

Decision No. 25144.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
THE CITY OF RIVERSIDE FOR AUTHORITY  
to reconstruct the separation of  
grades at the intersection of North  
Main Streets and the Southern Pacific  
Tracks, and for order allocating  
the costs thereof.

ORIGINAL

Application No. 17735.

Eugene Best, City Attorney, for Applicant.  
H. W. Hobbs, for Southern Pacific Company.

WHITSELL, COMMISSIONER.

O P I N I O N

The City of Riverside filed the above entitled application requesting an order authorizing the reconstruction of the grade separation of North Main Street and the tracks of Southern Pacific Company in said city and the apportionment between the parties of the cost of reconstructing said separation.

A public hearing on this application was held in the City of Riverside on May 18, 1932, at which time the matter was duly submitted.

North Main Street, extending in a general north and south direction through the City of Riverside, is one of the city's main thoroughfares and is the principal route to Santa Ana Canyon and San Diego to the south, and San Bernardino and San Bernardino Mountain resorts to the north. La Cadena Drive,

parallel to and approximately one-half mile east of North Main Street, and Russell Street, extending in a general east and west direction between North Main Street and La Cadena Drive and approximately 2,000 feet north of the grade separation, have been recently improved by the City of Riverside so that at the present time North Main Street is the principal north entrance into the city.

The existing grade separation of North Main Street and the track of Southern Pacific Company is, for the major portion, of timber construction and was built about 1910. The track structure is supported by two concrete abutments 43.5 feet apart and three intermediate wooden bents, one of which is constructed in the center of the roadway. The westerly roadway is 13.8 feet in width and the easterly one 13.9 feet, with pedestrian ways on either side 4.8 feet wide. The city now proposes to reconstruct the subway with a 63-foot clear roadway and two sidewalks approximately 10 feet wide. This plan provides for an 87-foot through steel girder over the roadway supported by steel columns and two 18.5-foot steel girders over the sidewalk supported on steel columns and concrete abutments.

The roadway width of North Main Street between First Street, located 500 feet south of the proposed separation, and Poplar Street, located 400 feet to the north, varies from 32 to 99 feet. Through the existing separation with the tracks of the Los Angeles and Salt Lake Railroad Company, located 150 feet north of the separation involved herein, the roadway width is 32 feet. The city proposes to widen North Main Street to a roadway width

of 63 feet from First Street north through the Southern Pacific grade separation.

The City Engineer of Riverside estimates the cost of the proposed reconstruction at \$23,419., which does not include an allowance for falsework, maintaining rail traffic during construction, engineering or contingencies. Southern Pacific Company's witness testified that his studies showed it would cost \$47,759. to construct the separation in accordance with the city's plan. Although the two estimates are not comparable, some of the difference is accountable to the fact that different units and unit costs were used. From an examination of the estimates it would appear that Southern Pacific Company's estimate, under present day prices, is somewhat high, while the estimate of the city is low.

Southern Pacific Company's Exhibit No. 4 shows a plan of reconstructing the proposed separation by utilizing the existing concrete abutments, which would provide a 32-foot clear roadway and two 6-foot sidewalks. The estimated cost of effecting such a plan is \$15,088. This plan could be further modified, as shown on the company's Exhibit No. 6, so as to provide a 44-foot clear roadway utilizing the existing concrete abutments by placing the sidewalks back of the abutments. The cost of constructing two 8-foot pedestrian subways back of the abutments was estimated to cost \$21,429. Inasmuch as the Los Angeles and Salt Lake grade separation, located only 150 feet north of the proposed separation, has a roadway width of 32 feet and no plan is under consideration for the widening of this separation, it would appear reasonable to

provide a 32-foot roadway with two 6-foot sidewalks under the Southern Pacific Company's tracks for the present and when traffic requires additional width under both separations, the Southern Pacific subway could be widened to 44 feet by placing the sidewalks in subways back of the abutments. Effecting this plan will eliminate the existing hazard due to a center bent in the subway under the Southern Pacific Company's tracks. Furthermore, the record clearly indicates that a subway providing for three lanes of traffic, as is the case with the plan proposed in Southern Pacific Company's Exhibit No. 4, has a greater carrying capacity than the volume of traffic which now flows through this subway or can reasonably be expected to develop in the near future; therefore, the economical plan would be one substantially in accordance with that shown on Exhibit No. 4 which can be enlarged when traffic conditions require, as indicated above.

The record shows a vehicular traffic through this subway of approximately six thousand vehicles daily. The subway as designed and built in 1910 was constructed to accommodate slow moving horse-drawn vehicles. The changed conditions that have come about in recent years have made the existing subway obsolete. It is unsafe to public travel and should be reconstructed.

Turning now to the question of apportionment of cost, it appears that prior to the construction of the existing subway at this point, the City of Riverside, entered into a

contract with Southern Pacific Company and Southern Pacific Railroad Company on March 15, 1909, a copy of which is attached to the application and marked Exhibit "A." (1)

In effect the carrier contends that the contract above referred to cast upon the city the burden to reconstruct from time to time in perpetuity the subway at the point in question. Fairly interpreted the contract does not cast this burden upon the city. It only undertook to construct a particular type of subway according to certain specifications and, thereafter, upon its acceptance by the carrier, to maintain said particular structure exclusive of the rails and ties of the carrier, at its sole cost and expense. Due to changed conditions that have come about since 1910, largely as a result of the development of automotive travel, the particular structure has become obsolete and unsafe. The construction of a new structure is required and will be authorized.

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(1) The contract provided in part that the subway then proposed should be constructed by the city "of steel, masonry, or other durable material and shall be designed and constructed in accordance with the standard specifications of the Southern Pacific Railroad Company covering the design and construction of railway bridges so that it shall have sufficient strength to carry locomotives and trains according to the terms of standard specifications. The design of said subway and all construction appurtenant thereto shall be submitted to and approved by the authorized representative of the parties of the first and second parts, (Southern Pacific Railroad Company and Southern Pacific Company, respectively) \*\*\*\*\*.

"IT IS FURTHER UNDERSTOOD AND AGREED that after the completion of said subway and its acceptance by the parties of the first and second parts (Southern Pacific Railroad Company and Southern Pacific Company, respectively), the said bridge, with its abutments, piers, and appurtenances, exclusive of the rails and ties of the party of the second part, shall be maintained in good and safe condition and repairs, by the parties of the first and second parts AT THE SOLE COST AND EXPENSE OF THE PARTY OF THE THIRD PART (City of Riverside): and the party of the third part promises and agrees to indemnify and save harmless the party of the first part and the party of the second part against any and all loss, damage or expense suffered, sustained or incurred by them or either of them by reason of failure or neglect of said third party to stand the sole cost and expense to so maintain said bridge, its abutments, piers and appurtenances." (Parentheses ours).

Inasmuch as the contract between the parties does not apply to the facts in this case and does not obligate the city to construct a new subway structure as contemplated, the case of M. K. & T. Rwy Co. et al. v. Oklahoma, et al., 271 U. S. 303, is not in point.

This is simply a case where a separation constructed in 1910, at a time when the vehicular traffic was comparatively small and mostly slow moving horse-drawn vehicles, no longer meets present day traffic requirements on this important highway. It is appreciated that it is due to changed traffic conditions on the highway and not on the Railroad that this grade separation is no longer adequate and safe; however, the Railroad must assume its responsibility in meeting public convenience and necessity to afford the public safe and adequate passage across its tracks. In this particular case it would seem reasonable that the public bear the greater portion of the expenses of this improvement as it has been shown that the City, through other street improvements, is making North Main Street one of its most important highways and thereby attracting considerable traffic over and above the amount which would result from normal development from the district immediately tributary to this highway. Therefore, it is concluded that the City should bear 75% of the cost of the improvement and the Railroad the remainder.

It would also seem reasonable to require the railroads now operating over the separation in question to reroute their traffic over other existing lines during the time the reconstruction work is in progress, without any expense to the city. The following form of order is recommended.

O R D E R

The City of Riverside having filed the above entitled application, a public hearing having been held and the Commission being fully advised of the facts,

IT IS HEREBY ORDERED that the City of Riverside is hereby authorized to reconstruct the grade separation of North Main Street under the track of the Southern Pacific Company at the location more particularly described in the application and substantially in accordance with the plan shown on Exhibit No.4, providing a roadway width of not less than 32 feet, subject to the following conditions:

- (1) The cost of reconstructing said separation, (BJ-546.1-BC) excluding the cost of rerouting rail traffic during the period of construction, shall be borne 75% by the applicant and 25% by Southern Pacific Company.
- (2) Maintenance of said separation shall be borne in accordance with said agreement entered as Exhibit "A" in this proceeding, to the effect that the railroads shall bear the expense of maintaining their rails and ties and the City the remainder.
- (3) Prior to the commencement of construction, applicant shall file with this Commission a set of plans for this undergrade crossing, showing the proposed separation in plan and elevation, together with roadway widths, approach grades, clearances, drainage and lighting facilities, which plans shall have been approved by the Southern Pacific Company or bear a statement showing why said Southern Pacific Company refuses to approve said plans.
- (4) Said crossing shall be constructed with clearances conforming to the provisions of our General Order No. 26-C.
- (5) 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.

- (6) 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.

The authority herein granted shall become effective twenty (20) days from and after the date hereof.

The above 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 6<sup>th</sup> day of September, 1932.

C. C. Deane  
Leon A. ...  
M. A. ...  
M. B. ...  
Fred G. ...  
 Commissioners.