and shall be operated for a period of twenty seconds in advance of the passage of any locomotive, motor or car, over said crossing and during the occupancy of said crossing by any locomotive, motor or car, but shall not be operated at other times. One of such flagmen shall be installed in a location where it will protect traffic using the newly constructed roadway known as Fairview Road.

(4) Applicant 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.

(6) The existing spur track across Escobar Street approximately 325 feet westerly of the crossing herein granted shall be removed and roadway restored to conform to existing roadway adjacent thereto. Said spur track crossing to be abandoned is described as follows:

Beginning at a point in the southerly line of Escobar Street, said point being 494 feet, more or less, measured westerly along said southerly line of Escobar Street, from its intersection with the westerly line of Fairview Road, as said westerly line of Fairview Road existed prior to January 1, 1926; thence proceeding in a northeasterly direction, a distance of 292 feet, more or less, to a point in the southerly line of the Southern Pacific Company's right of way, said point being 219 feet more or less,

measured westerly along said southerly line of the Southern Pacific Company's right of way from its intersection with the westerly line of the Fairview Road produced as said westerly line of Fairview Road existed prior to January 1, 1926.

(7) 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.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 10th day of November, 1926.

H. B. Bourdige

C. Seaman

F. W. Deot

Commissioners.