

Decision No. 28439.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
the State of California, on relation
of the Department of Public Works,
for an order authorizing the reloca-
tion of certain tracks and the instal-
lation of certain crossings at grade
of city streets and the tracks of The
Western Pacific Railroad, in the
vicinity of East 12th Street, in the
City of Oakland, Alameda County,
California.

Application No. 20269.

ORIGINAL

BY THE COMMISSION:

O R D E R

The People of the State of California, on relation of the Department of Public Works, filed the above entitled application requesting authority to relocate the main and side tracks of The Western Pacific Railroad Company now existing in and along East 12th Street (State Highway Rte. 105) between 19th Avenue and 29th Avenue, Oakland, by reconstructing said tracks on right of way owned by the railroad company. In its present location the main line crosses portions of East 12th Street, a heavily traveled state highway route, at grade at two points, and also crosses at grade nine other city streets of varying importance, while in the proposed location but four actual crossings at grade will be required, but the track will cross several dead end streets which should and probably will be vacated at the point of crossing by the City of Oakland. Applicant proposes to defray the cost of the relocation, using funds made available for the purpose by the Federal government. Applicant's obligation extends only to the relocation and re-

construction of the tracks and appurtenances and upon completion of the project, all future obligation with respect thereto will be that of The Western Pacific Railroad Company.

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

IT IS HEREBY ORDERED that the People of the State of California, on relation of the Department of Public Works, and The Western Pacific Railroad Company are hereby authorized to construct a main line and side track at grade across 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th and 29th Avenues in the City of Oakland, County of Alameda, State of California, at the locations more particularly shown on the map attached to the application, subject to the following conditions:

- (1) The above crossings of 19th, 22nd, 23rd and 29th Avenues shall be identified as follows:

19th Avenue - Crossing No. 4-8.6
22nd Avenue - Crossing No. 4-8.8
23rd Avenue - Crossing No. 4-8.9
29th Avenue - Crossing No. 4-9.4

- (2) The entire expense of constructing the above identified crossings shall be borne by applicant. The cost of maintenance of those portions of the crossings between lines two (2) feet outside of the outside rails shall be borne by The Western Pacific Railroad Company.
- (3) Said identified crossings shall be constructed equal or superior to the type shown as Standard No. 3, in our General Order No. 72, and shall be constructed of a width to conform to those portions of said avenues now graded, with the tops of rails flush with the roadway and with grades of approach not exceeding two (2) per cent.
- (4) The existing Standard No. 3 wigwag now protecting the crossing of 19th Avenue with the main line track of The Western Pacific Railroad Company in its present location shall be moved to a suitable location to protect the crossing of 19th Avenue herein authorized (Crossing No. 4-8.6). Said wigwag shall be so equipped as to also protect the adjacent crossing of the tracks of Southern Pacific Company with said 19th Avenue (Crossing No. D-8.7).

- (5) The crossings of 22nd and 29th Avenues herein authorized (Crossings Nos. 4-8.8 and 4-9.4), shall be protected by two Standard No. 5 crossing signals, as described in our General Order No. 75-A.
- (6) The cost of maintenance of the crossing signals provided for in Conditions 4 and 5 above shall be borne by The Western Pacific Railroad Company.
- (7) The crossing of 23rd Avenue herein authorized (Crossing No. 4-8.9), shall be protected by manually controlled crossing gates. Said protection may be provided by suitable relocation of the crossing gate now protecting the northerly side of the adjacent crossing of the tracks of Southern Pacific Company with said 23rd Avenue (Crossing No. D-9.0).
- (8) The cost of maintenance of said crossing gates shall be apportioned between The Western Pacific Railroad Company and Southern Pacific Company, in accordance with an agreement to be entered into between said railroad companies, a certified copy of which shall be filed with the Commission within 120 days from the date of this order. In the event said railroad companies are unable to reach an agreement within the time specified, the Commission will, by further order in this proceeding, apportion the cost of said maintenance.
- (9) This order is made upon the express condition that 20th, 21st, 24th, 25th and 26th Avenues will not be actually constructed and open to travel at the respective points of crossing and this order shall not be deemed an authorization for the construction of an opening of said streets to public use across said tracks.
- (10) Applicant shall, within ninety (90) days from the date hereof, submit a certified copy of a franchise or permit from the City of Oakland, for the construction of the crossings herein authorized and in the event that this is not done, the authorization herein granted for the installation of said crossings shall then lapse and become void, unless further time is granted by subsequent order. The requirements of this condition shall not apply, however, to crossings with any streets which may be vacated prior to date of filing said franchise or permit as fixed herein.
- (11) Within ninety (90) days from the date of completion of the crossings herein authorized and/or the beginning of operation by The Western Pacific Railroad Company over its main line in the new location, the following described and identified crossings shall be abolished by removing the rails therefrom:

(11) Cont'd.

19th Ave.	Crossing No.	4-8.6 (Present location)
21st Ave.	" "	4-8.7
E. 12th Street	" "	4-8.75
22nd Ave.	" "	4-8.8 (Present location)
23rd Ave. Place	" "	4-8.9 (Present location)
23rd Ave.	" "	4-8.95
24th Ave.	" "	4-9.0
25th Ave.	" "	4-9.1
26th Ave.	" "	4-9.2
29th Ave.	" "	4-9.4 (Present location)
E. 12th Street		
vicinity of 25th Ave. No assigned number.		

- (12) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings and of its compliance with the conditions hereof.
- (13) 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.
- (14) The Commission reserves the right to make such further orders, relative to the location, construction, operation, maintenance and protection of said crossings, 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 9th day of December, 1935.

Leon S. White
M. A. Carr
M. B. Lewis
W. H. Brown
Frank R. H. H. H.
Commissioners