

Decision No. 20442.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of Application of the
 SAN DIEGO AND ARIZONA RAILWAY COMPANY,
 a corporation, for permission to operate
 a private industrial spur track owned
 by the Spreckels Commercial Company.

Application No. 15176.

BY THE COMMISSION:

O R D E R.

San Diego and Arizona Railway Company, a corporation, filed the above entitled application with this Commission on the 3rd day of November, 1928, asking for authority to operate over a private industrial spur track, owned by the Spreckels Commercial Company, in the vicinity of the Town of Otay, County of San Diego, State of California.

Said industrial spur track, approximately twenty-two thousand and six hundred (22,600) feet in length was constructed upon privately owned right-of-way, by the Spreckels Commercial Company, from a connection with the San Diego and Arizona Railway Company in Section 22, T. 18 S., R. 2 W., S.B.M., easterly to the rock and gravel plant of the Spreckels Commercial Company located in Section 19, T. 18 S., R. 1 W., S.B.M.

This track has already been constructed and crosses the following public highways and streets at grade:

- (a) An unnamed highway running east and west lying between Lots 1 and 2 on the north and Lots 7 and 8 on the south of the Faivre Homestead Tract, Map No. 10, Records of San Diego County.

- (b) Ninth Street at its intersection with said unnamed avenue, being located along easterly boundary of said Faivre Homestead Tract.
- (c) Seventh Street located in Brimhall's Addition to Otay, as per Map No. 598, Records of San Diego County.
- (d) The road leading to Tia Juana as relocated.
- (e) Across the old Tia Juana Road, east of the previous crossing.
- (f) Center Street in the Eastern Addition of Otay, as per Map No. 523 of the Records of San Diego County.
- (g) Block "E", sometimes known as Date Street, in Broderick's Otay Acres, as per Map No. 1243.
- (h) Across Block "C", sometimes known as Palm Avenue, in Broderick's Otay Acres, as per Map No. 1243.

The necessary franchise for the construction of said crossings at grade has been granted by the Board of Supervisors of San Diego County to John Daneri or associates. Applicant alleges that said franchise has been assigned to the Spreckels Commercial Company.

A field investigation of this matter by the Engineering Department of this Commission revealed that the industrial spur track has been constructed under the rock and sand bunkers located at the plant of the Spreckels Commercial Company with overhead clearances of eighteen (18) feet, which clearances are not in conformity with the provision of General Order No. 26-C of this Commission. Applicant requested by letter that permission be granted for the maintenance of said impaired clearances for a period of six months, during which time said impaired clearances would be corrected to conform with the provisions of General Order

No. 26-C. Since this track will be used for the transportation of sand and gravel in gondola cars only, it appears to this Commission that the request of the applicant to maintain said impaired clearances for a period of six months is not unreasonable.

It further appears to this Commission that the present proceeding is not one in which a public hearing is necessary; that it is neither reasonable nor practicable at this time to provide grade separations or to avoid grade crossings at the points mentioned in this application with the said streets referred to above and that this application should be granted subject to the conditions hereinafter specified, therefore

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to San Diego and Arizona Railway Company to operate over a private industrial spur track owned by the Spreckels Commercial Company which track is constructed at grade across the following streets:

<u>Name of Street</u>	<u>Crossing Number</u>
An unnamed highway running east and west, lying between Lots 1 and 2 on the north and Lots 7 and 8 on the south of the Faivre Homestead Tract, Map No. 10, Records of San Diego County.	36 - 10.5-C
Ninth Street	36 - 10.8-C
Seventh Street	36 - 11.0-C
New Tia Juana Highway	36 - 11.5-C
Old Tia Juana Road	36 - 11.52-C
Center Street	36 - 11.9-C
Date Street	36 - 12.4-C
Palm Avenue	36 - 12.5-C

In the vicinity of Otay, County of San Diego, State of California at the locations as shown by the map (Exhibit A) attached to the

application.

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

(1) The entire expense of constructing and protecting 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 in accordance with an agreement to be hereinafter entered into by the interested parties, a certified copy of which shall be filed with this Commission for its approval within one hundred and twenty (120) days from the date hereof.

(2) Said crossings, with the exception of Crossing No. 36 - 11.5-C shall be constructed equal or superior to type shown as Standard No. 2, in General Order No. 72 of this Commission; Crossing No. 36 - 11.5-C shall be constructed equal or superior to type shown as Standard No. 3 in General Order No. 72 of this Commission, and all shall be constructed without superelevation and of a width to conform to those portions of said streets now graded, with tops of rails flush with the roadway and with grades of approach not exceeding four (4) per cent; shall be protected by Standard No. 1 Crossing signs, as specified in General Order No. 75 of this Commission, and shall in every way be made suitable for the passage thereover of vehicles and other road traffic.

(3) Two Standard No. 3 Wigwags, as specified in General Order No. 75 of this Commission shall be installed and maintained for the protection of said Crossing No. 36 - 11.5-C.

(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, 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.

IT IS HEREBY FURTHER ORDERED that permission and authority be and it is hereby granted to San Diego and Arizona Railway Company to maintain overhead clearances not in conformity with the provisions of General Order No. 26-C of this Commission, between said industrial spur and the rock and sand bunkers located at the plant of the Spreckels Commercial Company in the vicinity of Otay, County of San Diego, State of California, for a period not to exceed one hundred and eighty (180) days from the date of this order, and after which time standard clearances shall be afforded, subject, however, to the following conditions:

(1) Applicant shall install or cause to be installed adjacent to the tracks on either side of said rock and sand bunkers appropriate signs, to be lighted at night, directing trainmen's attention to clearances not in compliance with this Commission's General Order No. 26-C.

(2) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing of the correction of

said impaired clearances.

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

Dated at San Francisco, California, this 13th day of November, 1928.

A. J. [Signature]

Paul S. [Signature]

W. A. [Signature]
_____ COMMISSIONERS.