

Decision No. 28323.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the People of the State of California, on relation of the Department of Public Works, for an order authorizing the construction of a crossing at separated grades of Almaden Road and the tracks of the Southern Pacific Railroad, near San Jose, Santa Clara County, California.

Application No. 20196.

ORIGINAL

BY THE COMMISSION:

O R D E R

The People of the State of California, on relation of the Department of Public Works, on October 23, 1935, applied for authority to construct a public road known as Almaden Road, at separated grades under the proposed main line track of Southern Pacific Company in the vicinity of San Jose, County of Santa Clara, State of California.

Almaden Road is a county road under the jurisdiction of the Board of Supervisors of Santa Clara County and applicant's obligation with respect to the proposed crossing extends only to the construction and the structural cost thereof, applicant proposing to use funds made available for grade crossing elimination by the Federal Government. It therefore appears that the cost of maintaining the structure should be borne by Southern Pacific Company and the County of Santa Clara.

Southern Pacific Company has under construction a new main line through the City of San Jose and adjacent territory which will cross Almaden Road at the location of the crossing proposed in this application. A grade separation at this crossing has been previously ordered by the Commission in Application No. 14948, said order carrying the provision that upon completion of the grade

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separation a nearby road known as Northern Road be closed at the point of its crossing with the proposed tracks. It appears desirable that this condition be renewed in the present order.

It appearing that a public hearing is not necessary herein; that it is in the interest of public convenience and necessity that the undergrade crossing be constructed and that the application should be granted, subject to certain conditions,

IT IS HEREBY ORDERED that the People of the State of California, on relation of the Department of Public Works, are hereby authorized to construct a public road known as Almaden Road at separated grade under the proposed main line track of Southern Pacific Company in the vicinity of San Jose, County of Santa Clara, State of California, at the location more particularly described in the application and substantially in accordance with and as shown by the plan attached to the application, subject to the following conditions:

- (1) The above crossing shall be identified as Crossing No. E-49.3-B.
- (2) The entire expense of constructing the crossing, exclusive of right of way and property damage shall be borne by applicant. The substructure below base of bridge seat of said undergrade crossing, together with the paving, drainage and lighting shall be maintained by the County of Santa Clara, and prior to the beginning of actual construction applicant shall file a certified copy of appropriate ordinance or resolution by the Board of Supervisors of said county, indicating that said county will assume said maintenance. The cost of maintaining the superstructure above the base of bridge seat, including the track and appurtenances thereto, shall be borne by Southern Pacific Company.
- (3) Prior to the commencement of construction, applicant shall file a set of plans for said crossing showing clearances, width of roadway and grades of approach, which plans shall have been approved by the interested parties.
- (4) Said crossing shall be constructed with clearances conforming to the provisions of our General Order No. 26-C.

- (5) Prior to the beginning of actual construction of the crossing herein authorized, applicant shall file with this Commission a certified copy of an appropriate ordinance or resolution, duly and regularly passed by the Board of Supervisors of the County of Santa Clara, instituting all necessary steps to legally abandon and effectively close that portion of Northern Road lying between the limits of the right of way of Southern Pacific Railroad Company northward of Northern Road produced southerly across said Northern Road. Upon the completion of the crossing herein authorized and upon its being opened to public use and travel, said Northern Road within said limits shall be legally abandoned and effectively closed to public use and travel.
- (6) Applicant shall, within six (6) months from the date of this Order, file with the Commission a certified copy of an agreement between the interested parties covering the terms of construction and maintenance of said crossing.
- (7) 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.
- (8) 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.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 4th day of November, 1935.

Leon A. Whisely
M. J. Carr
M. B. Harris
W. H. [unclear]
Frank R. [unclear]
 Commissioners.