

Decision No. 28654.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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

Application No. 21096.

BY THE COMMISSION:

**ORIGINAL**

O R D E R

Southern Pacific Company, a corporation, on March 24, 1937, applied for authority to construct a spur track at grade across 46th Avenue in the City of Oakland, County of Alameda, State of California. The necessary franchise or permit (Resolution No. 5018 C.M.S.) has been granted by the City Council of said city for the construction of said crossing at grade.

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 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 (Western Division Drawing No. M-392, Sheet 2), attached thereto, subject to the following conditions:

- (1) The entire expense of constructing and thereafter maintaining the crossing shall be borne by applicant.

- (2) 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 this order shall not be deemed an authorization for the construction of an opening of said street to public use across said spur track. Said track shall be so constructed that grades of approach not to exceed four (4) per cent will be feasible in the event that the construction of an opening of 46th Avenue across said spur track shall hereinafter be authorized and so that said grade crossing may be safe for the passage thereover of vehicles and other road traffic.
- (3) 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.
- (4) 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.
- (5) 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 5<sup>th</sup>  
day of April, 1937.

Walter H. West  
Leon Whiskey  
James R. Wilson  
Robert W. H. H. H.  
Ray & Alley  
Commissioners