

Decision No. 21109.

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 a spur track across Asbury Street, in the City of San Jose, County of Santa Clara, State of California.

ORIGINAL

Application No. 14947.

BY THE COMMISSION:

O R D E R

Southern Pacific Company, a corporation, filed the above-entitled application with this Commission on the 6th day of May, 1923, asking for authority to construct a spur track at grade across Asbury Street in the City of San Jose, County of Santa Clara, State of California, as hereinafter set forth. The necessary franchise or permit (Resolution No. 4696) has been granted by the City Council of said City for the construction of said crossing at grade. It 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 a grade separation, or to avoid a grade crossing at the point mentioned in this application with said Asbury Street, 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 Southern Pacific Company to construct a spur track at grade across Asbury Street, in the City of San Jose,

County of Santa Clara, State of California, as follows:

Beginning at a point on the southeasterly line of Asbury Street distant thereon 131 feet, more or less, northeasterly from the northeasterly line of Stockton Avenue, thence in a northwesterly direction 77 feet, more or less, to a point in the northwesterly line of Asbury Street, distant thereon 97 feet, more or less, northeasterly from the northeasterly line of Stockton Avenue,

and as shown by the map (Coast Division Drawing 14975) attached to the application; said crossing to be constructed subject to the following conditions, viz:

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

(2) Said crossing shall be so constructed that grades of approach not exceeding one (1) per cent will be feasible in the event that the construction of roadway along said Asbury Street shall hereafter be authorized and so that said grade crossing may be made safe for the passage thereover of vehicles and other road traffic.

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

(4) This order is made upon the express condition that Asbury Street is not now actually constructed and open to travel at the point of crossing, and said order shall not be deemed an authorization for the construction or opening of said street to public use across said railroad track.

(5) If said crossing 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 crossing 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 16th day of May, 1929.

Frank Louie

Chas. Leary

Ernest

Leon Wheeler

M. J. Am

Commissioners.