

ORIGINAL

Decision No. 25811.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
THE PEOPLE OF THE STATE OF CALIFORNIA  
in relation to the Department of Public  
Works, Division of Highways, for an  
order authorizing the construction of  
a state highway crossing over the main  
line of the Northwestern Pacific Railroad  
near Alto, Marin County, California.

APPLICATION NO. 15512.

In the Matter of the Application of  
THE PEOPLE OF THE STATE OF CALIFORNIA,  
on relation of the Department of Public  
Works, Division of Highways, for an amend-  
ed order authorizing the construction of a  
State highway over grade crossing over the  
tracks of the Northwestern Pacific Rail-  
road one mile north of Beatrice, Humboldt  
County, known as Beatrice overgrade cross-  
ing.

APPLICATION NO. 15906.

In the Matter of the Application of  
THE PEOPLE OF THE STATE OF CALIFORNIA,  
on relation of the Department of Public  
Works, Division of Highways, for an order  
authorizing the construction of a State  
highway overgrade crossing over the tracks  
of the Northwestern Pacific Railroad Com-  
pany 2.5 miles north of San Rafael, Marin  
County, at Forbes Station, Marin County,  
known as Forbes Station overgrade crossing.

APPLICATION NO. 15907.

In the Matter of the Application of  
THE PEOPLE OF THE STATE OF CALIFORNIA,  
on relation of the Department of Public  
Works, Division of Highways, for an order  
authorizing the construction of a State  
highway overgrade crossing over the tracks  
of the Northwestern Pacific Railroad two  
and one-half miles south of San Rafael,  
Marin County, known as Green Brae over-  
grade crossing.

APPLICATION NO. 15908.

In the Matter of the Application of  
THE PEOPLE OF THE STATE OF CALIFORNIA,  
on relation of the Department of Public  
Works, Division of Highways, for an  
order authorizing the construction of a  
State Highway overgrade crossing over  
the tracks of the Northwestern Pacific  
Railroad Company at California Park, one  
mile south of San Rafael, Marin County,  
known as California Park Overgrade Cross-  
ing.

APPLICATION NO. 15909.

In the Matter of the Application of  
THE PEOPLE OF THE STATE OF CALIFORNIA,  
on relation of the Department of Public  
Works, Division of Highways, for an  
order authorizing the construction of a  
State highway overgrade crossing over  
the tracks of the Northwestern Pacific  
near Manzanita, Marin County, to be  
known as the Manzanita Overhead Cross-  
ing.

APPLICATION NO. 17073.

Frank B. Durkee, For Applicant.

H. W. Hobbs, For Northwestern Pacific Railroad Company.

SEAVEY, COMMISSIONER:

O P I N I O N  
■ ■ ■ ■ ■ ■ ■ ■

The above entitled applications refer to grade separations at points of intersection of state highways with the main line tracks of Northwestern Pacific Railroad Company between Sausalito and Eureka. Separations have been effected in each case, pursuant to authority granted by this Commission. The apportionment of cost, however, has not been determined and the purpose of this proceeding is to prescribe

how the expense of constructing these separations shall be apportioned between applicant and Northwestern Pacific Railroad Company. Public hearings were held for the purpose of taking testimony on the question of apportionment of cost and the matters are now under submission and ready for decision.

At the opening hearing the parties stipulated that the proceedings be consolidated for the purpose of taking testimony.

The following tabulation shows the location, etc., of the various separations involved:

: Appl. Number :	: Crossing Number :	: Nearby R.R. Station :	: Granted Decision: Number :	: Date Dated :	: Separation Completed :	: Cost of Separation* :
15512	5C-10.7-A	Alto	21170	5-28-29	12-31-29	\$38,000.
15906	5-275.9-A	Beatrice	21580	9-19-29	3-2-31	64,000.
15907	5-19.6-A	Forbes	21656	10-4-29	7-26-30	30,000.
15908	5E-13.28-A	Green Brae	21657	10-4-29	8-21-30	57,000.
15909	5-15.7-A 5S-16.2-A	California Park	21581	9-19-29	8-21-30	60,000.
17073	5C-9.3-A	Manzanita	23239	12-30-30	10-24-31	55,000.

\* Difference between cost of constructing a grade crossing and the grade separation.

All of the above separations are located in Marin County, except the one at Beatrice, which is located in Humboldt County. These respective separations are effected by carrying the highway over the railroad.

Each of the above entitled applications shows that the applicant and railroad were in agreement as to proceeding with the separations, leaving the question of apportionment of cost to be determined at a later date, either by mutual agreement or by order

of the Commission.

The Commission was asked to issue ex parte orders authorizing applicant to proceed with the construction and upon this showing the Commission granted authority to applicant, by ex parte orders, to proceed with the respective separations, under various conditions. The decision in each case contained a provision to the effect that the parties were required to file with this Commission, within a specified time, a statement showing if an agreement had been reached covering the question of apportionment of cost. The decisions further provided that in the event the parties could not reach an agreement on apportionment of cost, this matter would be disposed of by supplemental order, which is the subject matter now under consideration.

Turning now to the respective separations in order of their filing:

APPL. NO. 15512 - ALTO SEPARATION (Crossing No. 5C-10.7-A):

At the time this separation was constructed it was part of the main state highway between Sausalito and Eureka. In addition to carrying the through traffic, it accommodated the local traffic which had theretofore crossed the railroad at the underpass at Alto. This underpass was originally constructed about fifty years ago to accommodate local traffic as well as that between Alto and Belvedere and Tiburon. Upon completion of the overhead crossing at Alto, the underpass was abandoned and effectively closed. The record shows that the underpass crossing did not provide standard clearance and was in need of immediate replacement, as the structure was worn out and the crooked alignment of the highway presented considerable hazard to traffic. Estimates were presented showing that to replace this inadequate separation with one which would meet traffic requirements and conform to the Commission's standard clearance would cost approximately \$19,000.

In determining the apportionment of cost of the new separation at Alto, it would appear reasonable that the railroad should contribute to this expense a sum equivalent to half the cost of constructing a suitable separation to replace the underpass, or approximately \$9,500. In view of the fact that the railroad bore the expense of removing the old trestle and constructed the fill to close the old underpass at an expenditure of \$2,800, the assessment to the railroad should be reduced by this amount, making the net cost to the railroad \$6,700.

APPLICATION NO. 15906 - BEATRICE SEPARATION (Crossing No. 5-275.9-A):

The record shows that in 1927 the railroad and the Department of Public Works went to considerable expense to eliminate the only grade crossing between Fernbridge and Loleta. The elimination of this grade crossing was effected by shifting the tracks to the west and constructing the highway along the east side of the railroad. The cost to the railroad of making this change was approximately \$36,000. It appears that about two years ago the Department of Public Works, in the interest of bettering the alignment between Loleta and Beatrice, elected to construct a new state highway on the west side of the tracks, utilizing an existing separation at Loleta and constructing an overhead crossing at Beatrice. It is this latter separation regarding which the question of apportionment of cost is directed herein.

In view of the fact that the separation at Beatrice was constructed as part of a line change in the state highway, which resulted in diverting traffic from a course without a railroad crossing to one involving two separations, it is concluded, after carefully considering the record, that the railroad should not be required to pay any portion of the expense incident to the construction of the separation at Beatrice.

APPLICATION NO. 15907 - FORBES SEPARATION (Crossing No. 5-19.6-1)

The separation at Forbes is part of a line change of the state highway immediately north of San Rafael. This section of the new highway is a substitute for that part of the highway which existed theretofore, located entirely to the west side of the Northwestern Pacific Railroad Company's tracks. The new separation permits the closing of an unimportant county road on which the principal traffic is that to and from a nearby cemetery. This grade crossing was protected only by a Standard No. 1 Crossing Sign. The record shows that in constructing this separation, provision was made for a future second track. There appears to be some controversy as to whether or not this enlarged separation was made at the request of the railroad. The plan of separation adopted was the result of considerable negotiations between the railroad and applicant and it is reasonable to assume that the railroad urged that the separation provide for a second track, which was effected at an excess expenditure of \$1,380.

In view of the fact that the separation in question was constructed as part of a change in the state highway to effect an improvement in the alignment, and not to eliminate or improve an existing grade crossing, it would appear reasonable that the railroad's assessment for this separation should be practically restricted to an amount which would represent capitalizing the expense of maintaining the county road grade crossing which was closed as a result of this separation. It is, therefore, concluded that the railroad should contribute \$1,700 towards this separation, which represents the cost of providing for a second track and capitalizing the maintenance expense of the existing grade crossing which was closed, together with an allowance for accident liability.

APPL. NO. 15908 - GREEN BRAE SEPARATION (Crossing No. 5E-13.98-A)  
APPL. NO. 15909 - CALIFORNIA PARK SEPARATION (Crossings Nos. 5-15.7-A  
and 5S-16.2-A):

These two separations are part of a major change in the location of the state highway made primarily to eliminate the Corte Madera grade which, due to fairly steep grades and irregular alignment, reduced the speed of traffic and resulted in congestion during times of heavy travel. The new highway reduced the distance between San Rafael and Alto by two and one-half miles and is constructed with grades and alignment which permit of high speed travel, thus reducing the time of the motorist approximately twenty minutes in traveling between these points. The separation at Green Brae permitted of the closing of an existing county road at grade with the Northwestern Pacific Railroad Company's main line track, which accommodates both steam and electric trains. The separation at California Park was an entirely new crossing and did not permit of the closing of any existing grade crossings. There is, however, a highway crossing at this location where a county road is carried under the tracks at a point where the railroad is supported on a trestle. This under-grade crossing was not changed due to the construction of the separation involved herein.

It is apparent that the highway traffic has been materially benefited through the construction of this line change in the highway. The railroad, however, has been directly benefited only to the extent of closing the existing county road crossing at Green Brae.

After considering the record with respect to these two separations it is concluded that the railroad should contribute the sum of \$5,000, representing benefits both direct and indirect, the major part of which results from the elimination of the grade crossing at Green Brae with its attendant expense to maintain the crossing and protection, as well as accident liability.

APPL. No. 17073 - MANZANITA SEPARATION (Crossing No. 5C-9.3-A):

This separation is part of a new highway between Alto Junction and Manzanita which made possible further shortening of the distance between Sausalito and San Rafael. The separation is part of the causeway across Richardson's Bay. This new route attracts all the through highway traffic from the Alto overhead crossing, leaving only local traffic to flow over the latter separation.

The direct benefits derived from the Manzanita separation accrue to the users of the highway, resulting from shortening the distance and improving the highway alignment and grades between Sausalito and San Rafael thereby permitting of faster speeds on the highway as well as reducing the hazard. In view of the fact that this grade separation provides a new and additional highway route, without eliminating any existing grade crossings over the railroad, as the traffic was provided a highway free from grade crossings between Alto Junction and Sausalito through the construction of the separation at Alto referred to above, it is concluded that the entire expense of constructing said separation at Manzanita should be borne by applicant.

In passing upon the above matters, consideration has been given to the fact that in each case the separation was a part of a highway change made primarily to benefit the users of the highway in the way of decreasing the length of travel and improving the grades and alignment of the highway. Economic studies introduced in these proceedings show that the vehicular traffic on the highway has materially benefited through these expenditures. On the other hand the railroad has been benefited to the extent shown above. It is recognized that the railroad must expect to permit highway development by admitting the construction of new highways over its tracks.



In these cases the railroad has in each instance authorized and permitted applicant to proceed with the work but takes the position that it should not be required to participate in the expense of constructing the various separations beyond its direct benefits. In none of the above matters has there been shown any public necessity for the improvement aside from the economic saving accruing to the traffic on the highway and operating savings to the railroad. Passage to the public across the railroad was adequately provided without these separations. For these reasons no costs have been imposed upon the railroad because it stood as a barrier to the new highway alignment.

It is recommended that an order be issued embodying the apportionment of costs of the various separations as set forth above.

O R D E R

Public hearings having been held and the matters being under submission,

IT IS HEREBY ORDERED that the cost of construction of the grade separations herein involved shall be borne as follows:

