

Decision No. 22919.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 THE PEOPLE OF THE STATE OF CALIFORNIA,
 acting by and through the Department
 of Public Works, Division of Highways,
 for an order authorizing the construc-
 tion of overhead crossing over the
 tracks of the SOUTHERN PACIFIC RAILROAD,
 near Spence, Monterey County, California.

ORIGINAL

Application No. 15263.

Harry McClelland, for the California High-
way Commission.

Roy G. Hillebrand, for Southern Pacific Company.

J. E. Gardner and C. C. Baker, for certain
property owners, interested parties.

DECOTO, COMMISSIONER:

O P I N I O N

This application came before the Commission originally on December 11th, 1928, as an application to construct a grade separation of a State Highway over the tracks of the Southern Pacific Company in the vicinity of Spence, Monterey County. The application was later amended to provide for a subway instead of an elevated structure and on September 6th, 1929, the Commission entered its Decision No. 21520, authorizing the subway.

This order was entered ex parte, it appearing from the Commission's files that the parties at interest, the Highway Commission and Southern Pacific Company, were in agreement as to conditions under which the application should be granted. The application recited that it was proposed to close the existing grade crossing of the State Highway with the tracks (Crossing No.E-123.5)

and the above referred to order of the Commission required that upon completion of the undergrade crossing, this grade crossing should be legally abandoned and effectively closed to public use and travel.

The grade separation has been constructed and has been opened to travel since May, 1930, and the grade crossing was at that time closed to public use. Upon protest of certain property owners in the vicinity, however, the Commission, on May 26th, 1930, reopened the proceeding and ordered an investigation to be made to determine whether or not the conditions, under which the grade separation was authorized, should be altered or amended. This investigation was concerned, principally, with the condition requiring that the existing grade crossing be closed, which afforded a convenient means of getting over the railroad for traffic using a private road which intersects the highway at this point.

A public hearing was held at Salinas on June 26th, 1930, and at this hearing various land owners testified regarding the use which they made of the grade crossing in travelling to and from their property. The territory involved is a tract of some 684 acres lying east of the grade crossing and served by a private road which intersected the State Highway at a point opposite this crossing. It appears, however, that approximately 75 per cent of this acreage has access to the State Highway by a public road and that the remaining 25 per cent can be given such access at a reasonable cost by means of a short connecting road parallel to the southerly approach to the subway. By so doing, it will be unnecessary for this traffic to cross the track of Southern Pacific Company at grade. It appears reasonable, therefore, that the existing crossing be closed, as provided in the Commission's prior order, but it is believed that the Department of Public Works should provide the road connection referred to. The following form of order is recommended:

O R D E R

The Commission having ordered an investigation in the above entitled proceeding and a public hearing having been held,

IT IS HEREBY ORDERED that the Commission's Decision No. 21520, dated September 6th, 1930, in the above entitled proceeding, be and it is hereby amended by the addition of a further condition in the order of this decision, to be designated as Condition (6), reading as follows:

- (6) The applicant shall forthwith provide a road along the easterly side of the southerly approach to the subway which will permit adequate and safe means of ingress to and egress from the State Highway for the users of the private road, which intersected the former route of the State Highway at a point immediately east of grade crossing No.E-123.5.

In all other respects the Commission's former decisions in the above entitled proceeding shall remain in full force and effect.

The effective date of this order shall be twenty (20) days from 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 29th day of September, 1930.

Cl. Seaver
Frank J. ...
Thos. J. ...

Commissioners.