

Decision No. 5998

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the  
CITY OF BAKERSFIELD, a municipal corpora-  
tion, for permission to construct a cross-  
ing of a public street over and across the  
main line of the Southern Pacific Railroad  
Company and Southern Pacific Company at its  
intersection with Union Avenue, and to aban-  
don the present crossing at Twenty-fourth  
Street at its intersection of said main line.)

Application  
No. 5998

E. F. Brittan., for Applicant.  
L. B. Austin and E. C. Langdale,  
for Southern Pacific Company.

BY THE COMMISSION:

OPINION ON REHEARING

A public hearing was held by Examiner Westover at Bakersfield upon the above application for rehearing of the above-entitled matter, the petition containing a request for a construction of the order contained in Decision No. 8224 of October 11, 1920, upon two points: first, whether or not the order was intended to require the railroad to maintain paving between tracks, as well as between the rails, and for two feet outside of each rail; and, second, as to whether the city might assess the adjoining property of the railroad to pay any portion of the cost of constructing the crossing and approaches. At the hearing the application was amended by striking out the second point. No testimony was offered by either party.

At the hearing it was stipulated that the original order herein might be so amended as to require the closing of the crossing at Twenty-fourth Street as well as the crossing at Sacramento Street, both of said crossings being shown on the blue print attached to the original application as Exhibit "A".

The order complained of requires the city to bear the entire expense of constructing the crossing and thereafter to maintain it "up to two feet of the rails" and that the company maintain it "across its tracks and to a distance of two feet outside thereof."

It has long been the policy of the Commission to require railroads whose tracks are crossed at grade to maintain that portion of the crossing lying between the rails and for a distance of two feet outside thereof, and to maintain the remaining space between tracks where the street or road crosses more than one track. So far as we are advised, the railroads have always heretofore so construed similar orders to that complained of. Nothing presented in connection with this matter persuades us that the policy should be changed.

However, the order will be amended to make its meaning clearer, if possible, and to provide for the closing, also, of the Twenty-fourth Street crossing pursuant to the stipulation already referred to.

#### SUPPLEMENTAL ORDER

A public hearing having been held upon application for rehearing filed by the City of Bakersfield in the above-entitled matter, the matter being submitted and ready for decision,

IT IS HEREBY ORDERED that paragraphs 2, 3 and 5 of the order contained in Decision No. 8224 of October 11, 1920, in the above-entitled Application No. 5998, be and they are hereby amended, so that said paragraphs shall read as follows, to-wit:

- "2. The cost of maintaining the crossing thereafter in good and first-class condition for the safe and convenient use of the public up to two (2) feet from the outer rails of Southern Pacific Company shall be borne by the applicant."
- "3. The Southern Pacific Company shall maintain said crossing between its rails and for two (2) feet on each side thereof and between its tracks."
- "5. The existing crossings over the tracks of the Southern Pacific Company at Sacramento Street and at Twenty-fourth Street, as shown by blue print attached to the original application herein and referred to as Exhibit 'A' thereto, shall be effectively closed to public use and travel."

Dated at San Francisco, California, this 30<sup>th</sup> day of December, 1921.

H. B. Anderson  
H. D. Loveland  
W. J. Pennington  
Commissioners.