

Decision No. 22504.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
the City of Oakland, a municipal cor-  
poration, for an order requiring con-  
struction of a subway at the crossing  
of Goss Street by tracks of the  
Southern Pacific Railroad Company.

Application No. 12543.

Preston J. Higgins, City Attorney, and C. Stanley Wood,  
for the City of Oakland.  
E. J. Foulds, Attorney, for Southern Pacific Company.  
Markell C. Baer, for Oakland Board of Port Commissioners.  
Robert H. McCreary, Deputy District Attorney for  
Alameda County.  
C. S. Connolly, for Albers Bros. Milling Company.  
E. G. Wilcox, for Oakland Chamber of Commerce.  
Harold D. Weber and Orton E. Lucas, for Oakland Business  
District Association.  
George Sheldon, for Up-town Association, Oakland.  
Claude Geneva, for Tele-Grove Improvement Club.  
Wm. J. Bergsma, for West Oakland Boosters Club.  
E. H. Hart, for Draymen's Association of Alameda County.

O P I N I O N

DECOTO, COMMISSIONER:

The Commission, on October 7, 1929, issued its order re-opening the above entitled proceeding, following which hearings were held on January 9th, May 6th and May 15th, 1930. At the hearing on January 9th, it was suggested by the representative of the Port of Oakland that, inasmuch as material developments had been made on Oakland's western waterfront subsequent to November 12th, 1926, (the date of the last decision), an engineering committee be formed, representing the various interested parties, to study the entire traffic situation in the area affected and report to the Commission its conclusions and recommendations.

In accordance with this suggestion, such a committee was appointed. It was composed of representatives of the City, the

Port Authorities, Southern Pacific Company and various civic organizations, together with the engineering staff of the Railroad Commission. This committee made an intensive study of the western area of Oakland and, at the hearing on May 6, 1930, submitted its report in evidence (Exhibits Nos. 5 and 6). A description of the street arrangement and traffic conditions in this section, together with the history of the situation, is sufficiently covered in prior decisions in this proceeding and in the report of the Engineering Committee (Exhibit No. 5), and need not be repeated here. The Engineering Committee recommends that a subway be constructed under the main line and Berkeley electric interurban tracks of the Southern Pacific Company in the immediate vicinity of Seventh Street. A plan of the proposed structure providing for a twenty-three (23) foot clear roadway is shown on page 8 of Exhibit No. 6. The engineers estimate that a subway constructed in accordance with this plan will cost \$205,000.

The Engineering Committee has given further study to the plan heretofore approved by the Commission in Decision No. 17606 for a viaduct and have now estimated that such a structure would cost \$407,500., including property damage.

Although the proposed subway does not immediately provide for the elimination of the grade crossing of the so-called Cedar Street freight lead, it does not interfere with a later elimination of that crossing. Should traffic conditions justify, a second barrel of the subway could be constructed to the south, which would provide for elimination of the grade crossing of the eastbound traffic with the Seventh Street electric tracks, such second barrel being estimated to cost an additional \$200,000.

The report of the Engineering Committee (Exhibits Nos. 5 and 6) gives consideration to grade separations at various locations between Seventh Street and Thirty-fourth Street and, discussing the factors involved at each of these locations, definitely recommends immediate construction of the subway above referred to in the vicinity of Seventh Street. The report further recommends that the Cedar Street lead be re-located so as to pass over such a subway in the reasonably near future.

The City did not oppose either the plan of the proposed subway or the Cedar Street freight lead re-location, but contended that it should not be required to bear more than 25% of the cost of constructing the subway.

In the application filed by the City of Oakland in this proceeding the City requests that the costs be apportioned one-half to the Southern Pacific Company and one-half to the City of Oakland and the County of Alameda. During the hearing of this application on March 11th, 1926, the City Attorney of Oakland agreed that the costs should be so divided. On June 14th, 1926, the City Council passed a resolution authorizing the Mayor to sign an agreement with the Southern Pacific Company based on a 50% division of the costs.

I have carefully considered the entire record in this proceeding and, I am of the opinion that a subway, as shown on page 8 of Exhibit 6, should be constructed forthwith, and I am further convinced that it is equitable in this case for the Southern Pacific and the City of Oakland to divide the cost of this work equally as originally requested by the City.

In view of the unwillingness of the City to assume its proper proportion of the cost of separating grades, I am leaving the Cedar Street separation for the future consideration of the Commission.

O R D E R

The Commission on October 7, 1929, re-opened the above entitled matter for further hearing, further hearings 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 Decision No. 17606 herein, dated November 12, 1926, be and it is hereby revoked, set aside and made of no further force and effect.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company, be and it is hereby directed to abolish within Nine (9) months of the date of this order the existing grade crossing of its four-track line from Seventh Street west of Bay Street in the City of Oakland, by the construction of a subway substantially in accordance with the plans shown on page 8 of Exhibit No. 6 on file in this proceeding. Said subway to be constructed with a grade of approach not exceeding 4% on the west side and not exceeding 5% on the east side. Detailed plans shall be prepared by the Southern Pacific Company and submitted to the Commission for approval within sixty (60) days from date hereof.

IT IS HEREBY FURTHER ORDERED that the cost of constructing said subway and abolishing said grade crossing shall be divided equally between the Southern Pacific Company and the City of Oakland; that the physical construction work of abolishing said grade crossing and constructing said subway shall be performed by the said Southern Pacific Company; that the City of Oakland is hereby directed to pay to Southern Pacific Company from any funds available therefor in the treasury of said City, at the end of each calendar month during the progress of said work, an amount equal to one-half of the expenditures made on or

in connection with said work; and within thirty-five (35) days after the final completion of said project such further sum as to make the aggregate payments hereunder by the City equivalent to one-half of the entire cost of said project.

If sufficient funds are not available to enable the City to make the payments in full at the times and to the party herein specified, the City of Oakland is hereby directed, through its appropriate boards, officers and employees entrusted with the levy and collection of taxes, to do all acts necessary to include in the next succeeding tax levy an amount sufficient to pay the sum due under the provisions in this order with interest thereon from the date or dates on which said amount or amounts become due and payable, calculated at the rate of 6% per annum, and to collect the same and thereupon to pay over to said Southern Pacific Company such sum as to make the aggregate payments by the City hereunder equivalent to one-half of the cost of said project plus interest as above provided.

IT IS HEREBY FURTHER ORDERED that the crossing over Seventh Street and the grade crossing of the Cedar Street lead track over Seventh Street be protected and lighted by the Southern Pacific Company as set forth in the engineers' report filed herein.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company shall notify this Commission, in writing, within ten (10) days thereafter of the completion of the grade crossing eliminations hereinbefore directed.

For all other purposes the effective date of this order shall be twenty (20) days 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 4<sup>th</sup> day  
of June, 1930.

Cl. S. Jones

Emmery

Paul S. Smith

Commissioners.