

Decision No. 37276

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 industrial)
lead track across Bayshore Highway, in)
the town of Bayshore, County of San Mateo,)
State of California.)

ORIGINAL

Application No. 26271

R. S. MYERS, for applicant.

LONG & LEVIT, by Bert W. Levit, for Western Crown
Cork & Seal Corporation, interested party.

ANDREW J. GALLAGHER, for Southern Promotion
Association, interested party.

E. G. POSS and J. M. HOWARD for Division of Highways,
Department of Public Works, interested party.

C. J. QUINN, for interested property owners,
protestants.

CRAEMER, Commissioner

O P I N I O N

In this proceeding Southern Pacific Company seeks authori-
ty under Section 43, Public Utilities Act, to construct an in-
dustrial lead track at grade across Bayshore Highway at a point in
San Mateo County distant some 270 feet south of the San Francisco
City and County limits. The track would serve the plant of
Western Crown Cork & Seal Corporation, to be constructed at the
conclusion of the war upon a tract of land situated west of the
highway.

A public hearing was had at San Francisco on August 7,
1944, when the matter was submitted. Western Crown Cork & Seal
Corporation appeared as an interested party in support of the
application; the Division of Highways, Department of Public Works,

appeared as an interested party; and certain residents of the district appeared as protestants. Other interested parties participated in the proceeding.

Western Crown Cork & Seal Corporation, a subsidiary of Crown Cork & Seal Company, Inc., of Baltimore, Maryland, is engaged in the manufacture of glass container closures. Its present plant in San Francisco at Potrero Avenue and 25th Street, no longer is adequate for its needs, and at the conclusion of the war it plans the construction of a new and larger plant. Following an extensive survey of the San Francisco Bay area, it selected as the site of this project a 33 acre tract fronting on Bayshore Highway, immediately south of the San Francisco city boundary. Here it contemplates the construction of a new plant, at a cost of approximately \$2,000,000, having an annual pay roll of approximately \$1,200,000, and ultimately providing employment for some 1,500 persons. It now holds an option, expiring August 19, 1944, to purchase the tract at a price of \$160,000, conditioned upon its ability to secure spur track facilities.

By its permit dated July 25, 1944, the Division of Highways authorized the construction of the lead track, to be installed at the termination of the existing state of war, subject to certain conditions relating, generally, to the method of construction, the character of use, and the protection of highway traffic. Among other things, the permit required that the track should be so located as to serve not only the property of Western Crown Cork & Seal Corporation, but also any other post-war development that might occur west of the highway; and it provided that the right to use the crossing should be available to any development authorized by the Division to make such crossing. Pending the construction of

the new Bayshore Highway and the removal of heavy traffic from the existing highway, the permittee's use of the crossing was limited to one movement of three cars daily. A representative of the Division, who testified at the hearing, recommended that the limitations of the permit be embodied in the Commission's order, should it approve the application. At the location of the crossing, he stated, the vehicular traffic, though less than that of normal times, is still substantial. Post-war plans contemplate the relocation of the highway; ultimately, it will be situated east of the Southern Pacific yards at Bayshore.

Approval of the application was urged by representatives of the San Francisco Chamber of Commerce, the San Mateo County Board of Supervisors and the California State Federation of Labor. The location of this plant at Bayshore, they pointed out, with its substantial pay roll would be in the public interest. The district has recently been rezoned by the San Mateo County authorities to permit the establishment of industries of this character.

Opposition to the proposal was voiced by a resident of the district who acted as the spokesman for others similarly situated. He objected to the noise occasioned by the operation of freight trains, powered by Diesel locomotives, over curved tracks serving the plant and adjacent to their homes, asserting this would become a nuisance which would substantially depreciate property values. However, a representative of the union testified that the demand for new homes in that area would, in his opinion, increase property values.

The record, we believe, warrants the granting of the application. Since the crossing will not be established until the conclusion of the war, we cannot now determine the degree of

protection required to safeguard highway traffic. Accordingly, by its order herein the Commission will reserve the right to prescribe such limitations as it may deem essential, in view of the conditions which actually may exist when the crossing is constructed. We shall also reserve the right to impose conditions designed to insure the use of the lead track by other industries which may locate in this area, thus minimizing the hazards which otherwise would flow from the construction of additional crossings.

O R D E R

Public hearing having been held in the above entitled application and the matter having been submitted,

IT IS HEREBY ORDERED that Southern Pacific Company is authorized to construct a lead track at grade across Bayshore Highway in the unincorporated portion of San Mateo County in the Bayshore District approximately at the location more particularly described in the application and as shown by the map attached thereto, subject to the following conditions:

- (1) The above crossing shall be identified as Crossing No. E-5.35-C.
- (2) The entire expense of construction and thereafter maintaining the crossing in good and first-class condition for safe and convenient use of the public, shall be borne by applicant.
- (3) Said crossing shall be constructed without super-elevation and of a width to conform to those portions of said highway that are traveled at the time of construction, with the tops of rails flush with roadway and grades of approach not exceeding those existing at the time of construction.
- (4) Prior to commencement of construction applicant shall file with the Commission for its approval, plans showing the type of track construction, pavement, and protection it proposes to install, and the method of switching and the hours during which it proposes to move cars over said crossing.

The Commission reserves the right to reject said plans and by subsequent order specify the manner of constructing, protecting, and operating over said Crossing.

- (5) The Commission reserves the right to make such further order, relative to the location, construction, operation, maintenance, and protection of said crossing, and the use of said lead track by other industries, as to it may seem right and proper.

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

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of August, 1944.

Richard L. Lusk
Justice F. Craven
Francis L. Hoover
Howard E. Linn
Walter Powell
 COMMISSIONERS