

Decision No. 21395

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN PACIFIC COMPANY for an order authorizing construction at grade across certain public roads, streets and avenues, of its proposed line of railroad from Biola to Kerman, all in the County of Fresno, State of California.

ORIGINAL

Application No. 15280.

H. W. Hobbs and Roy G. Hildebrand,
for Applicant.

A. C. Shepard, for County of Fresno.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION AND ORDER

On April 16th, 1929, this Commission issued its Decision No. 20966, in the above entitled matter, wherein authority was granted Southern Pacific Company to construct its proposed line of railroad from Biola to Kerman in Fresno County, California, across certain county roads at grade and across the county road, known as Whitesbridge Avenue, at separated grades.

In the opinion in the above described decision, the following statement is made:

"However, it is probable that a more economical design may be worked out for this separation than that shown in Exhibit No. 15 and, consequently, approval of a specific plan will be withheld at this time. The apportionment of costs will be determined by a supplemental order in this matter at such time as plans have been filed with and approved by this Commission. If, however, the parties do not agree upon a plan of separation and the apportionment of cost of the same, the matter will be set for further hearing as to these issues."

Applicant informed the Commission by letter, on June 5th, 1929, that an agreement had not been reached with reference to the

apportionment of cost and requested that the matter be set for further hearing.

On June 17th, 1929, the Commission reopened the matter for further hearing and a public hearing was held before Examiner Satterwhite at Fresno on June 28th, 1929, and the matter submitted.

Applicant has constructed a new freight yard and icing dock north of Fresno and the proposed line is being constructed in order that it may be possible to route the "West Side" freight traffic through this yard.

All "West Side" freight traffic, now consisting of four trains daily in the off-peak season and nine trains daily during the fruit season, will be routed over the proposed line. The existing line from Kerman to Fresno will continue to carry passenger and freight traffic to intermediate points.

Representative of applicant presented a general plan for the proposed grade separation, the details of which are final, except as to the general elevation, which depends upon conditions yet to be determined with relation to ground water levels. The plan provides for carrying Whitesbridge Avenue, with a roadway twenty-three (23) feet wide and a six (6) foot wide pedestrian way, under the proposed track of Southern Pacific Company with clearances complying with Commission's General Order No. 26-C. Provision is made for future enlargement of the structure to carry two tracks. It is estimated that the grade separation, built in accordance with these plans, will cost approximately \$58,500. The plan was approved by the County of Fresno and will be approved by this Commission.

Representative of applicant stated that in his opinion the cost of the proposed grade separation should be apportioned seventy-five (75) per cent to applicant and twenty-five (25) per cent to the County of Fresno. He pointed to the fact that the construction of the line would result in a decrease in the steam

railway traffic over existing crossings between Kerman and Fresno and would therefore be of benefit to the county. The apportionment suggested was based upon his study of conditions with relation to the proposed separation and upon the per cent apportionments made by this Commission in instances where new highways were being constructed across existing railroads.

The fact is, however, that it has been the usual practice of this Commission to assess the entire cost of grade separations of new lines of railroad to the carrier, unless some special benefit, or other reason, was shown for a different division of costs. In the present proceeding the representative of the County points out that the county would derive no benefit from the proposed line but, to the contrary, its construction would result in the creation of nine new railroad crossings at grade and one at separated grades. It was his opinion that no portion of the cost of the construction of the grade separation should be assessed to the County of Fresno.

With due consideration to these facts and all other facts contained in the record in this matter, it is concluded that applicant should bear one hundred per cent (100%) of the cost of the construction of this crossing.

It would seem logical that the maintenance of the roadway and pedestrian way, including the drainage and lighting thereof, be borne by the county, and the railroad supporting structure, including the abutments, by the railroad. Both parties approved such an apportionment and it will be so ordered.

O R D E R

A public hearing having been held in the above entitled matter, with specific reference to the approval of plans and the apportionment of cost of the crossing of Whitesbridge Avenue at separated grades, the matter being submitted and ready for decision,

IT IS HEREBY ORDERED that the Southern Pacific Company be and it is hereby authorized to construct the crossing of Whitesbridge Avenue at separated grades, authorized by this Commission in its Decision No. 20966, dated April 16th, 1929, substantially in accordance with the general plan submitted by applicant and entitled "Southern Pacific Co. Pacific Lines - Proposed Subway for Whitesbridge Avenue."

IT IS HEREBY FURTHER ORDERED that the cost of the construction of said crossing of Whitesbridge Avenue at separated grades shall be borne entirely by the Southern Pacific Company; that the cost of maintenance of the roadway and pedestrian way and the drainage and lighting system, incidental thereto, shall be borne by the County of Fresno; and that the cost of maintenance of the railroad supporting structure and abutments supporting same shall be borne by Southern Pacific Company.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 29th day of July, 1929.

Paul S. Lott

Chas. S. Weaver

Leon Whelan

Commissioners.