

Decision No. 27820.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application
of the COUNTY OF LOS ANGELES for
order authorizing the widening of
the crossing of Center Street over
the right of way of the Southern
Pacific Railroad Company.

} Application No. 19383.

Everett W. Mattoon,
W. B. McKesson,
Beach Vasey,
For Applicant.

R. E. Wedekind, for Southern Pacific Company.

BY THE COMMISSION:

O P I N I O N

In the above entitled proceeding the Commission is asked to approve a plan of improving the grade crossing of Center Street with Southern Pacific Company's Whittier Branch (Crossing No. BL-502.2), at Evergreen Station, and apportion the cost of the improvement between the County of Los Angeles and Southern Pacific Company.

A public hearing was conducted in this proceeding by Examiner Hunter on August 15, 1934, at which time the matter was taken under submission and is now ready for decision.

The grade crossing involved herein forms part of a plan to construct two major highways between Whittier and the West Beach district, a distance of about thirty miles, these major highways

being Washington Boulevard and Slauson Avenue. At both the Whittier and beach end, the two highways converge into one. The crossing under consideration involves the consolidation of the two highways on the Whittier end into Center Street. This improvement calls for a widening of Center Street from 40 to 80 feet and the improved section will be increased from 15 to 70 feet, consisting of 30-foot concrete pavement, 26-foot macadam shoulders, and 14-foot oil and rock sides and slopes. It is estimated this crossing will carry as many as 5,000 vehicles per day when completed.

Southern Pacific Company's Exhibit No. 1 shows the result of a traffic check taken on June 21, 1934, which indicates that 691 automobiles, 117 motor trucks, 3 horsecrawn vehicles and 16 pedestrians crossed over the tracks at this point during a 24-hour count; also, that during this time two train movements were operated over the crossing. The normal operation on this branch line consists of one local freight train daily, except Sunday, in each direction.

At this time there is a drainage culvert constructed on each side of the pavement. With the proposed widening of the crossing it will be necessary to relocate one and reconstruct both of these timber culverts with reenforced concrete. These culverts were constructed and are maintained by the railroad. The record shows that on one occasion they were inadequate to carry off the storm waters. The proposed new culverts will not only give greater capacity but will materially lessen the maintenance cost.

The record shows that Southern Pacific Company is in agreement with applicant as to the method of improving this grade crossing, together with the plan of raising the standard

of protection from two crossing signs to two automatic signals, which will cost approximately \$1,600. The matter of apportionment of cost of this improvement is the only controversial point between the parties.

Applicant takes the position that the railroad should bear the entire cost of relocating and reconstructing the two drainage culverts, as well as improving the crossing within the limits of the existing street, and also bear one-half the cost of the automatic protective devices. On the other hand, Southern Pacific Company contends that its portion of the expense should be limited to improving the existing used crossing and in support of its position points out that the necessity for improving this crossing results from the County's plan to change the traffic conditions at this location from a more or less local street to an important highway artery and therefore the proposed alteration should be treated as a new crossing rather than the improvement of an existing crossing to meet the normal growth in local traffic. The company further contends that as a basic principle all the expense of changing an existing crossing should be assessed to the party desiring the change.

In passing upon the question of apportionment of cost of the expense of this improvement, estimated at approximately \$3,500, we wish to point out that as a fundamental principle the railroad and the public have a joint obligation to make grade crossings safe for both vehicular and rail movements. The railroad's obligation is not limited to the initial cost of constructing and protecting grade crossings - it must expect to participate in the cost of improvements to meet changed conditions on both the highway and railroad which affect the adequacy and safety of a grade crossing.

The Commission recognizes that each case must be decided on its merits but it appears appropriate that we should at this time announce certain fundamental principles which can be considered as guides in aiding public authorities and railroads to get together, under the provisions of our General Order No. 88, on the matter of improving existing grade crossings, to the effect that where an existing grade crossing is improved and widened, the railroad should bear the entire expense of improving the used portion of the crossing and also prepare its tracks to receive the pavement for the new portion of the crossing outside that actually in use. This obligation, however, should be limited in both cases to the section of highway located between lines two feet outside of the outside rail. Where the carrier has, at its sole expense, installed appropriate protective devices or other facilities which must be moved to accommodate the widened crossing, the expense of such movement should be borne by the party desiring the change. As a general principle, it seems equitable that where traffic conditions are materially changed at a crossing, the expense of providing additional or improved protective devices should be borne one-half by the railroad and one-half by the public. Other and special conditions should be decided upon the merits in each particular case.

After carefully considering the record in this proceeding it is the Commission's conclusion that the County's application to improve this grade crossing should be granted and the expense of the improvement should be borne upon the basis set forth in the following order.

O R D E R

A public hearing having been held on the above entitled

proceeding and the matter being now ready for decision,

IT IS HEREBY ORDERED that

I. The County of Los Angeles is hereby authorized to widen and improve the grade crossing of Center Street with Southern Pacific Company's tracks at Evergreen Station (Crossing No. BL-502.2), as applied for herein, substantially in accordance with the plan attached to the application and marked Exhibit "A."

II. Coincident with the improvement of said crossing, applicant shall install, or cause to be installed, two automatic signals selected from the Commission's standards, as outlined in its General Order No. 75-a.

III. The expense of constructing and maintaining the improvements authorized and directed herein shall be borne on the following basis:

BY SOUTHERN PACIFIC COMPANY:

- (a) The entire expense of improving the existing used crossing between lines two feet outside the outside rails.
- (b) The entire expense of preparing the tracks to receive the pavement on that portion of the proposed new crossing outside the limits of the used crossing and between lines two feet outside of the outside rails.
- (c) One-half the expense of reconstructing adequate drainage culverts.
- (d) One-half the expense of providing said automatic signals.
- (e) Maintain that portion of the entire crossing between lines two feet outside of the outside rails.
- (f) Maintain said automatic signals.
- (g) Maintain said drainage culverts on each side of the crossing.

BY APPLICANT:

The remainder of the expense of constructing and maintaining the proposed crossing, signals and drainage, together with the

maintenance of same, over and above that assessed to Southern Pacific Company.

IV. The authority herein granted is subject to the following conditions:

- (1) Before actual work is commenced, applicant shall submit to the Commission a plan showing in detail the proposed method of constructing the crossing, providing drainage facilities and the type of automatic protective devices. Said plans shall bear the approval of Southern Pacific Company or a statement shall be furnished the Commission showing why the company refuses to approve said plans.
- (2) The crossing shall be constructed of a width of not less than forty (40) feet and equal or superior to the type shown as Standard No. 3 in the Commission's General Order No. 72, and shall in every way be made suitable for the passage thereon 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 and of its compliance with the conditions hereof.
- (4) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof 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, public convenience and necessity demand such action.

The authority herein granted shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 4th day of September, 1934.

Leon A. Hess
H. H. Chan
W. B. Harris
Walter J. Moore

Commissioners.