

Decision No. 29170

## 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 construction of a crossing at grade of the State Highway and the tracks of the Southern Pacific Railroad, Niles-San Jose Line (DA), near San Jose, in Santa Clara County, California.

Application No. 20630

BY THE COMMISSION:

O R D E R

The People of the State of California, on relation of the Department of Public Works, on June 26, 1936, applied for authority to construct a public road known as State Highway Route No. 68 at grade across the track of the Niles-San Jose Line of the Southern Pacific Company, in the City of San Jose. Southern Pacific Company, on August 15, 1936, stated, in writing, that it has no objection to the construction of a temporary crossing at grade at the point proposed in the application to be used in connection with the building of a permanent crossing at separated grades, provided that the State bear the entire cost of the temporary crossing as well as the future grade separation.

Applicant states that it is proposed to recommend inclusion of this crossing in the Federal Grade Separation Program. It appears to the Commission that a temporary grade crossing can be permitted at this time to be maintained until such time as the Commission finds that a grade separation is required. The determination of the proper division of cost of such a separation may well be delayed until its construction is authorized. The Commission will at that time give consideration to the circumstances under which

the temporary crossing was authorized and constructed. The application will 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 State Highway Route No. 68 at grade across the track of Southern Pacific Company, at the location more particularly described in the application and as shown by the map attached thereto, subject to the following conditions and not otherwise:

- (1) The above crossing shall be identified as Crossing No. DA-44.9.
- (2) The entire expense of constructing the crossing shall be borne by applicant. The cost of maintenance of that portion of said crossing up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.
- (3) The crossing shall be constructed of a width of not less than sixty-eight (68) feet and at an angle of thirty-five (35) degrees to the railroad and with grades of approach not greater than one (1) per cent; shall be constructed equal or superior to type shown as Standard No. 2 in our General Order No. 72; shall be protected by two Standard No. 1 crossing signs, as specified in our General Order No. 75-A, and shall in every way be made suitable for the passage thereof of vehicles and other road traffic.
- (4) Two Standard No. 5 crossing signals, as specified in General Order No. 75 of this Commission, shall be installed at the sole expense of applicant, for the protection of said crossing. Said crossing signals shall be maintained by Southern Pacific Company.
- (5) 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.
- (6) 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.

- (7) 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 9<sup>th</sup> day of October, 1936.

M. B. Lewis

Leon Whitely

W. H. ...

Commissioners