

Decision No. 19542

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the matter of application of Southern Pacific Company for an order authorizing the relocation and reconstruction of the main track of its Clovis Branch in, along and across Tulare Street and crossing 6th, 7th, 8th and 9th Streets, in the City of Fresno, County of Fresno, State of California.

Application No. 14200.

- H. W. Hobbs, for Applicant.
- L. A. Butts, City Attorney, for the City of Fresno.
- Theodore M. Stuart, for the East Fresno Citizens Association.

BY THE COMMISSION:

O P I N I O N

This is an application of Southern Pacific Company for permission to relocate a portion of its Clovis Branch, such relocation involving the crossings of Tulare Street, Sixth, Seventh, Eighth and Ninth Streets, all in the City of Fresno. A public hearing was held by Examiner Gannon at Fresno on February 29th, 1928.

At the present time the Clovis Branch, between a point near Sixth Street and a point in the vicinity of Ninth Street, is constructed along the center line of Tulare Street, this having been the original line, which was built at a time when Tulare Street was an unimportant County Road outside the city limits. The grade of the track is some two or three feet above the surface of the street and because of this obstruction, Tulare Street is traveled

only on the northerly half. It is proposed to reconstruct the track along the southerly side of Tulare Street, the center line of the track to be located eleven feet from the southerly property line. Within the limits of the proposed relocation of this track, Tulare Street is intersected at right-angles by Sixth, Seventh, Eighth and Ninth Streets and to carry out this improvement it will be necessary to relocate the grade crossings along the track.

No franchise has been secured from the city but the work is undertaken at the request of the City Council. A representative of the city appeared at the hearing and offered no objection to the granting of this application, this representative stating that the city desired that Southern Pacific Company either lower its track to the level of the street in the existing location or remove it to the side of the street, as the city wanted to widen the roadway in Tulare Street.

The East Fresno Citizens Association, through its attorney, protested the granting of the application but the objection of this association is, in general, a desire to remove the track entirely from Tulare Street, it being their contention that the presence of any railroad track at or in this vicinity is unnecessary and is a detriment to adjacent property. It was stated that at the present time there is a possibility of a suit in the Superior Court to determine whether or not Southern Pacific Company has any right whatever to maintain a track in this street, the track having been constructed without a franchise from the County under the general authority granted in the Civil Code and protestant requests that this Commission withhold determination of this application until the outcome of this suit is learned.

The proceeding now before the Commission concerns only the crossings with public thoroughfares and the question as to whether or not a railroad should be operated in this vicinity is not within the scope of this decision. It is customary for the Commission, before

acting upon applications to construct tracks across city streets or roads, to require a franchise from the political subdivision having jurisdiction over the street or road concerned, but the purpose of this franchise requirement being merely as evidence of the consent of the local governing body to the proposed construction, and evidence of such consent having been introduced otherwise in this proceeding, we do not believe that, for the purposes of this Commission, a franchise from the city is necessary.

The removal of the track from the center of the street to a location near the southerly property line will, to a certain extent, increase the hazard to vehicles approaching the crossing on the intersecting streets from the south. There are buildings, trees and fences located along or in close proximity to the southerly property line of Tulare Street and with the track but eleven feet from this property line, it is possible that a vehicle would be foul of the track before the driver would have an opportunity to see a train approaching from either direction, while in its present location, thirty-three feet from the property line, drivers of vehicles have a better opportunity to look up and down the track before driving on the crossing.

Applicant submitted exhibits showing the amount of vehicular traffic over the several crossings, a summary of these exhibits being as follows:

TRAFFIC DURING 14-HOUR PERIOD,  
6:00 A.M. to 8:00 P.M.

	<u>Pedestrians and Bicycles</u>	<u>Automobiles and Trucks</u>	<u>Miscellaneous</u>
Sixth Street	283	435	4
Seventh Street	236	215	1
Eighth Street	259	159	2
Tulare Street	59	1,680	14

Note: Ninth Street and Tulare Street Traffic use common crossing with track in present location.

Under the present schedules, the applicant operates two trains each way daily over the crossings, the speed of these trains being restricted to eight miles per hour. In view of the fact that the view will be impaired at the crossings of Sixth, Seventh, Eighth and Ninth Streets, and that the volume of traffic which will have occasion to use Tulare Street is substantial, we believe that special protection should be provided at each of the five crossings.

It appears that Tulare Street is an arterial thoroughfare in the City of Fresno and at the hearing the representative of the city stated that the city would be willing to erect arterial stop signs at the intersections of Sixth, Seventh, Eighth and Ninth Streets with Tulare Street. If this is done and the regulation enforced, it is believed that sufficient special protection will have been afforded at these four crossings. The crossing with Tulare Street should, however, be protected with an automatic flagman.

#### O R D E R

Southern Pacific Company, a corporation, filed the above entitled application with this Commission, asking for authority to construct a main branch line track at grade across Tulare, Sixth, Seventh, Eighth and Ninth Streets, in the City of Fresno, County of Fresno, State of California, as hereinafter set forth. A public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; therefore,

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to Southern Pacific Company to construct a main branch line track at grade across Tulare, Sixth, Seventh, Eighth and Ninth Streets in the City of Fresno, County of Fresno, State of California, at the locations hereinafter particularly described and as shown by the map (Exhibit 2) attached to the application.

Description of Crossings

COMMENCING at the intersection of the southerly property line of Tulare Street and the westerly property line of Sixth Street, City of Fresno, County of Fresno, State of California, as shown on that certain map entitled "Alta Vista Tract", filed for record on Page 5, Volume 7, Record of Surveys on November 14, 1911, Fresno County Records.

Thence along the westerly property line of Sixth Street southerly a distance of 6.81 feet to point of beginning of the center line of proposed main track to be described. Thence along a curve to the right of 1432.47 feet radius, and tangent to said curve at the point of beginning bears North one degree forty-four and one-fourth minutes east, an arc distance of 214.8 feet to point of end of curve. Thence south eighty-nine degrees forty and one-fourth minutes East, a distance of 1192.9 feet to point of beginning of curve. Thence on a curve to the left of 5729.60 feet radius, an arc distance of 30.0 feet to point of compound curve. Thence along a curve to the left of 2864.82 feet radius, the tangent to which bears South eighty-nine degrees fifty-eight and one-fourth minutes East, an arc distance of 30.0 feet to point of compound curve. Thence along a curve to the left of 1909.91 feet radius, the tangent to which bears North eighty-nine degrees twenty-five and three-fourths minutes East, an arc distance of 30.0 feet to point of compound curve. Thence along a curve to the left of 1432.47 feet radius. The tangent to which bears North eighty-eight degrees thirty-one and three-fourths minutes East, an arc distance of 30.0 feet to point of compound curve. Thence along a curve to the left of 1146.01 feet radius, the tangent to which bears North eighty-seven degrees nineteen and three-fourths minutes East, an arc distance of 30.0 feet to point of compound curve. Thence on a curve to the left of 955.04 feet radius the tangent to which bears North eighty-five degrees forty-nine and three-fourths minutes East, an arc distance of 286.5 feet to end of center line of proposed main track in Tulare Street.

Said last mentioned point being the intersection of the center line of the proposed main track with the northerly property line of Tulare Street at a distance of 229.6 feet, more or less, easterly along the northerly property line of Tulare Street from the intersection of the northerly property line of Tulare Street and the easterly property line of Ninth Street produced northerly.

The above crossings shall be identified as follows:

Tulare Street	Crossing No.	BS-208.8
Sixth Street	" "	BS-208.4
Seventh Street	" "	BS-208.5
Eighth Street	" "	BS-208.6
Ninth Street	" "	BS-208.7

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 without superelevation and of a width to conform to those portions of said streets 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 suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) An automatic flagman shall be installed and maintained for the protection of the crossing of Tulare Street. Said automatic flagman 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 flagman shall be borne by applicant.

(4) Arterial stop signs shall be erected on the southerly side of the crossings of Sixth, Seventh, Eighth and Ninth Streets.

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

(6) 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.

(7) 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 authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 2nd day of ~~March~~ <sup>April</sup>, 1928.

Leon Whitell

Chas. Seavey

Ernest J. ...

David ...

M. J. ...

Commissioners..