

Decision No. 21672

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE WESTERN PACIFIC RAILROAD COMPANY)
for permission to maintain impaired)
clearance of Tunnel No. 1, located)
near Niles, Alameda County, Cali-)
fornia.)

Application No. 15987.

In the Matter of the Application of)
THE WESTERN PACIFIC RAILROAD COMPANY)
for permission to reconstruct and re-)
locate an overhead crossing near)
Niles, Alameda County, California,)
and for an order prescribing the man-)
ner and terms of installation, op-)
eration, maintenance and use of said)
crossing.)

Application No. 15991.

Mr. L. N. Bradshaw, for Applicant.

Mr. Jas. H. Oakley, Assistant District
Attorney, for Alameda County.

Mr. Harry See, for Brotherhood of Rail-
road Trainmen.

LOUTTIT, COMMISSIONER:

O P I N I O N

In Application No. 15987, The Western Pacific Railroad Company seeks permission to rebuild a portion of its Tunnel No. 1, which was recently destroyed by fire, and, in addition, extend the same some 40 feet and operate over it with less than standard clearance. Application No. 15991 deals with the matter of relocating the County Road over a portion of the tunnel to be constructed.

A public hearing was held on these matters on October 9th, 1929, at San Francisco. Since the matters are related, it appears appropriate that they be consolidated for decision, as the testimony in each proceeding is more or less related.

Tunnel No. 1 is located on The Western Pacific Railroad Company's main line about three miles East of the Town of Niles, Alameda County, California. This tunnel was constructed in 1906-1908 and had a total length of 4287 feet. Except for two short sections, the tunnel is timber lined. These two sections are concrete lined, one being located at the west portal and the other at a point approximately 180 feet west of the east portal. The concrete section near the east portal has a width of approximately 35 feet and supports an aqueduct of the Spring Valley Water Company, which is one of the main water supplies for San Francisco. In the main, the overhead clearance in Tunnel No. 1 is 21 feet, which was in accordance with the Western Pacific Railroad's standard for tunnels at the time this track was built. The record, however, shows that there is some variation in the vertical clearance in this tunnel.

It appears that some 200 feet of the east portion of Tunnel No. 1 was destroyed by a fire which started on the morning of September 19th. The applicant requests that it be permitted to rebuild and operate this section of the tunnel with practically the same overhead clearance as existed before the fire, that is, 21 feet, and, in addition, extend the tunnel some 40 feet with the same vertical clearance, the extension to carry the county road in its new location.

When the tunnel section failed, as a result of the fire, it carried with it a portion of the Niles Canyon County Road, which is an important highway. It appears that Alameda County, for some time, has been considering a plan of improving the highway at this point by eliminating the sharp curve and widening the roadway. A plan has been prepared for the carrying of the relocated highway over the tracks by means of extending the tunnel and constructing a retaining wall parallel to and on the south side of the track for a distance of approximately 100 feet, all as shown on the map attached to Application No. 15991.

It appears that the County and railroad are in agreement as to a plan of performing the work, as related to the grade separation between the highway and the tracks, and also as to the apportionment of cost. Witnesses for both parties testified that, in their opinion, a fair apportionment of cost would be for the County to bear the expense of the following construction and the railroad the remainder:

(1) Extending the tunnel section 40 feet, to carry the relocated highway over the tracks, exclusive of portal.

(2) Constructing a retaining wall, parallel to and south of the track and for a distance of approximately 100 feet east of the proposed east portal, to support the highway embankment.

(3) A back-fill over the tunnel section carrying the highway, except that the railroad shall bear the expense of that portion of this fill equivalent to restoring the highway to its original condition.

(4) Surfacing the highway and any necessary side fences or protective devices.

The railroad is to bear all other expense in connection with restoring this tunnel for operation and carrying the highway over the tunnel section. It is also agreed that the railroad shall be authorized to perform the actual work of constructing the tunnel, retaining wall and fill over the section carrying the highway, the County to pay the actual cost of the same, which has been estimated to be approximately \$13,000.

It appears that the proposed plan of relocating and reconstructing the highway over the railroad track is proper and that the agreement as to the apportionment of cost is reasonable.

With respect to the request to rebuild this tunnel with an overhead clearance of not less than 21 feet, it appears that in this particular case the application should be granted, due to prevailing conditions which would seriously interfere with the construction of a tunnel with standard clearance, such as the concrete aqueduct, carrying the Spring Valley Water mains over the tunnel, and the

hazard of flood conditions, due to the fact that the elevation of the track at the east portal of the tunnel is very close to the high water mark of Alameda Creek, along which stream the railroad line is located in this vicinity. The order will, therefore, provide for the rebuilding of that portion of the tunnel destroyed by fire and an extension thereof some 40 feet in length, with a 21-foot overhead clearance.

I recommend the following form of order:

O R D E R

Application having been made on the above entitled proceedings, public hearing having been held, the Commission being apprised of the facts and the matter being now ready for decision, therefore,

IT IS HEREBY ORDERED that The Western Pacific Railroad Company be and it is hereby authorized to:

I. Rebuild that portion of Tunnel No. 1, destroyed by fire, and, in addition thereto, a section approximately 40 feet in length with a vertical clearance of not less than 21 feet above the top of rail, and to thereafter operate trains through this section, provided, however, that all other clearances prescribed in Commission's General Order No. 26-C, which apply, shall be complied with.

II. Relocate and rebuild the overhead crossing of the County Highway over its tracks at the east portal of Tunnel No. 1 in accordance with the plan attached to Application No. 15991. Said overhead crossing shall be identified as Crossing No. 4-33.0-A and shall be constructed subject to the following conditions.

(a) The cost of reconstructing this overhead crossing shall be borne in accordance with the plan on division of cost outlined in the opinion preceding this order.

(b) Applicant shall file with this Commission, within thirty (30) days from the date of this order, a certified copy of an agreement between it and the County of Alameda, setting forth how the work shall be performed and the payments thereof made, together with a detailed plan showing the tunnel section to be constructed, along with a retaining wall, such plan to have the approval of the County of Alameda. Both the agreement and the plan shall be subject to the Commission's approval.

(c) The work of reconstructing the highway over the track shall be completed at an early date, so as to permit of restoring vehicular traffic on this important highway.

(d) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the work herein authorized.

The Commission reserves the right to make such further orders in this matter as to it may seem right and proper if, in its judgment, the public convenience and necessity demand such action.

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.

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

Dated at San Francisco, California, this 15th day of October, 1929.

Thomas D. Lattin

A. J. Leary

Ernest J. O'Connell

Leon White

W. J. Carr

Commissioners.