

Decision No. 22801.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation on the Commission's own motion into the operation and maintenance of that certain crossing over the tracks of SOUTHERN PACIFIC COMPANY and MARKET STREET RAILWAY COMPANY, immediately north of and adjacent to the Millbrae Station of Southern Pacific Company in the County of San Mateo.

ORIGINAL

Case No. 2834.

H. W. Hobbs, for Southern Pacific Company,  
Respondent.  
Ivores R. Dains, for Market Street Railway  
Company, Respondent.  
H. W. Shaw, for West Coast Porcelain  
Company.  
E. B. Smith, for Millbrae Progressive  
Association.  
Robert B. Gaylor, for Millbrae Highlands.

BY THE COMMISSION:

OPINION

This is a case instituted on the Commission's own motion into the operation, maintenance and protection of the grade crossings over the tracks of Southern Pacific Company and Market Street Railway Company, respectively, located immediately north of and adjacent to the Millbrae Station of Southern Pacific Company.

Public hearings were held at Redwood City before Examiner Satterwhite on April 22nd and May 20th, 1930.

The Southern Pacific Company's double track main line in this vicinity extends in a northwesterly and southeasterly direction and at the point where the crossing under investigation

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is located Southern Pacific Company's right-of-way is 100 feet in width. Market Street Railway operates a double track electric suburban line in an unimproved public street located parallel to and immediately adjacent to the westerly line of Southern Pacific Company's right-of-way. Recorded subdivision maps show a street dedicated to public use known as Millbrae Avenue, extending at right angles to the railroad tracks on each side of the Southern Pacific Company's right-of-way, but apparently no dedication or easement has ever been authorized or granted across the property of Southern Pacific Company and that company takes the position that the crossing is private. The crossing of Millbrae Avenue with the tracks of Market Street Railway Company, however, is located in a public street and no claim is made that it is not a legal public crossing.

According to the record in this proceeding, the grade crossing with Southern Pacific Company tracks was originally installed in 1907 to furnish access to a milk platform located on the Southern Pacific Company's right-of-way on the easterly side of the track and in addition to it being used to reach this facility, the crossing was also used to some extent by the tenant of property on the easterly side of the railroad right-of-way. In 1918 the property on the easterly side of Southern Pacific Company's right-of-way and northly of Millbrae Avenue was occupied by the West Coast Porcelain Company and the crossing opposite Millbrae Avenue was then used as a means of access to this plant, the Porcelain Company and Southern Pacific Company executing the usual private crossing agreement to cover its use. For a number of years a gate was maintained on the easterly right-of-way line and signs, indicating that crossing was not for public use,

were displayed.

In 1927 the Bayshore Highway was constructed to the east of the railroad and the County of San Mateo constructed a lateral road from this highway to the Southern Pacific Company's right-of-way connecting with Millbrae Avenue and the crossing involved herein. Since that time the crossing has been used to a considerable extent by the public as this road forms a convenient means of access to Millbrae and the northerly portion of Burlingame. The present traffic is approximately 500 vehicles daily during the twelve hour period 6:00 A. M. to 6:00 P. M. and there is also quite a little night travel during the early evening hours. The view is obscured and approximately one-half of the seventy passenger trains that pass this point daily do not stop at Millbrae Station, but pass through at high speed. There have been two accidents at the crossing within the past year.

While this crossing was installed as a private crossing and apparently was exclusively used as such until quite recently, it is clear that it is now in fact publicly used and it is the opinion of the Commission that if the crossing is to remain open for such public use, it should have the benefit of special protection. An order will be entered accordingly.

With regard to the crossing of Millbrae Avenue with tracks of Market Street Railway Company, it appears that this crossing is also quite hazardous due to the impaired view conditions and that serious accidents have occurred at this point. The Market Street Railway Company has indicated its willingness to issue an order limiting the speed of its cars at this point to 10 miles per hour and if the speed is so restricted, the need of special protection is not acute.

It therefore appears proper that an order be entered requiring Market Street Railway Company to either install special protection at this crossing or restrict the speed of its cars to an actual speed of ten (10) miles per hour approaching the crossing.

O R D E R

The Commission having on its own motion instituted an investigation into the operation, maintenance and protection of a certain crossing over the tracks of Southern Pacific Company and Market Street Railway Company in the vicinity of Millbrae Station of Southern Pacific Company in the County of San Mateo, public hearings having been held and the Commission being apprised of the facts,

IT IS HEREBY ORDERED that on and after the effective date of this order Southern Pacific Company be and it is hereby directed to protect the above described grade crossing with its tracks by a human flagman daily between the hours of 6:00 A. M. and 10:00 P.M. until said crossing shall have been effectively closed to public use and travel or until such time as said crossing has been protected by two automatic wigwags conforming with Standard No. 3 of this Commission's General Order No. 75 equipped with devices, which indicate in a proper and distinctive manner, the approach of a second train.

Nothing in the above order shall be construed as requiring the protection herein prescribed, providing the use of said crossing is limited to the exclusive and lawful use of said crossing by the West Coast Porcelain Company in accordance

with the agreement between said company and Southern Pacific Company.

IT IS HEREBY FURTHER ORDERED that Market Street Railway Company be and it is hereby directed to operate its cars across Millbrae Avenue, San Mateo County, at a speed not in excess of ten (10) miles per hour until such time as the crossing of its tracks with said Millbrae Avenue is protected by automatic warning signals of a type approved by the Commission.

The Commission reserves the right to make such further orders in the above entitled proceeding as to it may seem right and proper.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 22<sup>d</sup> day of August, 1930.

*[Handwritten signatures of D. P. Lewis, E. M. Edwards, Leon O. White, and Mrs. D. B. Smith]*

Commissioners.