

ORIGINAL

Decision No. 23506

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of the City of Oakland to extend)
and construct 92nd Avenue across)
the tracks of The Western Pacific)
Railroad Company.)

Application No. 17110.

Preston Higgins, City Attorney, by
Alfred Nelson, for Applicant.

L. N. Bradshaw, for The Western Pacific
Railroad Company.

BY THE COMMISSION:

O P I N I O N

In this proceeding the City of Oakland requests per-
mission to construct Ninety-second Avenue at grade across the main
line tracks of The Western Pacific Railroad Company in said city.

A public hearing was held in this matter before Examiner
Williams in Oakland on March 6th, 1931.

The main line of The Western Pacific Railroad Company runs
in a general easterly and westerly direction through Oakland in the
vicinity of Ninety-second Avenue. Adjacent to and south of the rail-
road right-of-way, and parallel therewith, is Russett Street, an in-
dustrial artery. Ninety-second Avenue is a north and south street
extending northerly from a point about four hundred (400) feet north
of the railroad. The city is now constructing this street south to
the railroad right-of-way. Permission is sought to construct this
avenue at grade across the railroad so as to make a connection with
Russett Street.

The two nearest crossings to the one proposed herein are Jones Street, located approximately one thousand feet to the east, and Eighty-fifth Avenue, approximately nine hundred feet to the west. Each of these streets provides a connection between Russett Street and East Fourteenth Street, leading to the business districts of Oakland.

That area of the city in the vicinity of the crossing is developing industrially, although immediately adjacent to the crossing the district is not as yet developed.

The crossing particularly is desired for the convenience of those living north of the railroad, south of East Fourteenth Street, and for an outlet for traffic destined to or from the industries in the vicinity of Ninety-second Avenue and Russett Street. At the present time, the area north of the railroad and adjacent to Ninety-second Street is vacant and the view of approaching trains is unobstructed. Although the view of trains from the Russett Street side is physically unobstructed, the fact that Russett Street is adjacent to the railroad right-of-way and only about fifty feet from the main line track presents a rather hazardous situation, as the driver of a vehicle has his back to an approaching train traveling in the same direction.

On the north side of the railroad a grade of approach of four (4) per cent can easily be constructed and is so proposed by the applicant. The railroad in this area is on an embankment approximately five and one-half ($5\frac{1}{2}$) feet above the grade of Russett Street. Without disturbing the grade of either Russett Street or the railroad, only an approach grade of ten (10) per cent can be constructed on the south side of the track and of a length of less than fifty feet. It appears that a grade of approach of 10 per cent to a railroad crossing of a city street is excessive and especially

in this case, where a sharp turn is required for vehicular traffic. This grade of approach should not exceed six (6) per cent. To accomplish this it would be necessary to either lower the railroad tracks, at an estimated cost of \$13,000., or raise Russett Street adjacent to the crossing, at an estimated cost of approximately \$4,700.

The Commission does not desire to authorize the construction of crossings at grade which will involve an unnecessary hazard, due to an excessive grade of approach. The record indicates that some time in the future Russett Street will be raised from Eighty-fifth Avenue to Jones Street and the applicant suggested that the grade of approach of ten (10) per cent be granted temporarily until such time as Russett Street is raised. It appears to the Commission that a 10 per cent grade of approach, having a length of less than fifty feet, should not be authorized as a temporary expedient to effect this crossing but that if the crossing is now constructed, it should be provided with proper grades of approach.

At the point of proposed crossing there are two tracks in operation, i.e., the main line track of The Western Pacific Railroad Company and a drill track jointly used by The Western Pacific Railroad Company and Southern Pacific Company. The drill track is located fifteen (15) feet north of and nine inches lower in elevation than the main line track. This drill track should be raised to approximately the same level or elevation as the main line track when the crossing is constructed. Furthermore, no cars should be left standing on this drill track closer than 200 feet on either side of the crossing unless traffic is protected by a flagman.

The application, in paragraph eight, stated that it was the city's belief that a wigwag signal should be installed at this crossing. At the hearing, however, the applicant amended the application by having this paragraph removed and its witness expressed

the opinion that a wigwag was unnecessary.

Undoubtedly, the traffic over this crossing, if constructed, will be comparatively light for the immediate future but on account of the closeness of Russett Street, autoists approaching the crossing from the west will have a poor view of approaching trains, particularly of trains approaching in the same direction as the vehicle. The Commission is of the opinion that the crossing should be afforded the protection of an automatic wigwag signal and it will be so ordered.

O R D E R

A public hearing having been held and the matter having been submitted,

IT IS HEREBY ORDERED that the City Council of the City of Oakland, County of Alameda, State of California, is hereby authorized to construct Ninety-second Avenue at grade across the tracks of The Western Pacific Railroad Company at the location as shown by the map (Drawing No. 34-100) attached thereto, subject to the following conditions and not otherwise:

- (1) The above crossing shall be identified as Crossing No. 4-12.95.
- (2) The entire expense of constructing the crossing shall be borne by applicant. The cost of maintenance of that portion of said crossing outside of lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by The Western Pacific Railroad Company. No portion of the cost herein assessed to applicant for the construction or maintenance of said crossing shall be assessed by applicant, in any manner whatsoever, to the operative property of The Western Pacific Railroad Company.
- (3) The crossing shall be constructed of a width of not less than thirty-six (36) feet and at an angle to the railroad as shown by the map attached to the application and with grades of approach not greater than six (6) per cent; shall be constructed equal or superior to type shown as Standard No. 2 in our

General Order No. 72; shall be protected by a Standard No. 1 crossing sign, as specified in our General Order No. 75, and shall in every way be made suitable for the passage thereon of vehicles and other road traffic.

- (4) A standard No. 3 wigwag, as specified in General Order No. 75 of the Commission, shall be installed at the expense of applicant for the protection of said crossing of Ninety-second Avenue and maintained thereafter at the expense of The Western Pacific Railroad Company.
- (5) At all times that cars are allowed to stand on said joint drill track within two hundred (200) feet of the center line of Ninety-second Avenue, no train, motor, engine or car shall be operated across said Ninety-second Avenue unless highway traffic be protected by a member of train crew or other competent employee of the railroad.
- (6) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing and of its compliance with the conditions hereof.
- (7) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.
- (8) The Commission reserves the right to make such further orders, relative to the location, construction, operation, maintenance and protection of said crossing, as to it may seem right and proper and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 16th day of March, 1931.

C. L. Stearns
Leonard Whittell
M. H. King
W. B. King
Fred G. Stewart

Commissioners.