

Decision No. 13752

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 at a point near Truckee, Nevada County, California; the construction of an overhead crossing over the tracks of the Southern Pacific Railroad at a point about five miles north of Tahoe City, Placer County, California; the construction of a grade crossing at Tahoe City, Placer County, California; and the abandonment of nine existing grade crossings of the present road over the tracks of the Southern Pacific Company between Truckee and Tahoe City, California.

ORIGINAL

Application No. 13752.

Harry A. Encell, for Applicant.

H. W. Hobbs, for Southern Pacific Company.

BY THE COMMISSION:

OPINION

This is an application by the California Highway Commission for an order authorizing and apportioning the cost of constructing various crossings, both at grade and at separated grades, with the tracks of Southern Pacific Company, made necessary by the relocation and reconstruction of a public highway between Truckee and Tahoe City in Placer and Nevada Counties, and the abandonment of nine crossings with the said tracks and the existing road between these points.

Public hearings were held in this matter at San Francisco on September 26th and October 17th, 1927, before Examiner Gannon.

The record shows that during the summer months there is a heavy vehicular travel in and out of the Tahoe Lake region and a considerable portion moves over the highway involved in this proceeding. The old road from Truckee to Lake Tahoe branched from the main Sacramento-Reno highway near the westerly edge of the Town of Truckee, passed through a subway under the Southern Pacific main line track and thence followed, in a general way, the Tahoe Branch of the railroad and the Truckee River to Tahoe City, crossing and re-crossing the tracks nine times. The new highway, which is already partially graded, is to leave the Sacramento-Reno highway at a point about one mile west of Truckee and pass through a proposed subway under the Southern Pacific Company's main line tracks in the vicinity of Donner Creek and then proceed on the westerly side of the branch line track and the river to a point about five miles north of Tahoe City, where it will cross, on an elevated structure, both the railroad and the river and proceed on into Tahoe City on the east bank of the river. In the immediate vicinity of Tahoe, it will cross at grade several freight leads and spur tracks. The crossings involved in the present application are all of the crossings mentioned as on the new highway alignment above described. They will be discussed in this opinion in the order mentioned.

The subway at Truckee, which is at present used by highway traffic going to and from the lake, is a combination timber and masonry underpass, through the embankment carrying the main line tracks of Southern Pacific Company, at a point immediately west of the west switch of Truckee yard. The width of this opening is but  $10\frac{1}{2}$  feet and the overhead clearance is also  $10\frac{1}{2}$  feet, neither dimension being consistent with the standards of this Commission in respect to subways. The approaches are poor, the southerly approach being on an exceedingly sharp curve, and the sight distance is very short. The short sight distance, combined with the fact

that the narrow roadway will not permit two vehicles to meet in the subway, offers a serious hazard to vehicular traffic. This structure is entirely inadequate to meet the traffic needs of this Truckee-Tahoe Highway. Only two other plans to carry this highway across the Southern Pacific track have been suggested. The plan proposed by applicant provides for a 24-foot arch through the railroad embankment at the place where the track crosses the Donner Creek ravine, about one mile west of the existing subway. This underpass would have ascending grades of approach of 1.84% from the north and 3.12% from the south and is estimated to cost approximately \$69,300. The Southern Pacific Company proposes a subway under its tracks at a point about 400 feet west of the existing subway. This structure, which would consist of concrete abutments and wing walls with a deck supported by steel "I" beams, would provide a 25-foot clear roadway and is estimated to cost approximately \$26,200., exclusive of approaches. Applicant contends that the alignment of the road necessary to utilize such a subway would not provide proper sight distance and that in order to connect with the ultimate location of the Sacramento-Reno highway, as proposed through the Town of Truckee, prohibitive grades of approach would be required.

If the plan proposed by applicant is carried out, it will still be necessary to maintain a crossing of some sort in the vicinity of the existing subway, in order to give the public access to the area lying between the main line tracks and the Truckee River. The amount of traffic using this crossing will, however, be greatly reduced. Considering, therefore, that it is apparently impossible to close the existing road and crossing if the subway at Donner Creek is constructed, it is believed that the connection proposed by the highway should, if constructed, be considered as a new road and the cost of effecting the grade separation at Donner Creek apportioned accordingly.

The Commission has, in previous decisions, set forth its views in regard to the obligation of railroad companies to provide safe and adequate means for the public crossing its tracks and in several instances has assessed the company a substantial portion of the cost of effecting grade separations between existing tracks and new roads. In the present instance, the installation of a new subway at Donner Creek would undoubtedly reduce, to a negligible amount, the volume of traffic using the existing subway under the main line tracks, as well as the travel over the present grade crossings on the Tahoe Branch of the Southern Pacific Company between Truckee and Donner Creek, and we believe that under these conditions, the Southern Pacific Company should bear thirty (30) per cent of the cost of the subway proposed by applicant at Donner Creek.

Between Donner Creek and the proposed overhead crossing north of Tahoe City, the old road crosses the railroad track five times, whereas the new highway will eliminate any necessity for the through highway traffic crossing the track at grade at these points, although the crossings, or at least some of them, will probably have to remain in place for the convenience of persons having summer camps or cottages along the Truckee River. Because of the topography of the surrounding country, however, there is little possibility that any of these crossings will ever again become important or carry any but purely local traffic. In effect they will be little more than private crossings giving access to camps and cottages on the far side of the railroad from the highway.

One of these crossings is located about three-quarters of a mile north of the proposed overhead crossing and at this crossing the road, after crossing the tracks, also crosses the Truckee River and from this point remains on the east bank of the river. The proposed overhead crossing accomplishes the same result, in that it carries the highway across the railroad and the river, but at a

location more suitable for a grade separation.

The applicant has presented an estimate giving the cost of reconstructing a road between two given points, crossing the river on a low level bridge in the vicinity of the existing bridge and crossing the railroad track at grade. The cost of this road, including the bridge, is estimated to be \$23,991. An estimate is also presented, showing the cost of constructing a road between the same two given points but staying on the west bank of the river until a point, suitable for a grade separating structure, is reached and then crossing both the railroad and river on a single bridge. The cost of such a road is estimated to be \$63,773.

The difference between these two sums represents the estimated excess cost that would be incurred for the sole purpose of effecting a grade separation. If this were a case involving a railroad, over which there were frequent train movements, the Commission would give serious consideration to dividing this excess expense equally between applicant and the railroad.

Subsequent to the submission of this case, the Commission, by Decision No. 19169, dated December 23rd, 1927, in Application No. 14215, authorized Southern Pacific Company to discontinue the operation of local trains over this line during the summer season and public transportation will be provided through the operation of motor busses. As a result, the company will probably operate but two trains per day over this line.

In view of this situation, we do not believe that the benefits that will accrue to the railroad, by providing for the elimination of this grade crossing, will justify a greater expense, assessed to the railroad, than \$10,000. After giving consideration, however, to the fact that the general plan provides for the elimination of practically all traffic from other grade crossings on this same branch line railroad, we believe that, considered as a whole,

\$10,000. is a fair and equitable amount to assess to Southern Pacific Company for their portion of the improvement.

In the vicinity of Tahoe City, the present road into town crosses a freight track and again re-crosses this track at a point some 900 feet easterly of the first crossing. In the proposed plan, it is the intention to reconstruct the highway leading to Tahoe City entirely on the northerly side of this freight lead, thus avoiding crossings of this road with the main track. By so doing, however, it becomes necessary to cross two spur tracks and it will also be necessary that each branch of the highway wye, connecting with the road leading to the resorts on the west side of the lake and to Placerville, cross the main freight lead. In effect, therefore, the proposed relocation will cause to be abandoned, as main highway crossings, one spur track crossing and one crossing of the main freight lead and will create two spur track crossings and two crossings of the highway wye over the main track.

It therefore appears reasonable to authorize the crossings proposed by the Highway Commission, but we believe that the crossings with the main freight lead should be protected by automatic wig-wags. We can see no reason for assessing the Southern Pacific Company any portion of the cost of constructing these grade crossings.

It appears from the record in this proceeding that while the applicant is the California Highway Commission, the road actually is being constructed by the Federal Government. The theory has been advanced that since Section 43-B of the Public Utilities Act does not specifically include the Federal Government as one of the parties to whom this Commission can apportion the cost of grade separations, the Commission is, in this instance, without authority to apportion the cost between the Federal Government and the railroad. Southern Pacific, therefore, contends that the Commission cannot apportion any

of the cost of these crossings to the railroad company. The apportionment of cost, as set forth above, is based on what appears to be a proper division of expense between applicant and Southern Pacific Company and we do not consider that because all or some portion of the amount assessed to applicant is to be borne by the Federal Government, Southern Pacific Company is, in any way, relieved from paying its just proportion of the cost of constructing the grade separations under consideration.

#### 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 public highway crossing under the main line tracks of Southern Pacific Company at a point near Truckee, Nevada County, over the track of said company's Tahoe Branch at a point about five miles north of Tahoe City, Placer County, and at grade across certain tracks of said Tahoe Branch at Tahoe City, and 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 ORDERED that:

I. Permission and authority be and it is hereby granted to the People of the State of California, on relation of the California Highway Commission, to construct a public highway under the main line tracks of the Southern Pacific Company in the southerly half of Section 16, T. 17 N., R. 16 E., M.D.B. & M., as shown by the map, Exhibit "A", attached to the application. Said crossing shall be identified as Crossing No. A-206.7-B and shall be constructed subject to the following conditions:

(a) Said undergrade crossing shall be constructed substantially in accordance with Exhibit "B", attached to the application.

(b) The cost of construction of said undergrade crossing, except paving the highway, shall be borne seventy (70) per cent by the applicant and thirty (30) per cent by Southern Pacific Company. Applicant shall bear all paving costs. The maintenance of said crossing shall be borne by applicant.

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

II. Permission be and it is hereby granted to the People of the State of California, on relation of the California Highway Commission, to construct a public highway above the track of the Southern Pacific Company's Tahoe Branch at a point in the westerly half of Section 27, T. 16 N., R. 16 E., M.D.B. & M., as shown by the map, Exhibit "A", attached to the application. Said crossing shall be identified as Crossing No. AM-218-A and shall be constructed subject to the following conditions:

(a) Said overhead crossing shall be constructed substantially in accordance with Exhibit "C", attached to the application.

(b) Southern Pacific Company shall pay \$10,000. toward the cost of constructing said overhead crossing, the remainder of the cost to be borne by applicant.

(c) Said overgrade crossing shall be constructed with clearances conforming to the provisions of this Commission's General Order No. 26-C.

III. Permission and authority be and it is hereby granted to the People of the State of California, on relation of the California Highway Commission, to construct public highways at grade across tracks of Southern Pacific Company's Tahoe Branch at four points in Section 7, T. 15 N., R. 17 E., M.D.B. & M., at the locations shown on the map, Exhibit "D", attached to the application, said crossings being more definitely described as follows:

A - A crossing of a spur track at approximately Engineers Station 17+90 on the highway;

B - A crossing of the westerly leg of the highway wye connecting with the Placerville Road over the main freight lead at a point opposite and fifty-five feet, more or less, southerly from Engineers Station 13+30 on the main highway;



- C - A crossing of the easterly leg of the highway wye connecting with the Placerville Road over the main freight lead at a point opposite and fifty-five feet, more or less, southerly from Engineers Station 10+00 on the main highway;
- D - A crossing of a spur track at approximately Engineers Station 6+80 on the highway.

The above crossings shall be identified as follows:

- Crossing A - No. AM-222.8-C,
- Crossing B - No. AM-222.9,
- Crossing C - No. AM-223.0,
- Crossing D - No. AM-223.1-C.

Said crossings shall be constructed subject to the following conditions and not otherwise:

(a) Said crossings shall be constructed with widths not less than twenty-four (24) feet, with grades of approach not greater than four (4) per cent and at angles with the railroad tracks substantially the same as those shown on Exhibit "D" attached to the application. They shall be constructed substantially in accordance with Standard No. 2, as specified in General Order No. 72 of this Commission, shall be protected by suitable crossing signs and shall in every way be made proper for the passage thereon of vehicles and other road traffic.

(b) The entire expense of constructing the grade crossings shall be borne by applicant. The cost of maintenance for those portions of said crossings up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of those portions of said crossings between lines two (2) feet outside of outside rails shall be borne by Southern Pacific Company.

(c) An automatic flagman shall be installed for the protection of each of the crossings identified as AM-222.9 and AM-223.0 above. Said automatic flagmen shall be of a type and installed in accordance with plans approved by the Commission. The cost of maintaining said wig-wag shall be borne by Southern Pacific Company.

IV. Said crossings are granted subject to further conditions as follows:

(a) Applicant shall, within ninety (90) days from the date hereof, file with the Commission a certified copy of an agreement between the interested parties, relative to the division of cost of maintenance of the said undergrade and overgrade crossings herein authorized. Said agreement shall be subject to the approval of this Commission.

(b) Applicant shall, before commencement of construction, file with this Commission a complete set of the detail plans of the proposed undergrade and overgrade structures.

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

(d) If said crossings 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.

(e) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings 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 21<sup>st</sup> day of March, 1928.

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*C. Deane*  
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Commissioners.