

Decision No. 20778

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

LOS ANGELES COUNTY GRADE CROSSING
COMMITTEE,

Complainant,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY,
a corporation, and the SOUTHERN
PACIFIC COMPANY, a corporation,
Defendants.

ORIGINAL

Case No. 2124.

In the Matter of the Investigation)
on the Commission's own motion of)
the safety and necessity of grade)
crossings of the tracks of Southern)
Pacific Company in the Cities of)
Los Angeles, Glendale and Burbank,)
County of Los Angeles, State of)
California.)

Case No. 2171.

- Mr. John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee.
- Mr. Jess E. Stephens, City Attorney of the City of Los Angeles, by Milton Bryan, Deputy, for the City of Los Angeles.
- Mr. James H. Mitchell, City Attorney, for the City of Burbank.
- Mr. Frank Karr, for Southern Pacific Company and Pacific Electric Railway Company.
- Mr. Geo. A. Damon, for Los Angeles County Regional Planning Commission.
- Mr. S. V. Cortelyou, for California State Highway Commission.
- Mr. G. C. De Carmo, for Gladding, McBean & Company. Otto & Linn, by Roy A. Linn, for Von Breton, Lampe and Sweet.
- Mr. Bert P. Woodard, for Glendale Chamber of Commerce.
- Mr. C. E. Michael, for Park Avenue Improvement Association and Glendale Business Men's Association.
- Mr. J. A. Winans, for 14th District League.
- Mr. J. Von Breton, in propria persona.
- Mr. W. Turney Fox, City Attorney, for the City of Glendale.
- Mr. J.J.O. March and F. F. Ball, for the Board of Public Utilities of the City of Los Angeles.

SEAVEY, COMMISSIONER:

FIRST SUPPLEMENTAL OPINION AND ORDER

The Commission, by its Decision No. 17330, dated September 10th, 1926, ordered that the grade crossings of Los Feliz Boulevard and Glendale-Brand Boulevard, respectively, over Southern Pacific Company's tracks, in the City of Glendale, be abolished by constructing suitable subways carrying these highways under the tracks. This order also provided that Southern Pacific Company was to prepare plans and specifications for such separations and submit them to the other interested parties for their approval or disapproval. Southern Pacific Company was further directed to report to the Commission the attitude of the parties relative to agreeing on a suitable plan for the separation of these two crossings, together with the apportionment of cost of the same. It appears that the parties have not reached an agreement as to the method of effecting these separations or as to the division of cost and in accordance with the provisions of the Commission's order, referred to above, further hearings were had on March 15th, September 18th and December 11th, 1928, to receive testimony along those lines upon which to issue a further order.

At the hearing had on September 18th, 1928, the parties requested that the estimates of structural costs and property damage be brought up-to-date. The Commission granted this request and directed that such studies be undertaken by two different committees, one to cover plans and estimates of structural costs for suitable separations, and the other to investigate the item of property damage under present day conditions. Each of the interested parties, as well as the Commission, had a representative on these respective committees. At the hearing held on December 11th, 1928, these committees presented their reports showing six different methods of effecting a grade separation at each of the two grade

crossings involved and the costs for each of the respective plans. Each of the plans presented appears entirely adequate to meet the traffic requirements. The Committee, in each case, recommended the most economical design.

At Los Feliz Boulevard the estimates for the various plans of separation varied from \$400,000. to \$614,000. At Glendale-Brand Boulevard the estimates varied from \$409,000. to \$501,000., not including a separation between the tracks of Southern Pacific Company and Pacific Electric Railway Company. The added cost of effecting a separation between the two railroads was estimated to be \$57,000. under any of the plans.

The Engineering Committee recommended that at Los Feliz Boulevard the grades be separated in accordance with Design No. 3-b, (Commission's Exhibit No. 5) which provides for two 30-foot driveways, separated by a 6-foot center pier, and two sidewalks having a minimum clear width of 6 feet 3 inches. The total cost of this project is estimated at \$400,000., of which \$174,000. is property damage.

With respect to the proposed separation at Glendale-Brand Boulevard; of the plans considered, the Engineering Committee recommended the plan shown as Design A, (Commission's Exhibit No. 4), which provides for two separate driveways, having a width of 38 feet 6 inches between curbs, with two sidewalks having a minimum clear width of 6 feet 3 inches. The total cost of this project is estimated at \$466,000., which includes the cost of separating the grades between the tracks of Southern Pacific Company and Pacific Electric Railway Company, estimated to cost \$57,000., and a sum of \$89,000. to cover property damage.

The record shows that mention was made of the fact that the estimates of property damage do not include an item for contingencies. The City Attorney of Glendale contended that some figure should be added to cover this item. The Counsel have

agreed that a reasonable figure to provide for this item could not be expected to exceed \$10,000.

The Cities of Glendale and Los Angeles have not, at this time, a storm drain system to care for the surface drainage in the general vicinity of these respective separations. The plans of separation, referred to above, in each case, provide only for the disposal of local drainage, that is, the precipitation and seepage that naturally collect within the limits of each of the separations; they do not provide for taking care of the runoff from a more or less extensive area above each of the separations, which area naturally drains toward them. It was shown that the storm drain situation in this locality is not satisfactory, under present conditions, and that the Cities of Glendale and Los Angeles have given consideration to a plan of effecting a suitable storm drain system, especially with respect to the district within which the proposed separation at Glendale-Brand Boulevard lies.

It is estimated that an existing storm drain could be extended to take care of the storm water in the vicinity of the Los Feliz separation at a cost of about \$18,000. With respect to providing a suitable storm drain system to take care of the district within which the proposed separation at Glendale-Brand Boulevard lies; two cost estimates have been made, one showing a high level system and the other a low level. The respective estimates for these two designs, exclusive of overhead, amount to \$106,000. for the high level system, and \$138,000. for the low level system. The so-called low level is so constructed that it would drain the proposed separation by gravity, whereas the high level one will not. It appears that neither of these proposed separations seriously prevents the construction of suitable storm drain systems for these districts nor adds materially to their cost. It would not seem unreasonable, however, to include in the cost of these separations an amount which represents the direct

added cost of constructing storm drains at each point, which results from the fact that these separations, due to their location, interfere with the natural lines that would be followed if the separations were not to be constructed, provided such storm drains are constructed prior to or concurrent with the construction of these subways. Other costs necessary for the more general purpose of a district drainage plan will not be considered in the present problem of apportioning the cost of these grade separations.

The record shows that the County of Los Angeles has taken the position that the Commission legally cannot assess to it any portion of the cost of these separations, on the ground that it is not responsible for the maintenance of any of the highways affected, but nevertheless, and entirely aside from its claimed legal position, the County has volunteered to contribute, toward the public's portion, 25 per cent of the cost of the separations, provided that this amount does not exceed \$250,000. In view of this equitable offer, no attempt will be made in this proceeding to determine the legal obligation of the County in the premises, and it appears proper in this case to accept the County's offer and apportion the remainder between the other parties.

The Commission's Transportation Engineer introduced testimony (Commission's Exhibit No. 9), which deals with the apportionment of cost between the various interested parties. In this exhibit it is recommended that the cost of constructing the separation at Los Feliz Boulevard be apportioned as follows:

Southern Pacific Company	50%
County of Los Angeles (Voluntary offer).	25%
City of Los Angeles.	12½%
City of Glendale	12½%

With respect to the proposed separation at Glendale-Brand Boulevard; it was recommended that the cost of effecting a separation between Southern Pacific Company's tracks and the two branches of the highway be divided as follows:

Southern Pacific Company	50%
County of Los Angeles (Voluntary offer).	35%
City of Los Angeles.	12½%
City of Glendale	12½%

and that the additional cost necessary for the purpose of separating the grades between the two railroads be divided 50 per cent to Southern Pacific Company and 50 per cent to Pacific Electric Railway Company.

The only exceptions taken to the apportionment of cost recommended by the Commission's Transportation Engineer, was that offered by the City of Glendale, the city taking the position that it was not equitable to assess Glendale as much for these separations as the City of Los Angeles, contending that the apportionment should be related to the assessed valuation of each city and that, due to the fact that the City of Los Angeles practically surrounds Glendale, it will receive greater benefits from these separations than will the people of Glendale.

With respect to the contention that the apportionment of cost should be based upon the assessed valuation of the respective cities; I am unable to agree, for the simple reason that more wealth cannot determine the obligation of a community in safeguarding travelers upon its public thoroughfares. It is apparent that an apportionment of cost upon such a basis would be unfair to the larger city, as it is not unreasonable to assume that each city has its own problems of grade separation somewhat in proportion to the size of the city. It was also pointed out in this case that the City of Los Angeles pays the greater portion of the county tax of the County of Los Angeles; therefore, the portion contributed by the County of Los Angeles comes largely from that city. As for the benefits accruing to each of these cities, the record does not support Glendale's contention that the City of Los Angeles would receive greater benefits from these separations than would the City of Glendale.

After carefully considering all the testimony with respect to apportioning, between the parties, the cost of effecting the grade separations of the railroad and highways, it appears

proper that Southern Pacific Company should bear 50 per cent of the cost and the political subdivisions the remainder. It further appears that public convenience and necessity require that when the grades are separated between Southern Pacific Company's tracks and Glendale-Brand Boulevard, the grades should at that time be separated between the tracks of Southern Pacific Company and Pacific Electric Railway Company. The additional cost of separating the grades between the two rail lines should be borne 50 per cent by each.

The apportionment of maintenance of these separations should be in accord with the usual practice of this Commission to the effect that the superstructure and abutments should, in each case, be maintained by Southern Pacific Company and the substructure by the subsurface users.

The following form of order is recommended:

O R D E R

Further public hearings having been held in the above entitled matters, the Commission now being apprised of the facts, with respect to the apportionment of cost between the interested parties, the portion assessed to the County being based upon its voluntary offer to contribute the amount shown herein, the matter being under submission and ready for decision, therefore,

IT IS HEREBY ORDERED that:

I. The cost of effecting a grade separation at Los Feliz Boulevard with Southern Pacific Company's tracks in the City of Glendale, as directed by the Commission's Decision No. 17330, dated September 10th, 1926, be and the same is hereby apportioned to the respective parties as follows:

Southern Pacific Company	50%
County of Los Angeles.	25%
City of Los Angeles.	12½%
City of Glendale	12½%

Said separation shall be constructed substantially in accordance

with plan designated as Design No. 3-b on Commission's Exhibit No. 5.

The cost of maintenance of this separation shall be borne as follows:

Southern Pacific Company to maintain the abutments and superstructure;

City of Glendale to maintain the pumping equipment, lights and that portion of the highway located within the City of Glendale;

City of Los Angeles to maintain that portion of the highway located in the City of Los Angeles.

II. The cost of effecting a grade separation between Southern Pacific Company's tracks and the two branches of Glendale-Brand Boulevard, in the City of Glendale, as directed by said Decision No. 17330, be and the same is hereby apportioned to the respective parties as follows:

Southern Pacific Company	50%
County of Los Angeles.	25%
City of Los Angeles.	12 $\frac{1}{2}$ %
City of Glendale	12 $\frac{1}{2}$ %

Said separation shall be substantially in accordance with the plan designated as Design A in Commission's Exhibit No. 4.

The cost of maintenance of this separation shall be borne as follows:

Southern Pacific Company to maintain the abutments and superstructure;

City of Glendale to maintain the pumping equipment, lights and that portion of the highway located within the City of Glendale;

City of Los Angeles to maintain that portion of the highway located in the City of Los Angeles.

III. Southern Pacific Company and Pacific Electric Railway Company be and they are hereby directed to separate the grades between their tracks in Glendale-Brand Boulevard, in the City of Glendale, at the same time the grades are separated between Southern Pacific Company's tracks and Glendale-Brand Boulevard, referred to above. The cost, in excess of that necessary to effect a separation between the Southern Pacific Company's tracks and Glendale-

Brand Boulevard, which arises from effecting such a separation of grades between the two rail lines, shall be borne 50 per cent by Southern Pacific Company and 50 per cent by Pacific Electric Railway Company. The maintenance of the abutments and superstructure of this separation shall be borne by Southern Pacific Company. All other maintenance shall be borne by Pacific Electric Railway Company. The plan of effecting such a separation shall be substantially in accordance with that designated as Design A in Commission's Exhibit No. 4.

IV. Southern Pacific Company be and it is hereby directed to prepare detail plans and specifications for the construction of suitable subways, as referred to above, to carry said Los Feliz Boulevard, Glendale-Brand Boulevard and Pacific Electric Railway Company's tracks, respectively, under the tracks of said Southern Pacific Company, in the City of Glendale, said Southern Pacific Company to submit said plans and specifications to the other interested parties and to the Commission for its approval, within one hundred twenty (120) days from the date hereof.

V. Southern Pacific Company be and it is hereby directed to undertake the construction of the two separations, referred to herein, and upon receiving the approval of the Commission of the plans to be submitted, shall forthwith begin the construction of one of these separations and shall be responsible for its completion by June 1st, 1930 and for the completion of the other of said separations by December 31st, 1930.

VI. Upon the completion of the separations at Los Feliz Boulevard and Glendale-Brand Boulevard respectively, and upon the presentation of proper bills therefor, which bills shall include interest during construction, County of Los Angeles, City of Los Angeles and City of Glendale shall pay to Southern Pacific Company the costs apportioned to said political subdivisions by this order, the amount apportioned to the County of Los Angeles being based upon its voluntary offer herein.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1929.

Thomas D. Leland
Clarence
Edmund
Leon Whitely
M. J. Cunn
Commissioners.