

Decision No. 40511

BEFORE THE PUBLIC UTILITIES 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 separated grades )  
of the State highway (Eastshore )  
Freeway) and the tracks of the )  
Southern Pacific and the Western )  
Pacific Railroad, in the vicinity )  
of 19th Avenue, in the City of )  
Oakland, County of Alameda, State )  
of California. )

ORIGINAL

Application No. 28294

- FRANK B. DURKEE, for applicant.
- J. KERWIN ROONEY, for City of Oakland,  
Interested party.
- E. J. FOULDS and R. S. MYERS, for Southern  
Pacific Company, interested party.
- C. W. DOOLING and JOHN E. HENNESSY, for  
The Western Pacific Company, interested  
party.

O P I N I O N

The Department of Public Works of the State of California filed this application on March 1, 1947, requesting authority to construct a highway at separated grades over the tracks of The Western Pacific Railroad Company and Southern Pacific Company in the vicinity of 19th Avenue, Oakland, the proposed crossing being a part of the so-called Eastshore Freeway project. On April 29 the Commission rendered its Decision No. 40207 granting the application and providing that construction and maintenance expense be borne in accordance with an agreement to be entered into between the parties. On April 30 the Commission received a letter from applicant stating that it had been unable to agree with the railroad companies with respect to the apportionment of the cost, and requesting that the matter be set for hearing. In Decision 40252, dated May 6, the Commission set aside its prior order and ordered a hearing which was

held in San Francisco on June 25, 1947, before Examiner Gregory. Previous to the date of hearing, the Department of Public Works filed an amendment to its application recommending that in addition to abolition of the crossings at grade of 19th Avenue with tracks of Southern Pacific Company and The Western Pacific Railroad Company, consideration also be given to the closing of the crossing of 22nd Avenue with the tracks of those railroads.

Applicant now has under construction a limited access highway, known as the Eastshore Freeway, extending easterly from connections with city streets in the vicinity of Oak Street in Oakland. As a part of that project it is proposed that all cross-traffic be guided over the freeway on grade separation structures. Among the proposed grade separations is the one with which this application is concerned, this being the connection from existing city streets in the vicinity of 16th Avenue and East 12th Street to 19th Avenue between the freeway and Oakland inner harbor. The connection will provide access to the industrial area in the vicinity, and also to Government Island. Access to that area is now available by various other streets and crossings with the railroad tracks, among them being 19th Avenue and 22nd Avenue. Both those avenues have somewhat hazardous crossings with the railroad tracks and their elimination is desirable.

The City of Oakland appeared at the hearing and filed a copy of a resolution by its City Council consenting to the closing of the crossings. (Resolution No. 18233 C.N.S., dated June 24, 1947.) There is no question as to the desirability of constructing the proposed grade separation and the closing of the two grade crossings, and the authority sought should be granted.

With respect to the allocation of costs, it appears that the parties have reached an agreement and a stipulation was filed at the hearing, under the provisions of which Southern Pacific Company has agreed to contribute \$16,500 and The Western Pacific Railroad Company

the sum of \$5,500. The stipulation reserves the right to re-submit the question of apportionment to this Commission in the event Federal funds are not allocated to the project. In view of the stipulation, it will not be necessary that the Commission give consideration to the apportionment of the cost of construction. In connection with the cost of maintenance, applicant requested that the Commission's order provide that the City of Oakland could, if it so agreed, assume or participate in such costs.

O R D E R

Hearing having been held on the above entitled application, and the matter having been submitted,

IT IS ORDERED that the Department of Public Works of the State of California be and it is hereby authorized to construct a public highway connecting 19th Avenue with East 12th Street in Oakland, Alameda County, at separated grades over the tracks of Southern Pacific Company and The Western Pacific Railroad Company, at the location shown by map, Exhibit "A", attached to the application and substantially in accordance with Exhibit 9 filed at the hearing. Said crossings shall be identified as Crossing No. D-8.6-A and No. 4-8.5-A, respectively. The cost of constructing said grade separation shall be borne in accordance with an agreement entered into between the parties, and a copy of said agreement, together with plans of said crossing approved by Southern Pacific Company and The Western Pacific Railroad Company, shall be filed with the Commission prior to beginning construction. Should the parties fail to agree, the Commission will apportion the cost of construction by further order. The cost of maintenance of said crossing shall be borne by applicant, but this provision shall not be construed as prohibiting the assumption by the City of Oakland of a portion or all of such maintenance costs.

Upon completion of the crossing at separated grades herein authorized, the existing crossings of 19th Avenue and 22nd Avenue with the tracks of Southern Pacific Company and The Western Pacific Railroad Company (Crossings Nos. D-8.7, D-8.9, 4-8.6 and 4-8.8) shall be closed to public use and travel.

Within thirty days after completion pursuant to this order applicant shall so advise the Commission in writing. This authorization shall become void if not exercised within two years, unless time be extended, or if conditions are not complied with. The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, July 8, 1947.

Harold P. Hule  
Justice J. Cooper  
Wm. A. D. D. D.  
R. J. D. D. D.  
Wm. H. D. D.

COMMISSIONERS