

Decision No. 27528.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of Application of  
SOUTHERN PACIFIC COMPANY for an  
order authorizing the construc-  
tion at grade of spur track in  
and across 46th Avenue, in the City  
of Oakland, County of Alameda, State  
of California.

Application No. 19667.

BY THE COMMISSION:

C R D E E

Southern Pacific Company, a corporation, on October 22, 1934, applied for authority to construct a spur track at grade across a portion of 46th Avenue in the City of Oakland, County of Alameda, State of California. Application for the necessary franchise or permit has been made to the City Council of said city for the construction of said crossing at grade. Said 46th Avenue is not now opened or traveled.

It appearing that a public hearing is not necessary herein; that it is neither reasonable nor practicable at this time to provide a grade separation or to avoid a grade crossing at the point mentioned; and that the application should be granted,

IT IS HEREBY ORDERED that Southern Pacific Company is hereby authorized to construct a spur track at grade across a portion of 46th Avenue in the City of Oakland, County of Alameda, State of California, at the location more particularly described in the application and as shown by the map attached thereto, subject to the following conditions:

- (1) This order is made upon the express condition that 46th Avenue is not now actually constructed and open to travel at the point of crossing and

Condition (1) Cont'd.

this order shall not be deemed an authorization for the construction of an opening of said street to public use across said spur track.

- (2) The entire expense of constructing and thereafter maintaining the crossing in good and first-class condition for safe and convenient use of the public shall be borne by applicant.
- (3) Before constructing said crossing, applicant shall file with this Commission a certified copy of a franchise or permit from the City of Oakland for the construction of said crossing at grade and in the event that this is not done, the authorization herein granted for the installation of said crossing shall then lapse and become void.
- (4) 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.
- (5) 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.
- (6) 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 on the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of November, 1934.

Leon Whittell  
M. J. Lewis  
W. B. Davis  
Walter H. Brown