

Decision No. 17615.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of application of SOUTHERN PACIFIC COMPANY for an order authorizing the construction at grade of a spur track across Pine Street, in the vicinity of San Jose, County of Santa Clara, State of California.

ORIGINAL

Application No. 13290.

BY THE COMMISSION:

O R D E R

Southern Pacific Company, a corporation, filed the above-entitled application with this Commission on the 3rd day of November, 1926, asking for authority to construct a spur track at grade across Pine Street in the vicinity of San Jose, County of Santa Clara, State of California, as hereinafter set forth. The necessary franchise or permit (dated October 25, 1926) has been granted by the Board of Supervisors of said County of Santa Clara for the construction of said crossing at grade. It appears to this Commission that the present proceeding is not one in which a public hearing is necessary; that it is neither reasonable nor practicable at this time to provide a grade separation, or to avoid a grade crossing at the point mentioned in this application with said Pine Street and that this application should be granted subject to the conditions hereinafter specified, therefore,

IT IS HEREBY ORDERED, that permission and authority be and it is hereby granted to Southern Pacific Company to construct a spur track at grade across Pine Street, in the vicinity of San Jose, County of Santa Clara, State of California, at the location hereinafter particularly described and as shown by the map (Coast Div. Drawing 13784)

attached to the application.

Beginning at a point on the southerly line of Pine Street, said point being distant 95 feet easterly, measured along the southerly line of Pine Street from the intersection of said southerly line of Pine Street with the easterly line of Dupont Street; thence across Pine Street a distance of 50 feet to a point on the northerly line of Pine Street, said point being distant 95 feet easterly from the intersection of said northerly line of Pine Street with the easterly line of Dupont Street.

The above crossing shall be identified as Crossing No.

L-47.2.

Said crossing shall 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 equal or superior to type shown as Standard No. 2, in General Order No. 72 of this Commission and shall be constructed of a width to conform to that portion of said Pine Street now graded, with the tops of rails flush with the roadway, and with grades of approach not exceeding two (2) per cent; shall be protected by a suitable crossing sign and shall in every way 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) 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.

(5) 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.

Applicant shall not use the granting of this application, either by way of defense or argument, on the ground of capital expenditure or in any other way against any order of this Commission which has heretofore been made or may hereafter be made providing for separation of grades or rearrangement of railroad facilities in and around the City of San Jose.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day of November, 1926.

H. H. Branding

C. C. Leary

Edward J. ...

Thomas D. ...  
Commissioners.