

Decision No. 27544.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of SOUTHERN PACIFIC COMPANY for an order authorizing construction at grade and at separated grades of railroad tracks across certain streets, lanes, alleys and highways, and across the track of The Western Pacific Railroad Company at locations hereinafter described, in the City of San Jose and in the vicinity of San Jose, County of Santa Clara, State of California.

Supplemental
Application No. 14948.

E. J. Foulds, for Applicant.
Archer Bowden, City Attorney, and Clarence B. Goodwin, City Manager, for City of San Jose.
J. D. Peckham, for certain protestants.
J. P. Fitzgerald, for County of Santa Clara.
Edward M. Fellows, for Charles Nicora.
Richard V. Bressani, for Catherine Nicora and Margaret Nicora.

BY THE COMMISSION:

C O P I N I O N

Southern Pacific Company has filed an application for a supplemental order in the above proceedings requesting modification of two prior decisions of the Commission.

A public hearing was conducted in this matter at San Jose on November 7, 1934, by Examiner Hunter.

This proceeding in general relates to the crossings of the so-called San Jose Line Change of Southern Pacific Company involving the construction of a new main line track between College Park and Lick Stations, a distance of approximately five miles, following a new route through the City of San Jose.

Decision No. 20559, dated December 5, 1928, dealt with the crossings required in the City of San Jose and authorized the construction of eight grade separations, three of which have been completed and the fourth is now under construction. In the present supplemental application applicant requests authority to make certain modifications in the approach cuts at the four remaining grade separations, viz., Bird Avenue, Delmas Avenue, Prevost Street and Willow Street, and to increase the driveway widths proposed at the Bird Avenue, Willow Street and Prevost Street separations. By constructing approach cuts with sloping sides instead of retaining walls, economies can be effected which will offset the added cost of increasing the width of driveways. The City of San Jose has given its consent to these proposed changes. It is believed that these changes are of material benefit to the public and the modification of Decision No. 20559 will be authorized.

The other decision which applicant requests modified is Decision No. 20822, dated February 23, 1929, and relates to the crossings outside of the City of San Jose. Among these are the crossings of Almaden and Northern Roads. These two roads intersect each other at an angle of about 45 degrees, a short distance south of the city limits, and the proposed main line track crosses the two roads a short distance west of their intersection, the distance between the two crossings being approximately 300 feet.

In its original application Southern Pacific Company proposed to cross these two roads at grade but the Commission, after a hearing in the matter, found that public convenience and

necessity required that the crossing with Almaden Road be constructed at separated grades and that the Northern Road be relocated so that its traffic could utilize the Almaden Road separation. Applicant now requests that this order be modified to permit the grade crossings as originally proposed. The County of Santa Clara has given its consent to postponing the construction of the grade separation until 1940 or later.

From the record of the hearing on November 7, 1934, it appears that physical conditions in the vicinity of the proposed crossings are about the same as at the time of the prior hearing and that the volume of traffic is approximately the same, the daily traffic on Almaden Road being about 2,000 vehicles and on Northern Road 1,000. The rail traffic on this line will amount to about 25 trains per day. Applicant does not, however, base its request for a modification on the lack of necessity for a grade separation but rather on the plea of no funds.

Progress on this line change project has been delayed during the past two years because of financial conditions but the company has now agreed to resume active construction with the object of completing the work by December 31, 1935, if it is permitted to effect certain economies, among which are the construction of a single track main line instead of a double track, as originally proposed, and the elimination of the grade separation at Almaden Road. Applicant states that it can complete the line change project at an expenditure of approximately \$1,000,000, which is all the money it has available for this project. The estimated cost of the grade separation at Almaden Road is \$60,000, exclusive of the cost of property damage and road changes, which, under the existing order of the Commission, is assessed to the County of Santa Clara.

The application to cross Almaden and Northern Roads at grade is protested by some 800 residents of the district affected. They point out the present importance of Almaden Road and the probability that with the improvement of other connecting roads to the south this will in time become an important artery between San Jose and the Watsonville district. Other testimony was introduced by protestants relating to traffic, the recreational districts served by the roads, and fog conditions in the vicinity of the proposed crossings.

Colonel John H. Skeggs, District Engineer of the State Highway Commission, made a statement to the effect that it is expected certain Federal funds will be allotted to California for the purpose of constructing grade separations in connection with a Government program to relieve unemployment; that his department had been requested to make recommendations as to specific locations for such work; and that the grade separation of Almaden Road involved in this proceeding is among the recommendations. If such funds are made available, the subway could be constructed without expense to Southern Pacific Company.

In the event this supplemental application is granted and the railroad permitted to cross these two roads at grade, it is proposed that they be protected by automatic signals and, in addition, the Commission's engineers recommend that flood lights be installed. It is probable that an expenditure of between \$6,000 and \$7,000 will be required to construct the two grade crossings and properly protect them.

The Commission feels that the completion of this line change is an exceedingly desirable project in so far as public convenience and safety are concerned. The present main line of Southern Pacific Company, through the City of San Jose and adjacent territory, has approximately 25 crossings at grade,

some of which are with important city streets, highways and highway routes, while the new line will involve but six main line grade crossings, excluding the two requested in the present application, and these six are with unimportant streets and roads which now cross the railroad at grade.

The Commission believes that all possible steps should be taken to complete such a desirable project at as early a date as possible and will make such concessions and modifications as are reasonably consistent with public safety to assist in early completion. In its prior decision, however, the Commission found that public convenience and necessity required this separation and the same physical situation obtains today. It has been suggested that the proposed grade crossings be permitted for a period of five years, after which time they are to be replaced with a single separation, but it has been the experience of the Commission that once grade crossings are constructed, considerable difficulty is experienced in getting them closed or separated. Ordinarily the logical program to follow is to accomplish grade separations when the railroad is constructed.

We must, however, give due consideration to all phases of this matter as it is now presented. In weighing the advantages of granting this portion of the instant supplemental application against the disadvantages, we find that on the one hand the granting will permit of the completion of this new line at an early date with its many advantages to the public, including the creation of considerable employment which is most welcome at this time, and, on the other hand, the construction of an important main line railroad at grade over a heavily traveled high-speed highway is, unless it cannot reasonably be avoided, against public interest as well as against the Commission's policy to permit.

In this case we are hopeful that Federal funds will be made available to cover the structural costs of this separation within two months and nothing should be done looking toward the construction of a grade crossing until it has been definitely ascertained that such funds will not be made available in the reasonably near future.

The following Order is predicated on such a program, together with the granting of the remainder of the supplemental application.

O R D E R

A public hearing having been held and the matter being now ready for decision,

IT IS HEREBY ORDERED

I. That said Decision No. 20559 be modified as follows:

- (1) The roadway widths of the proposed separations at Bird Avenue and Willow Street shall be increased from thirty (30) feet, as provided in Condition (3) of that Order, to forty (40) feet.
- (2) The roadway width of the proposed separation at Prevost Street shall be increased from twenty-three (23) feet, as provided in said Condition (3), to thirty (30) feet.
- (3) The approach grades of the proposed separations at Bird Avenue, Delmas Avenue, Prevost Street and Willow Streets may be constructed with sides sloping outward instead of with vertical retaining walls as originally contemplated and as shown on the plans which have been approved by this decision.

II. That said Decision No. 20822 be modified as follows:

That portion of the decision directing the grade separation at Almaden Road is withdrawn, to be held in abeyance for a period of not to exceed ninety (90) days from the date of this order. During this time Southern Pacific Company is to make every reasonable effort to secure funds from federal appropriations, or otherwise, to defray the structural cost of this proposed

separation and if it is successful, no change will be made in this portion of the decision; on the other hand, if at the expiration of this ninety (90) day period it is shown that no such funds are available, the Commission will issue a supplemental order in this proceeding authorizing, for a temporary period not to exceed five (5) years, the construction of said main line railroad at grade across both Almaden Road and Northern Road, as applied for in this supplemental application. At the expiration of the temporary period, the grades shall be separated.

III. In all other respects said Decisions Nos. 20559 and 20822, except as modified by supplemental orders, shall remain in full force and effect.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 26th day of November, 1934.

Leon C. W. Kelly
M. J. Carr
M. B. V. Lewis
W. H. H. H. H. H.
Frank R. H. H.

Commissioners.