

ORIGINAL

Decision No. 22008

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the  
 CITY OF VALLEJO, a municipal corporation,  
 for an order compelling the Sacramento-  
 Northern Railroad and the San Francisco,  
 Napa & Calistoga Railway to reconstruct  
 the overhead crossing on Sacramento Street,  
 in Vallejo, California.

Application No. 15740.

Russell F. O'Hara, City Attorney of the City  
of Vallejo, for applicant.

Nathan F. Coombs, for the San Francisco, Napa  
& Calistoga Railway, protestant.

F. W. Angellotti and L. N. Bradshaw, for the  
Sacramento Northern Railway Company,  
protestant.

CARR, COMMISSIONER:

O P I N I O N

The City of Vallejo applies for an order directing Sacramento Northern Railway and San Francisco, Napa and Calistoga Railway to reconstruct an overhead crossing of Sacramento Street over a certain track on which trains of the San Francisco, Napa and Calistoga Railway are operated, in the City of Vallejo, so as to remove a bottle-neck condition which exists in the crossing as now constructed.

A public hearing was had, briefs have been filed and the matter is now ready for decision.

The evidence clearly shows that the existing overhead structure is inadequate to care for the increased traffic that passes along Sacramento Street, is unsafe and should be reconstructed substantially along the lines contended for by the City

and indicated by the tentative plan presented in evidence. The need for this reconstruction is not seriously contested by the carriers. The expense of the reconstruction is not large, amounting to between \$10,000. and \$13,000. The real controversy here presented is over the apportionment of cost. The City, the San Francisco, Napa and Calistoga Railway and the Sacramento Northern Railway each argues strenuously that it should be assessed no part of the cost.

After a careful consideration of the evidence and the arguments of the several parties, I am of the opinion:

1. That one-half the cost of reconstructing this overhead crossing should be apportioned to the City of Vallejo, under the policy expressed in Decision No. 6771, dated October 22nd, 1919, (not printed); re City of Richmond, 17 C.R.C. 681; re City of Los Angeles, 25 C.R.C. 552; re Town of Larkspur, 27 C.R.C. 801; re California Highway Commission, 29 C.R.C. 534. A comparison of the situation here presented with that dealt with in the several decisions cited, indicates no reason why the policy there expressed should be departed from.

2. That the remaining half of the cost of reconstruction should be assessed to the San Francisco, Napa and Calistoga Railway. This is the operating road. It is by no means clear that the Sacramento Northern Railway is operating a railroad at this point in a sense which would give the Commission jurisdiction to assess any of the cost against it. There is an operating agreement between these two railroads (Exhibit No. 7), as to the meaning and effect of which the two are in violent disagreement. The Commission is not here called upon to construe that agreement. If the Napa line under the agreement, construed as it claims it should be construed, is entitled to reimbursement, in whole or in part, for the proportion of the cost assessed against it, it has an ample remedy in the courts.

3. That the San Francisco, Napa and Calistoga Railway and the applicant should work out a plan of performing the physical work of reconstructing the crossing.

4. That the San Francisco, Napa and Calistoga Railway should bear the expense of the maintenance of the supporting structure, subject to any rights it may have as to reimbursement from the Sacramento Northern Railway under the operating agreement between the two.

5. That the City of Vallejo should bear the expense of the maintenance of roadway and sidewalks over the supporting structure.

I recommend the following form of order:

O R D E R

The City of Vallejo having made application for an order requiring Sacramento Northern Railway and San Francisco, Napa and Calistoga Railway to reconstruct the overhead crossing of Sacramento Street in Vallejo, California, public hearing having been held, the Commission being apprised of the facts and the matter being under submission and ready for decision,

IT IS HEREBY ORDERED that San Francisco, Napa and Calistoga Railway and the City of Vallejo be and they are hereby directed to reconstruct the overhead bridge carrying Sacramento Street over the tracks operated by the said San Francisco, Napa and Calistoga Railway, in the City of Vallejo, State of California, at the location and substantially in accordance with the tentative plan attached to the application.

Said overhead crossing is designated as Crossing No. 70-1.1-A.

Said overhead crossing shall be reconstructed subject to the following conditions:

(1) The entire expense of reconstructing said overhead crossing shall be borne fifty (50) per cent by San Francisco, Napa and Calistoga Railway and fifty (50) per cent by the City of Vallejo.

(2) The cost of maintenance of said overhead crossing, exclusive of paved roadway, sidewalks and guard fences, shall be borne by San Francisco, Napa and Calistoga Railway and the cost of maintenance of paved roadway, sidewalks and guard fences shall be borne by the City of Vallejo.

(3) The actual work of reconstructing said overhead crossing shall be performed in accordance with an agreed plan between applicant and San Francisco, Napa and Calistoga Railway, provided that any work affecting the safety of operation of trains shall be performed in accordance with a plan approved by the latter party.

(4) Said overhead crossing shall be reconstructed with overhead clearance of not less than twenty-one (21) feet above the top of rails and in all other respects, clearances shall conform with provisions of this Commission's General Order No. 26-C.

(5) San Francisco, Napa and Calistoga Railway shall, within sixty (60) days from the date hereof, file with this Commission a complete set of detailed plans, for the reconstruction of said overhead crossing, bearing the City's approval.

(6) Reconstruction of said overhead crossing shall be completed within one year from the date of this order.

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

The apportionment of costs to the San Francisco, Napa

and Calistoga Railway is without prejudice to any rights it may have as against the Sacramento Northern Railway for reimbursement in whole or in part therefor.

For all other purposes, the effective date of this order shall be twenty (20) days from and after 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 14<sup>th</sup> day of January, 1930.

CC Sawyer  
Ernest  
Leon C. Whittell  
Thos D. Lott  
M. J. Linn  
Commissioners.