

Decision No. 22954.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CITY OF HUNTINGTON PARK, a municipal corporation,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY, a railroad corporation,

Defendant.

ORIGINAL

Case No. 2188.

In the Matter of the Investigation on the Commission's own motion into protection, construction, alteration and necessity for the crossings of the track of Southern Pacific Company at Saturn Avenue, Lyfort Avenue and Irvington Avenue, in the City of Huntington Park, County of Los Angeles, State of California.

Case No. 2209.

Arch G. McLay and R. McCurdy, for the City of Huntington Park.

Robt. W. Kenny and O. F. Cooley, for the County of Los Angeles.

H. W. Hobbs, for Southern Pacific Company.

Chandler, Wright and Ward, by Chandler P. Ward, for S. Karpen & Bros.

WHITSELL, COMMISSIONER:

FIRST SUPPLEMENTAL OPINION AND ORDER

The above entitled proceedings involve, in a general way, the grade crossing situation between Irvington Avenue, on the north, and Florence Avenue, on the south, with Southern Pacific Company's San Pedro Branch through the City of Huntington Park, County of Los Angeles.

Case No. 2188 was filed with the Commission on

October 30th, 1925, wherein the City of Huntington Park asked the Commission to make its order declaring various crossings over the railroad as public crossings and to require Southern Pacific Company to lower its tracks so as to make easy grades of approach at the Irvington Avenue and Lyfort Avenue crossings, respectively.

Case No. 2209 was instituted on the Commission's own motion, on January 15th, 1926, to determine the proper treatment at the crossings of Irvington, Lyfort and Saturn Avenues, respectively.

After several hearings and the submission of these cases during 1926, the Commission issued its Decision No. 18534, dated June 20th, 1927, directing Southern Pacific Company to improve the grade crossing of Irvington Avenue with its tracks by causing to have raised the surface of Harbor Truck Boulevard to the west and Irvington Avenue to the east of the railroad, in such a manner that grades of approach not to exceed four (4) per cent could be constructed and substantially in accordance with the plan shown by Los Angeles County's Exhibit No. 1, filed in this proceeding, and subject to certain other conditions, one of which required that the cost of improving the crossing at Irvington Avenue, including the cost of an automatic wigwag, be borne fifty (50) per cent by Southern Pacific Company, twenty-five (25) per cent by the County of Los Angeles and twenty-five (25) per cent by the City of Huntington Park. This decision also ordered that the cases, in so far as they involved the Saturn Avenue crossing, be dismissed and, further, that upon the completion of the improvement at Irvington Avenue, the crossing at Lyfort Avenue be effectively closed to public use and travel.

On October 31st, 1929, the City of Huntington Park filed a petition in the above cases, requesting that the Commission set aside its Decision No. 18534 and reopen the proceeding for further

hearing. Decision No. 21997, dated January 8th, 1930, granted this request and, accordingly, further hearings were held during February, May, June, August and September, 1930.

Counsel for the City of Huntington Park advised that the city desired to have the tracks lowered at the Irvington Avenue crossing, in lieu of raising the grades of the boulevards as required by the Commission's order, but that the city was experiencing difficulty in obtaining the money necessary to bear its portion of such an improvement. The cost of consummating the plan ordered by the Commission was estimated at \$15,000., including property damage, while the estimates of cost of lowering the tracks varied from \$30,000. to \$60,000.

At the last hearing in these proceedings the County of Los Angeles and Southern Pacific Company each signified their willingness to carry out the Commission's original order but were not opposed to the lowering of the tracks, as urged by the city, provided, however, they were not assessed any greater amount of money than they were by the terms of the Commission's order. The record shows that a conference was held in the office of the Board of Supervisors of Los Angeles County on July 2nd, 1930, which conference was attended by representatives of various interested parties. It was tentatively agreed at this conference that the various parties would not oppose the lowering of the tracks, provided that upon the improvement of the Irvington Avenue crossing the ones at Lyfort and Saturn Avenues, respectively, were closed; that the County of Los Angeles would contribute a sum not to exceed \$15,000. for this improvement; that Southern Pacific Company would pay, toward the cost of this improvement, a sum of money equivalent to that which it would pay if the improvement were made in accordance with the Commission's former order, namely, not to exceed \$7,500. and the City of Huntington Park bear the balance of such cost.

The City Attorney of Huntington Park, at the hearing held on September 11, 1930, advised that the City expects to have paid into its treasury, within the next sixty days, approximately \$19,000., which would be available for defraying the City's portion of the Irvington Avenue crossing improvement.

The record is clear that public safety requires immediate improvement of the Irvington Avenue crossing if it is to remain open for public use and there appears to be no question in the minds of any of the interested parties regarding the hazardous condition which exists at this crossing, the only issue being the manner by which it shall be corrected.

In bringing about a correction of this situation, I am of the opinion that the City of Huntington Park should be permitted to select either the plan of lowering the tracks or that of raising the adjacent boulevards, provided, however, that in the event the plan of lowering the tracks is selected, the County of Los Angeles contribute \$15,000. of the cost, Southern Pacific Company \$7,500. and the City of Huntington Park the remainder, which is in accordance with the tentative agreement (S. Karpen & Bros., Exhibit No. 1, filed September 11, 1930). If, on the other hand, the plan of raising the adjacent highways is selected, the cost should be apportioned on the same basis as outlined in the original order of the Commission in this proceeding, Decision No. 18534.

Inasmuch as the record clearly shows the Irvington Avenue crossing to be exceedingly dangerous and was ordered improved on June 20, 1927, and nothing in the way of such improvement having been effected to date, it appears that public safety requires that unless this crossing is immediately improved by means of one or the other of the two plans stated above, it should be effectively closed to public use and travel.

The following form of order is recommended:

O R D E R

IT IS HEREBY ORDERED that Commission's Decision No. 18534, dated June 30, 1927, in the above entitled cases, be and it is hereby revoked.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company be and it is hereby directed to improve the grade crossing of Irvington Avenue with its tracks in the City of Huntington Park, Los Angeles County, in accordance with one of the two following plans:

Plan A

Causing to have raised the surface of Harbor Truck Boulevard to the west and Irvington Avenue to the east of the railroad, in such a manner that approaches can be constructed on grades to this crossing not to exceed four (4) per cent, and substantially in accordance with the plans shown by Los Angeles County's Exhibit No. 1, filed December 15, 1926, in this proceeding.

Plan B

Causing to have lowered Southern Pacific Company's tracks so as to provide highway approach grades to said Irvington Avenue crossing not in excess of four (4) per cent.

Said Irvington Avenue crossing shall be improved in accordance with the following conditions:

- (1) The City of Huntington Park may select which of the two plans, referred to above, it desires carried out and shall, within thirty (30) days from the date of this order, advise Southern Pacific Company, County of Los Angeles, and this Commission:
  - (a) which plan it selects for the improvement of the Irvington Avenue crossing;
  - (b) that it has passed the necessary resolution or ordinance to completely abandon the crossings of Lyfort and Saturn Avenues, respectively, with Southern Pacific Company's tracks, in accordance with the conditions hereinafter set forth.

- (2) The entire cost of improving said crossing of Irvington Avenue, including two Standard No. 3 wigwags, as specified in General Order No. 75 of this Commission, shall be borne as follows:

If Plan A is selected -

Fifty (50) per cent by Southern Pacific Company, twenty-five (25) per cent by the County of Los Angeles, and twenty-five (25) per cent by the City of Huntington Park.

If Plan B is selected -

The County of Los Angeles shall contribute \$15,000. toward this construction, Southern Pacific Company \$7,500., and the City of Huntington Park the remainder.

- (3) The cost of maintenance of that portion of said crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company. The cost of maintenance of that portion of said crossing up to lines two (2) feet outside of the outside rails and within the City of Huntington Park, shall be borne by said city. No portion of the cost herein assessed to the City of Huntington Park or the County of Los Angeles, for the construction or maintenance of said crossing, shall be assessed, in any manner whatsoever, to the operative property of Southern Pacific Company. The cost of maintaining said wigwags shall be borne by Southern Pacific Company.
- (4) Southern Pacific Company shall, within sixty (60) days from the date of this order, submit a certified copy of an agreement or agreements entered into by the three parties at interest (Southern Pacific Company, City of Huntington Park, and County of Los Angeles), setting forth a plan of carrying out this improvement in accordance with the terms of this order, and thereafter forthwith proceed in a diligent manner with this work to its completion.
- (5) Southern Pacific Company shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the improvement of said crossing.

IT IS HEREBY FURTHER ORDERED that in the event the City of Huntington Park does not comply with Condition No. 1, set forth above, the Commission will issue its further order in this proceeding outlining how the Irvington Avenue crossing shall be improved if it is to remain open to public use and travel.

IT IS HEREBY FURTHER ORDERED that upon the completion of the improvement of the Irvington Avenue crossing, as directed in

this decision, the public crossings over Southern Pacific Company's tracks at Lyfort Avenue and Saturn Avenue, respectively, in the City of Huntington Park, Los Angeles, shall be effectively closed to public travel, in accordance with the terms of Exhibit No. 1, filed September 11, 1930.

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.

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

Dated at San Francisco, California, this 7<sup>th</sup> day of October, 1930.

*A. J. ...*

*Leon ...*  
*...*

*M. J. ...*

Commissioners.