

Decision No. 10720

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the matter of the application of
Los Angeles & Salt Lake Railroad Com-
pany for authority to construct, maintain
and operate a line of railroad from a
point near Whittier Boulevard at the
south city limits of the City of Whittier,
County of Los Angeles, State of California,
to, through and to the south city limits
of the City of Fullerton, County of Orange,
said State, crossing at grade by means of
overhead structures, and beneath certain
lines of railway, public roads, streets
and State Highways.

ORIGINAL

Application No. 2987

Albert Launer, City Attorney, for City of
Fullerton, Petitioner for rehearing.
F. H. Lyon, City Attorney, for City of
Fullerton, Petitioner for rehearing.
A. S. Halsted and Fred E. Pettit, Jr. for
Los Angeles & Salt Lake Railroad Company.
S. M. Reinhaus, for Southside Welfare and Im-
provement Association of Fullerton.
Austin E. Longcroft, for Automobile Club of
Southern California.
C. R. Allen, for K. B. Norwing Company of
Fullerton.

MARTIN, COMMISSIONER:

OPINION ON APPLICATION OF CITY OF FULLERTON
FOR REHEARING AND MODIFICATION OF PRIOR ORDER

The City of Fullerton filed on March 27, 1922, an appli-
cation for rehearing in the above entitled matter alleging that
since the rendition of Decision No. 4516, dated August 8, 1917,
traffic conditions on South Spadra Road had materially changed;
that traffic has greatly increased and the installation of a grade
crossing by Los Angeles and Salt Lake Railroad as authorized in
said decision appeared a menace to the protection of life and pro-

party; that the Santa Fe crossing was a great inconvenience and to a certain extent dangerous and that the construction of the new Salt Lake grade crossing one quarter mile away authorized in said decision was a real menace to traffic and pedestrians.

The city suggested in its application that the situation be thoroughly investigated and that the Commission endeavor, if possible, to arrange a separation of grades at this point, suggesting that the Los Angeles and Salt Lake Railroad might be induced to use the present tracks and right of way of The Atchison, Topeka and Santa Fe Railway Company or to locate parallel and adjacent thereto, to minimize traffic dangers. It was also stated that the city was confronted with a request of a great majority of the property owners in the vicinity of the proposed new crossing to prevent, if possible, the construction of a new crossing at grade.

Public hearings were held before Commissioner Martin in Fullerton on April 13, and 28, 1922. At the second hearing it developed that an election had taken place in Fullerton since the first hearing and Mr. Launer had been succeeded by Mr. Lyon.

In its original application the Salt Lake asked for authority to construct crossings at grade over public highways on a proposed extension of its Santa Ana Branch between Whittier and to and through Fullerton; South Spadra Road being among these highways. This street is through Fullerton the route of the State Highway from Los Angeles to San Diego and is an important street, carrying a heavy traffic.

At the first hearing Los Angeles and Salt Lake Railroad Company filed a return to the order to show cause which had been issued. In this answer the history of its Santa Ana Branch was reviewed, including the results of conferences with the representatives of the City of Fullerton regarding relocation of the line through the city, and it was stated that it would cost the railroad the additional sum

of approximately \$152,900 to move its location to a site parallel and a short distance southerly of the Santa Fe; also that there is no provision in the laws of the State of California authorizing any governmental body to order one railroad to permit another to use its tracks or facilities constructed on a private right of way, as is the Santa Fe in the City of Fullerton, and that while the Transportation Act, 1920 provides for the use by one carrier of the terminal facilities of another, under the conditions here no possible construction thereof would place the Santa Fe tracks through the city in this category.

The Salt Lake stated at the hearing that could any reasonable arrangement be made with the Santa Fe it would have no objection to operating its trains over the Santa Fe tracks through Fullerton, but had no idea that this could be arranged.

The sum above noted was disputed, notably by Southside Welfare and Improvement Association and a large part of the evidence found in the record is with reference to this matter. But little of this evidence is, however, pertinent to the issues raised in this proceeding, which appear to be as follows:

1. Joint use of the Santa Fe tracks through the City of Fullerton by the Salt Lake.
2. Relocation of the Salt Lake to a location south of and adjacent to the Santa Fe.
3. Separation of railroad and highway grades at the existing Santa Fe crossing of South Spadra Road.
4. Separation of railroad and highway grades at the proposed crossing of the Salt Lake and South Spadra Road.

None of the parties apparently being willing to approach the Santa Fe as to the joint use of its facilities, the Commission in the interim between the hearings asked the Santa Fe and Salt Lake if they could agree to the joint use of the former's tracks through Fullerton, either with or without the use of other facilities, such as stations

and spur tracks. The record shows that the Santa Fe and Salt Lake were not able to come to any agreement. Since also, as to the first issue above mentioned, I am of the opinion that this Commission has no jurisdiction, the application for rehearing should, as to this issue be denied.

As to the second issue, it may be noted that the City of Fullerton some five years ago granted Los Angeles and Salt Lake Railroad Company a franchise and that to relocate the line as proposed by the City would require another franchise or an amendment of the first franchise. This Commission, of course, has no authority in connection with these franchises and has no powers conferred upon it which enable it to order the relocation desired by the city and therefore, as to this issue, the application of the city should also be denied.

A traffic count on Sunday, April 9, 1922 introduced by the city shows 8019 vehicles moving along South Spadra Road and over the Santa Fe crossing between six A.M. and ten P.M. Another count introduced at the second hearing), by the Commission's Engineering Department and taken on April 18 and 19 from six A.M. to eight P.M. shows a total of vehicular movement of 6369 vehicles at the Santa Fe crossing and 4915 vehicles at the location of the proposed Salt Lake crossing, authorized in Decision No. 4516.

The separation of grades at the Santa Fe crossing was considered by itself and in connection with grade separation of the Salt Lake if the latter were located adjacent to the Santa Fe. Four of the five city trustees were asked as to the position they would take as to the city paying a part of the cost if grade separation were ordered. Three of them appeared favorable and the Engineering Department of the Commission was instructed to prepare estimates of the cost of a subway.

At the second hearing the Engineering Department of the

Commission presented(Commission's Exhibit 1), estimates of the cost of subways, all predicated upon depressing South Spadra Road under the railroad tracks, as follows;

- (a) Subway under four existing Santa Fe tracks -----\$163,665.
Same except 6% grades instead of 5% and stairs
instead of ramps for sidewalks -----130,000.
- (b) Subway under four existing Santa Fe tracks and
one track of Salt Lake if located in Walnut Avenue.-189,182.
- (c) Subway under Salt Lake tracks if located as pro-
posed, approximately 1300 feet south of Santa Fe--- 77,418.

No exception was taken to these figures.

After the presentation of the above estimates the city trustees were again asked if they were in favor of the city bearing any of the expense of grade separation and there being a change in the personnel of the board since the previous hearing, a majority was opposed to this.

The question of grade separation at the Santa Fe crossing was not made an issue by the City, either in its original application for rehearing or by amendment thereof; the Santa Fe was not served with an order to show cause why the grades at its crossing should not be separated, and did not enter an appearance. Therefore, as to this crossing there is nothing before the Commission requiring a decision as to the Santa Fe crossing.

Since the evidence indicates that the Salt Lake probably will not for many years run more than one train each way per day across South Spadra Road, the cost of installing a subway at its crossing costing approximately \$80,000. is not in my opinion warranted by the hazard that would be created by this one train. Taking in connection with this the fact that the trustees are opposed to any payment by the City for grade separation I have come to the conclusion that that part of the City's application requesting the separation of grades should be denied.

I submit the following form of order.

SECOND SUPPLEMENTAL ORDER

City of Fullerton having made application for amendment of prior order, Decision No. 4516, public hearings having been held, the matter having been submitted and being ready for decision,

IT IS HEREBY ORDERED, that for the reasons stated in the foregoing opinion, said application of the City of Fullerton be and it is hereby denied.

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 15th day of July, 1922.

H. B. Brundage
James Martin
J. F. Pennington
Commissioners.