

ORIGINAL

Decision No. 36780

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY to construct, maintain, and operate trackage across 14th Street and across Meeker Avenue, Richmond. Application No. 25892

In the Matter of the Application of SOUTHERN PACIFIC COMPANY to construct at grade spur track across Meeker Avenue, Richmond. Application No. 25893

In the Matter of the Application of SOUTHERN PACIFIC COMPANY to construct at grade tracks crossing 29th, 28th, Owens, and 27th Streets and Hamilton Avenue and Harbor Boulevard, Richmond. Application No. 25896

In the Matter of the Application of THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY to construct, maintain, and operate spur or industry track across tracks of the Southern Pacific Company near intersection of Twenty-seventh Street and Soaver Avenue, Richmond. Application No. 25897

LEO E. SIEVERT and J. C. GIBSON, for Applicant The Atchison, Topoka and Santa Fe Railway Company, and Protestants in Applications Nos. 25893 and 25896.

C. W. DURBROW and E. J. FOULDS, for Applicant Southern Pacific Company, and Protestants in Applications Nos. 25892 and 25897.

BY THE COMMISSION: O P I N I O N

We have before us in these proceedings requests by both The Atchison, Topoka and Santa Fe Railway Company (1) and Southern Pacific Company (2) to construct trackage at grade across certain streets in Richmond, California, and the Santa Fe to construct a track at grade across the trackage of Southern Pacific in said city.

Public hearings were held before Examiner Hall on December 1, 2, and 3, 1945. On the latter date the matters were submitted on the filing of briefs. (3) Briefs have now been filed and the matters are ready for determination.

(1) Hereinafter called the Santa Fe.
(2) Hereinafter called the Southern Pacific.
(3) At these hearings 24 exhibits were received and 395 pages of transcript.

The tracks involved in these proceedings are proposed to be constructed to serve a warehouse located on the east side of 14th Street at the intersection of Meeker Avenue⁽⁴⁾ and an extension of Shipyard No. 2 of Permanente Metals Corporation located on a 130-acre tract east of the southerly prolongation of 27th Street and south of Harbor Boulevard.⁽⁵⁾ Both the Santa Fe and Southern Pacific have tracks leading into the area presently occupied by Shipyard No. 2 and various other industries adjacent thereto.

The Santa Fe track to this territory diverges from its Oakland Branch at a point about midway between Shoshone and Canal Streets projected northerly to said branch. The track then runs in a southeasterly direction crossing various streets to about the intersection of Dock and 14th Streets. Along this track, between Ohio Street and Virginia Street, is located the Ohio Street yard, and between Wright Street and 14th Street is located the 8th Street yard.

Southern Pacific track leading into this area diverges from its Ogden Main Line at Stege Station, then continues west along Seaver Avenue and its westerly prolongation to the North yard of that company located between 27th and 14th Streets. Both Southern Pacific and Santa Fe tracks extend to a joint yard located between 10th and 14th Streets parallel to and about midway between Dock Street and Perelli Avenue. These tracks are so arranged that both companies have access to the heavy industrial area of Richmond.

(4) Applications Nos. 25892 and 25893. The warehouse is shown in blue on the map received as Exhibit No. 1 and hereinafter referred to as Warehouse "A."

(5) Applications Nos. 25896 and 25897. The 130-acre tract is shown in brown on the map marked Exhibit No. 1. Permanente Metals Corporation is constructing three large outfitting docks, a prefabrication yard, and open storage area on this tract. The tract will hereinafter be referred to as the storage yard.

The instant proceedings contemplate track extensions by each company from its existing tracks in order that each may serve Warehouse "A" and the storage yard.

The Santa Fe plan contemplates the building of a track commencing at the northwest end of the 8th Street yard, then extending easterly along a right of way either owned by itself or under agreement with the owner (U.S. Maritime Commission) adjacent to and south of Meeker Avenue, then curving to the south and running parallel to and west of 27th Street to the beginning of the storage yard. A spur takes off from this track to serve Warehouse "A." The proposals of Santa Fe involve crossing at grade 14th Street, Meeker Avenue (dedicated but not improved) and the Seaver Avenue track of Southern Pacific, a short distance west of 27th Street.

The applications of Southern Pacific contemplate constructing a spur track taking off from the north track of North yard and running in a northwesterly direction across Meeker Avenue to Warehouse "A," and a track taking off from its Seaver Avenue lead at approximately 29th Street, thence running westerly on the southerly side of Seaver Avenue lead to about Owens Street, then curving to the left into 27th Street, and then southerly in 27th Street to the storage yard.

Counsel for Southern Pacific Company moved dismissal of the two Santa Fe applications on the ground that the track for which crossings with 14th Street and Seaver Avenue lead of Southern Pacific are requested is an extension of a line of railroad and cannot be legally constructed without a certificate from the Interstate Commerce Commission. The motion is denied and consideration of all four applications will be given on the consolidated record.

Both the Santa Fe plan and the Southern Pacific plan to serve Warehouse "A" and the storage yard contemplate only their own

service. However, the testimony clearly indicates that both companies should serve these two areas by either joint operation or by joint track arrangement. Several plans were advanced in order to provide access to these areas by both companies and it appears that before the crossing matters can be disposed of we must determine which in our opinion would best serve the interests of all concerned, including the two railroads, the war effort, the Permanente Metals Corporation, and the Maritime Commission.

Three plans were advanced to accomplish the desired results which are briefly as follows:

1. The Ordway Plan.⁽⁶⁾ Commencing at the east end of the 8th Street yard, thence running a track along Santa Fe right of way easterly and south of Mecker Avenue, thence curving to the right and following said right of way along the west side of 27th Street to the storage yard. This would give Santa Fe access to the storage yard. From this track in the vicinity of 19th Street a spur would lead westerly across Mecker Avenue to Warehouse "A." This would give Santa Fe access to said warehouse. A connecting track would be constructed from the most northerly track of North yard to the track on Santa Fe right of way. This, in connection with the above referred to spur, would give Southern Pacific access to Warehouse "A." In order that Southern Pacific may reach the storage yard, Mr. Ordway proposed a connection from Southern Pacific's lead at a point about 29th Street, thence westerly along the south side of Seaver Avenue lead and curving to the left, crossing 27th Street to a connection with the track on right of way of Santa Fe parallel to 27th Street leading to the storage yard. This would give Southern Pacific access to the storage yard.

2. The McDonald Plan.⁽⁷⁾ Mr. McDonald's proposal contemplates only the tracks proposed in Applications Nos. 25893 and 25896 by constructing a spur track leading from the north track of North yard and extending in a general northwesterly direction crossing Mecker Avenue to Warehouse "A." A second track is proposed to extend from the Seaver Avenue lead at about 29th Street, then westerly on the south side of Seaver Avenue lead and curving westerly into Santa Fe private right of way and thence southerly along this right of way to the storage area. This plan would give Southern Pacific direct access to both locations and Santa Fe would have access by routing its cars through both 8th Street yard and North yard.

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- (6) Mr. A. M. Ordway, Vice President of Permanente Metals Corp., advanced this plan which is shown on Exhibit No. 21.
- (7) This plan was advanced by Mr. L. B. McDonald, Vice President of Southern Pacific Company, which is shown on Exhibit No. 22.

3. The Astruc Plan. (8) This plan is similar in nature to the McDonald plan in that it uses the same track to Warehouse "A" and the connection from the Seaver Avenue lead at 29th Street to track on the Santa Fe right of way south of Seaver Avenue. For the use of Santa Fe movements to and from the storage yard an additional connection from the most southerly track in the North yard to the Santa Fe track is proposed.

None of the plans propose any definite location of tracks in the storage yard area other than the main lead. Santa Fe expressed a willingness to construct this track and Southern Pacific agreed in the event of joint use or operation to share the cost of such construction. Santa Fe concurred in the Ordway plan but in neither the McDonald nor the Astruc plan. On the other hand Southern Pacific favored either the McDonald or the Astruc plan but did not agree with the Ordway plan.

An opportunity was given the applicants to agree on a plan but to no avail.

It therefore appears that the Commission must decide on a plan which will be the most reasonable and treat the applications in such a way that this plan will be most effectual in our war effort. If it were not for the extension of war industries in the area these applications would not at this time be before us.

It was generally agreed that the Santa Fe plan and the Southern Pacific plan, standing by themselves, would not result in giving service to the area by both carriers, therefore they will not be further discussed.

In the Ordway plan the Santa Fe would perform service to the two areas involved without having to move cars through its 8th Street yard, and Southern Pacific would also have direct contact. However, the main lead to storage yard would cross at grade two tracks and a crossover (9) of Southern Pacific and one industry track west of 27th

(8) This plan was proposed by Mr. C. J. Astruc, Asst. to Chief Engineer of Southern Pacific Company, and is shown as Exhibit No. 23.

(9) The application covers only the two tracks. There is evidence that the crossover was installed by Southern Pacific Company subsequent to the initiation of this project.

Street. This crossing was seriously objected to by Southern Pacific on the grounds of added hazard and delay to its traffic. On the other hand it contended that by using either the McDonald or the Astruc plan this crossing would be eliminated by routing Santa Fe traffic through the 8th Street and North yards, which, in addition, would accomplish a substantial reduction in the cost of construction. This is on the assumption that no additional tracks would be necessary at either or both yards. However, if it was found necessary to augment the North yard to care for the new traffic, this could be done. Such cost was not given consideration by Southern Pacific. (10)

(10) Table of Comparison of Costs.

Item	Source	Estimated Cost		
		Ordway Plan	McDonald Plan	Astruc Plan
1. Santa Fe Main Lead from initial point to boundary of 130-acre tract (Point B - Ex. 13)	Ex. 24	\$ 46,400		
2. Trackage within 130-acre Tract	Ex. 24	\$ 37,800	\$ 37,800	\$ 37,800
3. Spur to Warehouse "A"	Ex. 24	\$ 4,000		\$ 5,595
4. Run around track	Ex. 24	\$ 11,600	\$ 11,600*	\$ 11,600*
5. Connection from North Yard to Santa Fe lead near 20th and Meeker	Ex. 20	\$ 5,863		
6. S.P. connection from 29th and Seaver Avenue to Point "B"	Ex. 24 & Ex. 20		\$ 23,342	\$ 23,342
7. Connection from North Yard to Santa Fe lead at Seaver and 27th (Astruc Plan)	Ex. 23			\$ 5,713
8. S.P. connecting track from 29th and Seaver to connection with Santa Fe (Ex. 14)	Tr.p. 199	\$ 11,842		
Total		\$117,505	\$ 77,342	\$ 83,055
9. Additional track in North Yard	C.R.C. Engineer		11,250	11,250
		\$117,505	\$ 88,592	\$ 94,305

* A run around track was not included in either the McDonald or the Astruc plan but is essential to efficient operation of any plan adopted.

Santa Fe, on the other hand, contended that both the 8th Street yard and the North yard are congested, and the movement of cars to the storage yard from Santa Fe, as proposed by both the McDonald and Astrue plans, would be materially delayed.

Operating officials of the Santa Fe testified that the tracks proposed in their plan were specifically designed to avoid the necessity of movement of cars to Warehouse "A" and the storage yard through their 8th Street yard. Cuts of cars destined to those points would be made up in the main classification yard or the auxiliary Ohio Street yard and moved direct. Their testimony shows that it has been necessary to constantly expand the track facilities in order to take care of the increasing business of the shipyards. Only recently an entire new yard has been constructed at Ohio Street and at the present time construction of five additional tracks in the 8th Street yard is in progress.

While Southern Pacific operating officials state that they would be able to handle the Santa Fe business through their north yard satisfactorily, it is significant that in moving their own business into the storage yard they propose that a movement direct from the main line at Stoge be used rather than from the North yard. This is indicated by the fact that in the so-called Astrue plan, under which a direct connection to the North yard is proposed, Southern Pacific finds it desirable to also provide a connection leading easterly so that its own movements can be handled to the storage yard without passing through the North yard. There is also testimony that the company now has under consideration the construction of an additional track in the North yard and that this single additional track is the limit of the possible expansion.

Mr. F. E. Miobach, Traffic Manager of the Permanente Metals Corporation, states emphatically that there has been and still exists

a great deal of congestion in the three railroad yards involved, and that their intra-plant switching has been accordingly delayed. When asked the direct question as to what in his opinion was the cause, he stated positively that there is not enough storage room to handle what they are trying to handle in that particular area. From his testimony it appears that it is not infrequent for both railroads to hold cars at points some distance from the shipyard area where tracks are available, for the simple reason that there is no available space in any of the three yards designed specifically to handle the shipyard traffic.

While Southern Pacific witnesses stated that it would be their policy to keep a thoroughfare track open through the North yard for the use of Santa Fe engines, it is quite apparent that the demands of the industry at this point have, since the establishment of the shipyards, been continuously ahead of the rail facilities available. We must bear in mind that the shipbuilding program is expanding with extraordinary rapidity, and with the shifting of the activities of the war to the Pacific, there is every reason to believe that this expansion will continue. For this reason it appears somewhat shortsighted to adopt a makeshift policy and make use of existing facilities which may in the immediate future cause congestion which will require reversion to either the Santa Fe plan or some other which would divert traffic around the congested area.

In the present instance we have a plan which will provide such diversion at a reasonable cost. The right of way is available whereby the Santa Fe can begin immediate construction of its trackage, and connections are feasible by which Southern Pacific can reach this trackage. It is true that the connections at present proposed by Southern Pacific involve crossings with public streets and through property over which the company has yet no rights to cross, but the

obtaining of these rights should entail no more difficulties than would be incurred in securing similar rights for the two proposals of Southern Pacific Company outlined in its applications. As a matter of fact the one crossover between the northerly track of the North yard and the Santa Fe lead near 20th and Meeker (Item 5, Footnote 10) is the only track connection necessary to establish practicable joint service; or should this connection prove unsuitable for all traffic, the connection suggested by Mr. Astruc (Item 7, Footnote 10) could be added. No crossings, franchises, or permits other than the consent of the Maritime Commission are required for either of these connections.

Under these circumstances we believe that the logical procedure is to adopt, in general, the principle of the so-called Ordway plan, i.e., construct a main lead track on the Santa Fe right of way skirting the congested areas; establish suitable connections from Southern Pacific rails; and make available to Southern Pacific such portions of the Santa Fe track as are necessary to provide access to the warehouse and the new storage and outfitting docks. This plan contemplates a crossing at grade over 14th Street, an important artery, as well as a track crossing over the Seaver Avenue lead and other streets east of and including 29th Street. While the McDonald and Astruc plans eliminate the rail crossing and concentrate car movements over 14th Street at an existing crossing, the Santa Fe traffic must cross 14th Street at some location; furthermore, it must get from one side of Southern Pacific tracks to the other, either by a street crossing or along tracks and through crossings in the North yard. Either of these methods would cause interference with train movements.

We are of the opinion that there would be less interference with both vehicular and pedestrian travel on 14th Street and with rail movements of Southern Pacific if the Santa Fe traffic were routed over the route proposed in that company's application.

Therefore, in order to avoid unnecessary delay we will grant permission to Santa Fe to construct tracks at grade over 14th Street and Meeker Avenue at locations as shown by map (Exhibit "B") attached to Application No. 25892, and to construct its track at grade over Southern Pacific tracks and Permanente Metals Corporation track at the location as shown by Exhibit "A" attached to Application No. 25897, it being understood that Santa Fe will permit joint use with Southern Pacific of such portion of its track as may be required to permit access of both companies to Warehouse "A" and the storage yard by either joint use of certain tracks or by joint operation of tracks. As this is entirely a war measure it appears further that this authority should not extend beyond six months after termination of the war, after which time a materially different situation may arise.

The crossings as proposed by Southern Pacific in its Application No. 25896 are not in all cases at suitable locations to fit in with the adopted plan, and action on this application will be withheld pending proper amendment or request for dismissal. Since the crossing proposed in Application No. 25893 with Meeker Avenue will not be required, that application will be dismissed.

O R D E R

The above entitled matters having been consolidated for hearing, public hearings having been held, and the matters submitted and ready for decision;

IT IS HEREBY ORDERED that:

I. The Atchison, Topeka and Santa Fe Railway Company is authorized to construct a crossing at grade of an industrial lead track with 14th Street, and a spur track with Meeker Avenue, as more particularly described in Application No. 25892 and as shown by Exhibit "A," subject to the following conditions:

- (1) The above crossing of 14th Street shall be identified as Crossing No. 2K-180-C.
- (2) The entire expense of construction and thereafter maintaining said crossing of 14th Street in good and first-class condition for safe and convenient use of the public shall be borne by the applicant.
- (3) Said crossing shall be constructed equal or superior to the type shown as Standard No. 2 in our General Order No. 72, and shall be constructed without superelevation and of a width to conform to that portion of 14th Street now graded, with the tops of rails flush with the pavement and with grades of approach not exceeding one (1) per cent, and shall be protected by two Standard No. 1 crossing signs as specified in our General Order No. 75-B.
- (4) No train, engine, motor, or car shall be operated over said crossing unless said train, engine, motor or car shall be first brought to a stop and traffic on the highway protected by member of the train crew or other competent employee acting as flagman.
- (5) This order is made upon the condition that Meeker Avenue is not now actually constructed and open to traffic at the point of crossing, and this order shall not be deemed authorization for the opening of said avenue to public use across said spur track.

II. The Atchison, Topeka and Santa Fe Railway Company is authorized to construct an industrial lead track at grade across two tracks of Southern Pacific Company, and an industrial track owned and operated by The Permanente Metals Corporation in the vicinity of 27th Street and Seaver Avenue, as more particularly described in Application No. 25897 and shown on the map, Exhibit "A," attached thereto, subject to the following conditions:

- (1) In the use of the crossings near the intersection of 27th Street and Seaver Avenue, delineated on Exhibit "A," all trains, cars, or engines on the tracks of The Atchison, Topeka and Santa Fe Railway Company, in either direction, shall approach the crossings with the motive power on the headend, coming to a stop not less than ten (10) feet, or more than fifty (50) feet from the nearest rail of the crossing approached, and not proceed thereafter until receiving an appropriate signal from a flagman or other qualified employee. Such signal shall not be given until it has been definitely ascertained that no engines, cars, or trains are approaching from either direction on the conflicting routes under conditions which will render it possible for an interference to occur with the movement about to be made over the crossing. In the event of simultaneous stops being made by movements on the conflicting routes, the engines, cars, or trains on the tracks of the Southern Pacific Company or The Permanente Metals Corporation shall take precedence in the use of the crossings.
- (2) All engines, cars, or trains approaching the crossing from either direction on the tracks of the Southern Pacific Company or The Permanente Metals Corporation shall reduce speed to an extent that will make it possible to come to a stop within the distance available before fouling the crossing if it is occupied or if engines, cars, or trains are approaching on the conflicting route under conditions which will render it possible for an interference to occur within the movement about to be made over the crossing. In the event engines, cars, or trains are approaching upon the conflicting route, under the above-mentioned conditions, engines, cars, or trains on the tracks of the Southern Pacific Company or The Permanente Metals Corporation shall come to a stop not less than ten (10) feet or more than fifty (50) feet from the nearest rail of the crossing approached and not proceed thereafter until movements of engines, cars, or trains on the conflicting route have been brought to a stop. If no engines, cars, or trains are approaching on the conflicting route, under the conditions mentioned, no stops need be made by engines, cars, or trains operating on the tracks of the Southern Pacific Company or The Permanente Metals Corporation.
- (3) Operating bulletins of The Atchison, Topeka and Santa Fe Railway Company, the Southern Pacific Company, and The Permanente Metals Corporation, governing the use of the rail crossings herein authorized under the conditions herein outlined, shall be filed with the Commission on or before the date when operation over the crossings is commenced.

III. The authority herein granted is based on the stipulation made by The Atchison, Topeka and Santa Fe Railway Company at the hearing that such portions of its track as are necessary to

provide access by Southern Pacific Company to Warehouse "A," and the trackage serving the proposed outfitting docks, prefabrication plant, and open storage yard located on the 130-acre tract leased by The Atchison, Topeka and Santa Fe Railway Company, and referred to in the previous opinion as the "Storage Yard" shall be made available to Southern Pacific Company on such terms of joint use or operation as may be agreed upon between the two companies, or failing in such agreement, be determined by this Commission.

IV. The authority for maintenance of the crossings herein authorized shall not extend beyond six (6) months after termination of the war, unless further time be granted by subsequent order of the Commission, and subject to the following conditions:

- (1) 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.
- (2) 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.
- (3) The Commission reserves the right to make such further order 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.

V. Application No. 25893 of Southern Pacific Company is hereby dismissed.

The effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, December 21, 1943.

Francis R. Havens

Richard Jackson
Francis W. Clark
Commissioners