

Decision No. 9841

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the Western Pacific Railroad Company for permission to construct a spur track at grade across Fifth Street, in the City of San Jose, County of Santa Clara, State of California.

Application No. 7286.

By the Commission:

ORIGINAL

ORDER

The Western Pacific Railroad Company, a corporation, having on October 26, 1921, filed with the Commission an application for permission to construct a spur track at grade across Fifth Street in the City of San Jose, County of Santa Clara, State of California, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit has been granted by the Council of said City of San Jose for the construction of said crossing at grade, and it further appearing that it is not reasonable nor practicable to avoid a grade crossing with said Fifth Street, and that this application should be granted subject to the conditions hereinafter specified;

IT IS HEREBY ORDERED, that permission be and it is hereby granted the Western Pacific Railroad Company to construct a spur track at grade across Fifth Street in the City of San Jose, County of Santa Clara, State of California, described as follows:

Beginning at a point on the center line of The Western Pacific Railroad Company's industrial track which extends northerly on Fifth Street from its southerly extremity to the southerly line of Virginia Street, the center line of which industrial spur is parallel to and nine (9) feet distant easterly from the center line of Fifth Street, said beginning point being at the point of switch of the team track spur which is 791.6 feet more or less, southerly from the southerly line of Martha Street; thence northerly on a curve to the right from said beginning point branching from said industrial spur to the right leaving Fifth Street and entering the property of The Western Pacific Railroad Company approximately one hundred sixty-one (161) feet from the point of beginning; thence curving to the left until parallel to and fifty (50) feet distant easterly from the center line of the above described industrial spur; thence northerly parallel to and fifty (50) feet distant easterly measured at right angles from the center line of said industrial spur to a point ten (10) feet southerly from the southerly line of Martha Street.

All of the above as shown by the map attached to the application; said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by applicant.

(2) Said crossing shall be constructed of a width and type of construction to conform to that portion of Fifth Street now graded, with grades of approach not exceeding two (2) per cent; shall be protected by a suitable crossing sign and shall, in every way, be made safe for the passage thereover of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) 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, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 6<sup>th</sup> day of December, 1921.

H. P. Rendig  
H. S. Loveland  
Irving Matten  
Wesley H. Rowell

Commissioners