

Decision No. 18584

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
THE WESTERN PACIFIC RAILROAD COMPANY ) Application No. 13680  
for an order to abandon and remove )  
spur track. )

Jas. S. Moore, Jr., and Geo. Scruggs, for Applicant,  
Walter M. Willett, Protestant.

BY THE COMMISSION -

O P I N I O N

The Western Pacific Railroad Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment and removal of a spur track located near the station of Decoto in Alameda County.

A public hearing on this application was conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicant alleges that the spur track, herein sought to be abandoned and removed, was built to serve the property of Willett and Burr, contractors at Decoto, and is located 5.7 miles east of the agency station at Hayward, 5.5 miles west of the agency station at Niles, and .2 miles west of the Non-agency station of Decoto; that during the years 1925, 1926 and to the present time in 1927 there has been no traffic moving to or from said spur track; and that in accordance with the provisions of this Commission's General Order No. 36 the abandonment is requested by reason of insufficient business being offered to justify the maintenance of said spur track.

J. F. Bon, Assistant General Freight Agent of applicant, testified that there had been no shipments received or forwarded over the spur track since the year 1924 when a steam shovel was forwarded to Oakland, and a 12-ton engine was received from

Howells; that the spur track which is 571 feet in length extends from a point in the single track main line 26.1 miles east of San Francisco into the property of Willett and Burr at Decoto; and that the track was not installed under the provisions of a spur track agreement.

E. P. Peterson, Assistant Engineer of applicant, testified generally as to the hazard of isolated switches in single track main line operation; as to such hazard being eliminated if the spur were to be discontinued; and as to the cost of maintenance of the switch serving this spur which he estimates is an annual expense of \$100.

W. M. Willett, a member of the firm of Willett and Burr, contractors opposing the granting of the application, stated his firm was the owner of the property served by the spur track, such property also being served by spur track connection with the line of the Southern Pacific Company. This witness related the circumstances surrounding the installation of the track from which it appears that in 1920 the Bureau of Good Roads leased three acres from Willett and Burr at Decoto upon which a warehouse was erected for the storage of construction equipment and material. The Western Pacific Railroad freight representatives were active in the solicitation of freight for Willett and Burr and other tenants on their Decoto property, some 96 carloads having been shipped via Southern Pacific to the warehouse of the Bureau of Good Roads, and the spur track was installed by the Western Pacific and some of the business thereafter moved via such line. The witness stated that until recently he had been unable to get through rates to points to or from which shipments were to be moved, via Western Pacific receipt or delivery, more favorable through rates being available via Southern Pacific facilities, although such condition had now been adjusted and was understood. The business of witness' firm is the handling of heavy construction work, both railroad and highway, and the material, equipment and supplies handled

to and from Decoto are incidental to such work. During the past three years there has been practically no activity in the class of heavy construction work in which protestants specialize, although there is a prospect of such work being available in the near future, the average business to and from the property during a normal year being from 50 to 60 cars of which applicant should receive a proper proportion.

From the record herein it appears that the frog and switch connecting the spur track with the main line of the applicant has been recently removed and that same can be promptly replaced if carload shipments offer to or from the industries or warehouses on the Willett and Burr property.

After full consideration of all the record herein we are of the opinion and hereby conclude that the application should be denied without prejudice as to its renewal after a period of one year from the date of the following order. The period of one year should be ample for any material change in traffic conditions to be developed and the frog and switch having been removed eliminates the operating hazard and relieves the applicant of the necessity of maintaining the switch and switchlight at an isolated point unless there is carload business to be transported to or from shippers or receivers of freight served by the spur track.

#### O R D E R

A public hearing having been held on the above entitled application, the matter having been duly submitted, the Commission being fully advised and basing its order on the conclusion as appearing in the opinion which precedes this order.

IT IS HEREBY ORDERED that this application be and the same is hereby denied, without prejudice, however, as to its renewal after one year from the date hereof if by such time there

shall not have been developed sufficient traffic to or from industries served by said spur track which will justify its continued maintenance and operation.

Dated at San Francisco, California, this 8th day of July 1927.

Ernesto

Chase

Thos. S. Powell  
COMMISSIONERS.