

Decision No. 22138.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
THE PEOPLE OF THE STATE OF CALIFORNIA
in relation to the Department of Public
Works, Division of Highways, for an
order authorizing the construction of
a state highway crossing over the main
line of the Northwestern Pacific Railroad
near Alto, Marin County, California.

ORIGINAL

Application No. 15512.

Harry A. Encell and Harry McClellan for Applicant.
H. W. Hobbs for Northwestern Pacific Railroad Company.
Walter H. Robinson for Mill Valley Chamber of Commerce
and Citizens of Mill Valley, Protestants.

LOUTFIT, COMMISSIONER:

O P I N I O N

In the above entitled proceeding the People of the State of California, on relation of the Department of Public Works, Division of Highways, hereinafter called the Highway Commission, requested permission to construct a State Highway at separated grades over the tracks of the Northwestern Pacific Railroad Company, near Alto, Marin County. The Commission, after being advised by both the Supervisors of Marin County, as evidenced by a resolution, and Northwestern Pacific Railroad Company that they did not desire to oppose the granting of the application to construct the new overhead crossing contingent upon the closing of the adjacent undergrade crossing, issued its ex parte order in

Decision No. 21170, dated May 28, 1929, granting the authority sought. Condition (4) of said Order reads as follows:

"(4) The existing undergrade crossing located approximately six hundred (600) feet easterly of the grade separation herein authorized and designated as Crossing No. 5C-10.9B shall be legally abandoned and effectively closed to use and travel upon the completion of the grade separation authorized herein."

On December 9, 1929, Walter H. Robinson in behalf of certain citizens and property owners filed a protest as to the closing of the existing undergrade crossing and petitioned for a reopening of this proceeding. This request was granted and a public hearing was held in San Rafael on January 14, 1930.

The evidence shows that the Highway Commission has constructed and opened to traffic the overgrade crossing authorized in said Decision No. 21170; that a connection has been constructed between the new highway and the existing County Road near the old subway, and that the old subway is still open to traffic. Testimony clearly indicates that the largest percentage of traffic crossing the Northwestern Pacific Railroad Company's track in this vicinity is better served by the new crossing than the old, and that only those traveling between the so-called Alto district and the business center of Mill Valley have their distance increased by some 1,500 feet as compared to the route via the old subway. It appears, however, that this volume of traffic is comparatively small.

The testimony of the protestants clearly indicates that if the subway is to remain open, as they request, it should be reconstructed to not only meet the clearance requirements of this Commission's General Order No. 26-C but also to straighten the alignment of the road adjacent to the crossing. It was estimated that this reconstruction would cost approximately \$38,000.00.

The evidence conclusively shows that the new overhead

crossing better serves public needs than does the adjacent undergrade crossing, that two crossings are not necessary at such close proximity to each other and that the public benefit that might accrue from the continued maintenance of said undergrade crossing does not justify the expense of placing it in a safe condition.

The following form of Order is recommended.

O R D E R

The above entitled proceeding having been reopened for a reconsideration of condition (4) of Decision No. 21170, a public hearing having been held and the matter submitted, and the Commission being of the opinion that under all the facts and circumstances, condition (4) is a just and reasonable condition,

IT IS HEREBY ORDERED that said Decision No. 21170 is hereby affirmed in every respect.

The foregoing Opinion and Order is 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 19th day of February, 1930.

Ch. Deaver
Emm. L. L. L.

W. S. L. L.

Commissioners.