

NAW:IR

Decision No. 19524

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 side tracks across Belmont Ave. in the City of Fresno and across Ashlan, Clinton and West Aves. and Olive Street near Fresno, all in the County of Fresno, State of California.

ORIGINAL

Application No. 14384.

H. W. Hobbs, for Applicant.

A. C. Shepard, Deputy District Attorney,
for the County of Fresno.

L. A. Butts, City Attorney, for the
City of Fresno.

BY THE COMMISSION:

P R E L I M I N A R Y O R D E R

This is an application by Southern Pacific Company for an order authorizing the construction of yard tracks and a second main line track at grade over certain public thoroughfares in and near the City of Fresno, Fresno County. A public hearing was held by Examiner Gannon at Fresno on February 29th, 1928, at which time opposition developed to the granting of one of the grade crossings involved, viz: that across Belmont Avenue in the City of Fresno. It was stipulated, however, that the Commission might consider the application insofar as it pertained to the crossings over county roads and since such procedure appears to be in the public interest, an order will be entered at the present time in respect to these crossings and a subsequent opinion and order will be entered covering the Belmont Avenue crossing.

The crossings involved in this proceeding are those occasioned by the construction of a new classification yard by Southern Pacific Company at a point some four miles northwest of the City of Fresno. A franchise (Order of the Board of Supervisors, dated January 30th, 1928) has been granted by the County of Fresno for the crossings lying outside the city limits but no franchise has been secured from the City of Fresno for the crossing of Belmont Avenue, the City Council having, on February 28th, 1928, refused to grant such authority. The County franchise provides for four tracks crossing Ashlan, Clinton and West Avenues. Crossings over Olive Avenue are also involved but the railroad company, in granting an easement for the Olive Avenue crossing in 1921, reserved the right to construct additional tracks. At this time it is not proposed to construct all of the tracks covered by the franchise, the application before the Commission being for two tracks across Ashlan Avenue and one track across Clinton, West and Olive Avenues.

The new yard, which applicant proposes to construct, will extend from a point near Clinton Avenue approximately two miles northwesterly to a point near Ashlan Avenue and the crossings of these two avenues are those of leads and ladder tracks of the proposed yard. The crossings of West and Olive Avenues are those occasioned by the construction of the second main line track from a point near the new yard southeasterly to a connection with the existing double track in the City of Fresno.

The original application requested authority to construct this track on the easterly side of the existing main line but by supplemental application, filed on February 23rd, 1928, the descriptions of the crossings at West, Olive and Belmont Avenues were modified to provide for the construction of the track on the westerly side of the main line track. The descriptions of the crossings of Olive Avenue and West Avenue, as given in the franchise, do not

coincide with those requested in the application, the difference being that the franchise provides for 18-foot track centers, whereas the supplemental application proposes 13-foot track centers. It is believed, however, that the franchise, as filed, is sufficient evidence, so far as this Commission is concerned, of the consent of the County to the construction proposed and a modification of the franchise will not be required before passing on the application.

In the two miles between Clinton and Ashlan Avenues, there are at present four county roads leading to crossings over existing main line track and two other roads not crossing the track but traversing the territory in which it is desired to build yard tracks. In connection with the vacating and abandonment of certain portions of these roads and the closing of the existing grade crossings, the applicant and the County of Fresno have entered into an agreement. This agreement, which is dated January 14th, 1928, provides that in consideration of the legal closing and abandonment of the roads, the railroad will construct, pave and deed to the county a road along the easterly side of its new yard connecting Ashlan and Clinton Avenues; and that it will construct safe and adequate grade crossings over its tracks at Ashlan and Clinton Avenues and install and maintain automatic wig-wag signals at these crossings. The agreement further provides that at such time as this Commission shall determine that it is necessary for the public safety and convenience and shall order the construction of a subway or other means of separating the railroad and the highway grades at Clinton Avenue, the railroad will contribute toward the cost of such grade separation the sum of One Hundred and Twenty Thousand Dollars (\$120,000). It appears, from the record, that a tentative location for such grade separation has been selected and that the estimated cost is One Hundred and Twenty Thousand Dollars (\$120,000).

It appears to the Commission that public convenience and necessity require the construction of the grade crossings at Ashlan, Clin-

ton, West and Olive Avenues, applied for in this proceeding, and that such authority should be granted. We are not in accord, however, with the type of protection provided in the agreement between applicant and the County.

The crossings of Ashlan and Clinton Avenues are at the two respective throats of the new yard and from the nature of the tracks which it is proposed to construct, it is believed that there would be considerable switching over these crossings. Unless the automatic wig-wag, provided for in the agreement, is so wired that it will be operated by movements on the yard tracks, it will not afford protection against the majority of the train movements over the crossing and if it is connected to the yard tracks, there is a likelihood that it will at many times operate unnecessarily and the public will become accustomed to paying little or no heed to the wig-wag.

We are of the opinion, however, that some special protection will be required at these two crossings. While it is true that the volume of vehicular traffic is not great and, possibly, does not, in itself, justify the maintaining of human flagmen, it may be that, because of the fact that these crossings are located at the throats of the new yard, protection by human flagmen should be provided. Since the present order does not purport to dispose of all matters in connection with this application, we will, at the present time, authorize the crossings with Ashlan and Clinton Avenues, without specifying the type of special protection which will be required. Applicant can expect, however, that unless it can provide a type of automatic protection which, in the estimation of the Commission, will give adequate and proper warning to the public, a subsequent order will require that human flagmen be maintained at these two crossings.

It also appears that a considerable volume of traffic has occasion to cross the tracks at Olive Avenue and it is believed that

this crossing should be protected by wig-wags.

A preliminary order will therefore be entered, granting authority for the crossings which are located in the County of Fresno and providing for protection as above outlined.

O R D E R

Southern Pacific Company, a corporation, having filed the above entitled application with the Commission, asking for authority to construct its tracks at grade across Belmont Avenue in the City of Fresno, County of Fresno, and across Olive, West, Clinton and Ashlan Avenues, in the unincorporated portion of the County of Fresno, State of California, a public hearing having been held, at which it was stipulated that the Commission could consider the application insofar as it pertains to the crossings in the County of Fresno and the Commission being apprised of the facts in regard to said crossings in the County of Fresno; therefore,

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to Southern Pacific Company to construct its tracks at grade across Olive, West, Clinton and Ashlan Avenues, in the vicinity of Fresno, County of Fresno, State of California, as follows:

CENTER LINE DESCRIPTION OF SECOND MAIN TRACK
DESIGNATED AS TRACK "B" ACROSS OLIVE AVENUE.

COMMENCING at a point in the northwesterly line of Olive Avenue, a distance of 13 feet measured at right angles southwesterly from the center line of the Central Pacific Railway Company's main railroad track at Engineer's Station 5809+29, said point being point of beginning of center line of track being described; thence South $41^{\circ} 47'$ East parallel to and 13 feet measured at right angles from the center line of said railway company's main railroad track, a distance of 60 feet to an intersection with the southeasterly line of Olive Avenue and end of center line of Track "B" being described.

CENTER LINE DESCRIPTION OF SECOND MAIN TRACK
DESIGNATED AS TRACK "B" ACROSS WEST AVENUE.

COMMENCING at a point in the westerly line of West Avenue a distance of 13 feet measured at right angles

southwesterly from the center line of the Central Pacific Railway Company's main railroad track at Engineer's Station 5783+26.53, said point being point of beginning of center line of track being described; thence South 41° 47' East parallel to and 13 feet measured at right angles from the center line of said railway company's main railroad track, a distance of 90.02 feet to an intersection with the easterly line of West Avenue and end of center line of Track "B" being described.

CENTER LINE DESCRIPTION OF TRACK "C"
ACROSS CLINTON AVENUE.

COMMENCING at a point in the northeasterly line of Clinton Avenue, a distance of 19 feet measured at right angles northeasterly from the center line of the Central Pacific Railway Company's main railroad track at engineer's station 5738+02.6, said point being point of beginning of center line of track being described; thence South 41° 47' East parallel to and 19 feet measured at right angles from the center line of said Railway Company's main line railroad track, a distance of 60 feet to an intersection with the southeasterly line of Clinton Avenue and end of center line of track "C" being described.

CENTER LINE DESCRIPTION OF TRACK "C"
ACROSS ASHLAN AVENUE.

COMMENCING at a point in the northerly line of Ashlan Avenue, a distance of 19 feet measured at right angles northeasterly from the center line of the Central Pacific Railway Company's main line railroad track at engineer's station 5631+76.76, said point being point of beginning of center line of track being described; thence South 41° 47' East parallel to and 19 feet measured at right angles from the center line of said Railway Company's main railroad track, a distance of 79.87 feet to an intersection with the southerly line of Ashlan Avenue and end of center line of track "C" being described.

CENTER LINE DESCRIPTION OF TRACK "D"
ACROSS ASHLAN AVENUE.

COMMENCING at a point in the northerly line of Ashlan Avenue, a distance of 37 feet measured at right angles northeasterly from the center line of the Central Pacific Railway Company's main line railroad track at engineer's station 5631+92.57, said point being point of beginning of center line of track being described; thence South 41° 47' East parallel to and 37 feet measured at right angles from the center line of said Railway Company's main railroad track, a distance of 79.87 feet to an intersection with the southerly line of Ashlan Avenue and end of center line of track "D" being described;

and as shown by the map attached to the application.

The above crossings shall be identified as follows:

Olive Avenue	Crossing No.	B-203.2
West Avenue	"	" B-202.8
Clinton Avenue	"	" B-201.9
Ashlan Avenue	"	" B-199-9

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

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

(2) Said crossings shall be constructed equal or superior to type shown as Standard No. 3, in General Order No. 72 of this Commission and shall be constructed of a width to conform to those portions of said avenues now graded, with the tops of rails at same elevation as main line rails and flush with the pavement, and with grades of approach not exceeding two (2) 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 shall be installed and maintained for the protection of the crossing of Olive Avenue. Said automatic flagmen shall be of a type designated as Standard No. 3 in General Order No. 75 of this Commission. The cost of installing and maintaining said flagmen shall be borne by applicant.

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

(5) 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.

(6) The Commission reserves the right to make such further orders, relative to the location, construction, opera-

tion, 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 authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 27th day of March, 1928.

Leon Williams

C. Devery

Thos. S. Leland

M. J. Quinn

Commissioners.