

Decision No. 11316

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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City of Sacramento,  
a municipal corporation,  
complainant.

vs

Southern Pacific Company,  
a corporation,  
defendant.

Case No. 1430

Robert L. Shinn, for complainant  
G. J. Bradley, for Sacramento Pipe Works  
C. F. Wieland, for Sacramento Pipe Works  
and complainant  
C. W. Durbrow and Elmer Westlake, for  
defendant.

ROWELL, COMMISSIONER:

OPINION ON REHEARING AND PROPOSED DECISION,

ALTERATION OR AMENDMENT OF PRIOR ORDER

This matter, involving the construction of a subway at Sixteenth and "B" Streets, City of Sacramento, comes before the Commission on complainant's petition for rehearing. Public hearings were held at Sacramento on February 25, 1921 and October 2, 1922.

In the first of these hearings complainant stated that it wished to hasten and encourage industrial development north of "B" Street, and that by reason of a fire, traffic through the existing Twelfth Street subway was blocked for several hours, thus diverting the traffic to the grade crossing of Sixteenth Street and that the city was of the opinion that more than one outlet to the north was therefore necessary and desired to offer evidence in this connection as an argument for rehearing. Defendant did not

oppose rehearing and had no objection to complainant presenting a full case, with the exception that the traffic count at the Twelfth Street subway should not again be gone into.

At Sixteenth Street the Southern Pacific has a double track main line and a drill track on "B" Street, located on top of a levee sixteen or eighteen feet above the natural level of the surrounding land, and by reason of this, Sixteenth Street can be carried through this levee approximately without changing grade, so that a subway in this location is actually a tunnel through a levee rather than the more common case of a dipping of a street under a railway. This "B" Street levee is part of the levee system protecting Sacramento against the flood waters of the American and Sacramento Rivers. The proposed subway would supersede an existing grade crossing, the roadway of which the evidence indicates is about twenty feet wide and with a steep approach, approximately eight and one-half per cent, on the south side. Complainant's Exhibit No. 10 indicates no protection except two standard crossing signs. Official time tables of Southern Pacific Company show that at the date of the last hearing thirty regular passenger trains and eight regular freight trains cross Sixteenth Street daily.

It was stipulated that the Southern Pacific franchise on "B" Street was, at the time, the subject of litigation instituted by the City of Sacramento against the railroad to declare the franchise at an end.

At the close of the second hearing I visited the site of the proposed subway, the Twelfth Street subway and the Twelfth Street bridge across the American River, noting that a concrete pavement had been installed on Sixteenth Street north of the city limits up to the Twelfth Street bridge. From this in-

spection it appears that if a subway is installed at Sixteenth Street the existing grade crossing at Eighteenth Street can, and should be, abolished and it is suggested that this be done.

The principal issue before the Commission is whether public convenience and necessity justify the construction of a subway at either Sixteenth Street or Eighteenth Street. The City wants a subway at Sixteenth Street for the industrial development of the property immediately north of "B" Street, for another and better entrance to the City of Sacramento to the north and to relieve the alleged inadequacy of the Twelfth Street subway. The City takes the further position that the Commission should take care of the situation as it is today, regardless of future tracks which the defendant alleged it wished at some time to lay down as an extension of its yard north of "B" Street.

Sacramento Pipe Works, a manufacturer of piping and wholesaler of pipe fittings, has acquired a tract of land just north of "B" Street where it intends to move its plant and alleges it cannot do so, as it is impractical to haul the heavy loads inherent to its business over the present grade crossing at Sixteenth and "B" Streets.

The defendant opposes an additional subway, claiming the Twelfth Street subway is adequate and because it interferes with its plans for an extension of its yards, taking the position that a subway, if built, should be located at Eighteenth and "B" Streets to avoid said interference. I do not believe that the latter objection should be given much weight. It appears from defendant's Exhibit No. 21 that the yard could be extended across Sixteenth Street, if the subway were constructed, by raising the tracks above the elevation as shown therefor in the cross-section on this exhibit, although it would increase

the cost. The City does not desire the subway at Eighteenth Street and there seems to be no reason why it should be there located.

Defendant takes the position that the flood gates attached to the structure shown on complainant's Exhibit "F" do not constitute adequate flood protection, advocating a bow levee in lieu thereof, and wants the responsibility for any damage ensuing because of the failure of the flood gates placed either upon the City or the Commission and stating it is incumbent upon the Commission to provide a plan to adequately protect its property and the City of Sacramento. The responsibility for future damage cannot be determined by the Commission nor is it incumbent upon the Commission to determine what provisions are necessary for flood protection;

After a careful consideration of all the evidence I cannot avoid the conclusion that the construction at this time of a subway at Sixteenth Street is justified by public convenience and necessity. I am unable to agree with defendant that the City should pay part of the cost of a subway longer than that necessary for the existing three tracks and upon this conclusion it appears that it would be equitable if complainant and defendant divide equally the cost of a subway under the three existing tracks substantially as shown in complainant's Exhibit "F", that is, as far as the point and manner of crossing, the general type of structure, elevations, grades and clearances are concerned. No requirements as to the method of flood protection should be made by the Commission.

The complaint states that the City directed that the

Commission be petitioned "to grant and order the construction" of a subway. This is interpreted as the request for a permissive, rather than a mandatory order.

The following form of order is recommended:

ORDER ON REHEARING AND RESCINDING FORMER ORDER

Public hearings having been held in the above entitled case, the matter having been submitted and now being ready for decision and it appearing that the Commission should permit the separation of street and railway grades under certain conditions hereinafter specified.

IT IS HEREBY ORDERED, that permission be and it is hereby granted City of Sacramento to construct a subway to carry Sixteenth Street, City of Sacramento, under the tracks of Southern Pacific Company located on "B" Street, City of Sacramento, subject to the following conditions and not otherwise:

(1) Said subway shall be constructed substantially in accordance with the plans and specifications shown and set forth in complainant's Exhibit "F", except as to the method of flood protection and as to this no order is made.

(2) The authorization herein granted for the installation of said subway will lapse and become void one year from the date of this order, unless a substantial beginning of the construction of said subway or proceedings to commence said construction, are begun within said year, or unless further time is granted by subsequent order.

(3) The existing grade crossing at Sixteenth and "B" Streets shall effectively be closed to public use and travel.

IT IS HEREBY FURTHER ORDERED, that if and when said subway is constructed the cost thereof is to be borne equally

by the City of Sacramento and Southern Pacific Company.

IT IS HEREBY FURTHER ORDERED, that Decision No. 7829, dated July 9, 1920, be and it is hereby rescinded and set aside.

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 5th day of December, 1922.

H. V. Brundage  
Henry Martin  
Robert D. Johnson  
J. J. Hendrick  
Commissioners.