

At the hearing certain parties appeared in protest to the granting of this application on the ground that the plant to be operated by applicant and which this spur would serve would constitute a public nuisance. We do not believe that we can or should deny an application to establish a crossing at grade upon such a ground.

The necessary franchise or permit has been granted by the board of trustees of the city of Sunnyvale for the construction of said crossing and the record shows that the hazard will not be materially increased at the point of crossing, and that the connection sought to be installed is reasonably practicable and that the business which may reasonably be expected to be received by the applicant over such connection is sufficient to justify the expense thereof.

It further appears to us from the record 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 the application with said Hendy Avenue. It is our opinion that the application should be granted.

ORDER

Application as above named and numbered having been filed with this Commission, a public hearing having been held thereon, the matter having been duly submitted, and being now ready for decision,--

IT IS HEREBY ORDERED that permission and authority be, and the same is hereby granted to Southern Pacific Company to construct a spur track at grade across Hendy Avenue in the City of Sunnyvale, County of Santa Clara, State of California, in the location hereinafter particularly described and as shown

by the map, Coast Division Drawing 23412, attached to the application, from the main line tracks of the Southern Pacific Company in the City of Sunnyvale, County of Santa Clara, State of California, across Hendy Avenue, to a parcel of land on the northerly line of Hendy Avenue distant thereon 1,304.95 feet westerly from the westerly line of California or Fair Oaks Avenue, thence northerly and parallel to said California or Fair Oaks Avenue 475 feet, thence westerly and parallel to said line of Hendy Avenue 320.80 feet, thence southerly and parallel to said line of California or Fair Oaks Avenue 475 feet to said westerly line of Hendy Avenue, thence easterly and along said line of Hendy Avenue 320.80 feet to the point of commencement. All as shown on map of layout prepared by the Southern Pacific Company and dated July 6, 1927, on file in the office of the City Clerk, to which reference is hereby made for further particulars.

The above crossing shall be identified as Crossing No. EM-39.1-C.

Said crossing to be constructed, subject to the following conditions, namely:

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 without super-elevation and of a width to conform to that portion of said avenue 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 there-over 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.

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

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

Ernest G. ...
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Commissioners.