

Decision No. 43270

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SOUTHERN PACIFIC COMPANY for an order)
 prescribing its established time table) Application No. 30506
 speeds as the permissible speed of)
 trains within the corporate limits of)
 the City of Brentwood.)

E. J. Foulds for Applicant.
Robt. N. Blewett, City Attorney, for City of
 Brentwood; John J. Lane, Mayor, for City of
 Brentwood.

O P I N I O N

In this application filed by Southern Pacific Company July 19, 1949, an order is sought authorizing it to operate trains through the City of Brentwood within the maximum speed limits as prescribed in the company's official time table,¹ notwithstanding the fact the City of Brentwood adopted an ordinance effective July 28, 1949, purporting to limit the speed of all train movements within the corporate limits to 25 miles per hour.² The city agreed not to enforce the ordinance for a period of 20 days after July 23

¹

Present maximum time table speeds:

For San Joaquin Daylight	- 75 miles per hour
For all other passenger trains	- 70 miles per hour
For freight trains	- 50 miles per hour

²"ORDINANCE NO. 31"BEFORE THE CITY COUNCIL OF THE CITY OF BRENTWOOD, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA."AN ORDINANCE OF THE CITY OF BRENTWOOD REGULATING THE SPEED OF RAILROAD TRAINS THROUGH SAID CITY."The City Council of the City of Brentwood do hereby ordain as follows:

1. No person, firm or corporation shall cause to be operated within the City of Brentwood any steam or motor driven railroad train at a speed of more than twenty-five (25) miles per hour within the City limits of said City. (cont'd.)

to allow further time in which the matter could be heard by the Commission.

A public hearing was conducted on this application at Brentwood August 12, 1949, before Examiner J.G. Hunter at the conclusion of which the matter was taken under submission.

At the outset of the hearing, the City Attorney of Brentwood raised the question of the Commission's jurisdiction to grant applicant the relief sought herein but did not object to proceeding with the hearing.

The City of Brentwood, situated in Contra Costa County, is a municipal corporation of the sixth class. It was incorporated January 21, 1948, and now has an estimated population of 2300. This city is the trading and shipping center for a large agricultural area adjacent thereto.

2(cont'd.)

2. Every person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment not to exceed six (6) months in the City Jail of the City of Brentwood or the County Jail of the County of Contra Costa, or by both said fine and imprisonment.

3. This ordinance shall become effective thirty (30) days from and after the date of its final passage, and within fifteen (15) days from the date of final adoption shall be published once in the Brentwood News, a newspaper of general circulation published and printed in the City of Brentwood, County of Contra Costa, State of California.

PASSED AND ADOPTED at a regular adjourned meeting of the City Council of the City of Brentwood this 28th day of June, 1949, by the following vote, to-wit:

AYES: Councilmen Boltzen, Danielson, Jansse, Lane.

NOES: None

ABSENT: Councilman Dyer.

APPROVED:

ATTEST:

MAYOR OF THE CITY OF BRENTWOOD

CITY CLERK "

Applicant's so-called San Joaquin Valley Line extends between San Francisco and Los Angeles and passes through the City of Brentwood. This railroad was originally constructed and put into regular operation in 1879. Through Brentwood, and for a distance of more than three miles on either side thereof, the railroad is constructed on a practically level grade and is tangent throughout this distance. Except for the grade crossings, the company's 100 foot right-of-way is fenced in this area.

There are two grade crossings in the City of Brentwood; one located at Oak Street, designated as Crossing No. B-61.7, and the other at Dainty Way, formerly Maple Street, designated as Crossing No. B-61.6. The Dainty Way crossing is located 450 feet north of Oak Street.

The company's main line over which all through train movements are conducted, is a single track through Brentwood and is maintained at a standard for high speed passenger and freight operations. This track was constructed with 113 pound rails in 1944, together with a high standard of ties and ballast construction. The line is provided with automatic block signals.

At present, three passenger and three to four freight trains are normally operated over this track in each direction daily. In addition, a number of extra trains are operated as traffic needs require. One passenger and one freight train are scheduled to stop at Brentwood. There are, however, a considerable number of switching movements over the two grade crossings in the city incident to the service of the industries located along the railroad. The number of switching movements vary through the year, depending on the business conducted at the fruit and vegetable packing establishments at Brentwood. These switching movements would not normally be affected by the city ordinance limiting speed of train movements since their rate of travel is less than 25 miles per

hour. The trains, which do not stop at Brentwood, pass over the two grade crossings in the city at rates of speed up to the limit prescribed in the official time table referred to above. The record shows that the speed of passenger trains has increased over the years with the improvement in track and equipment. Also, that during the period of World War II, rail traffic over this line was increased to eight passenger and seven freight trains in each direction daily. Most of these trains travelled at high rates of speed through Brentwood.

A witness for the company testified that compliance with the city ordinance would have the effect of increasing the running time from three to four minutes for through passenger trains and four minutes and more for through freight trains, depending upon the length of the train and motive power employed.

Applicant takes the position that the ordinance passed by the city, fixing the maximum speed of trains at 25 miles per hour, does not have the effect of reducing the hazard of accidents at the two grade crossings involved. A company witness testified that, based upon reports of regulatory bodies on the subject of grade crossing accidents and his many years of experience as a railroad official, it was his opinion that the rate of train speed had little or no effect upon the number of grade crossing accidents. The record shows that Southern Pacific Company has operated its trains through the City of Brentwood at a high rate of speed for many years and that during the past five years, there has not been a single grade crossing accident at either of the two crossings involved.

In support of this position, the company introduced in exhibit form, extracts taken from the results of studies and reports by the Interstate Commerce Commission, and the public utility commissions of the states of Oregon and California.³ These exhibits show the record of grade crossing accidents classified by rates of speed the train was travelling at the time of impact

³ Exhibits Nos. 4, 5, and 6.

of the various accidents listed.

It was stipulated that the Commission's records of grade crossing accidents in Brentwood would be considered as evidence in this proceeding by reference. This record extends over a period of time from January 1, 1926, to the present time and shows the following:

Crossing No.	Date of Accident	Persons K - I	Approximate Speed MPH Train-Vehicle		Track Involved	Nature of Accident
B-61.6	3/17/28	- -	6	10	House	Train struck auto
Dainty Way	4/28/31	- 1	60	30	Main	Train struck auto
Maple St.	11/14/41	- -	0	10	Main	Auto struck Stdg. Tr.
	4/20/43	- -	45	0	Main	Train struck stalled auto
	6/24/44	- 2	7	25	Main	Train struck auto
.....						
B-61.7	6/27/29	- 1	15	15	Main	Train struck auto
Oak St..	8/ 4/30	- 1	10	10	Main	Train struck auto
	3/13/31	- -	60	20	Main	Auto struck train
	7/6/42	- -	10	15	Main	Train struck auto
	4/1/43	- -	10	0		Train struck stalled auto
	8/5/44	- -	50	10	Main	Train struck auto

Note: The report shows that all injuries (I) were of a minor nature.

K - Killed I - Injured MPH - Miles per Hour

An official of the company testified that if the practice of municipalities through which the railroad operates followed that of the City of Brentwood, to impose speed restrictions on railroad movements, it would have the effect of seriously impairing the service as well as increasing the operating costs, with no compensating benefit to the company or the public. It was pointed out that such regulation, if carried to any material extent, may affect train connections at various points and thus disrupt train service on a large scale.

The city devoted considerable time at the hearing to develop the physical conditions at the two grade crossings involved, particularly with respect to the view conditions as restricted by buildings and standing cars on tracks adjacent to the main line.

The Oak Street grade crossing involves six tracks; one main line, one passing, one house, two side and one spur track. This crossing is now protected by two wigwags and two crossing signs. The Dainty Way crossing involves six tracks of the same class as at Oak Street. This crossing is now protected by a crossing sign only. The city placed particular emphasis upon the alleged need for automatic protection at this crossing.

The record shows that the view of approaching trains at each of these crossings is seriously impaired by buildings adjacent to the tracks and often by freight cars standing on the tracks adjacent to the main line.

A one-day traffic count showing the volume of highway and rail traffic over the two grade crossings involved was introduced as Exhibits Nos. 1 and 2, and show the following:

<u>Class of Traffic</u>	<u>Exhibit No. 1</u> <u>Oak Street</u>	<u>Exhibit No. 2</u> <u>Dainty Way</u>
Pedestrians	295	52
Automobiles	1629	277
Trucks	532	193
Bicycles	45	17
Switch Movements - East	1	4
" " - West	-	3
Trains East	2	2
Trains West	3	2

(The above traffic checks were taken between the hours of 6:00 AM and 6:00 PM, Friday, July 15, 1949)

Testimony was offered by city witnesses to the effect that on a number of occasions the mail service has been interrupted by fast moving trains failing to retrieve the mail sacks from the mail crane and also that mail sacks have been broken open when thrown off trains that do not stop at Brentwood.

A number of the city's witnesses testified that at times the crossings were blocked for excessive periods of time due to slow moving or standing freight trains, with the attendant delay to vehicular traffic; also, that this presents a hazardous condition in the event of a fire on the opposite side of the track from the fire station.

It was stipulated by the parties and ordered by the examiner that the city and company would within 10 days submit to the Commission photographs of the two crossings to be identified as Exhibit No. 8. These photographs are to be taken jointly by representatives of both parties.

From the record it is clear that some further study should be given the matter of providing protection at the Dainty Way grade crossing in Brentwood. There is now pending before this Commission an application (No. 30439) filed by Southern Pacific Company June 28, 1949, dealing with the question of providing adequate protection or the closing of the Dainty Way grade crossing. In this application, the Commission is requested to make an investigation of conditions at this crossing and if it should be found additional protection is needed, allocate the cost thereof between the city and company; and in the event the Commission should find the crossing is not needed in the public interest, order its abolishment by physical closing.

At the conclusion of the hearing, the city stipulated that in the interest of allowing the Commission time in which to consider the record herein and issue its order, the provisions of said Ordinance No. 31 would not be enforced against Southern Pacific Company for a period of thirty (30) days from August 12, 1949.

It is the opinion of the Commission that the hazard of accidents occurring at grade crossings cannot be substantially reduced except by providing adequate crossing protection, and that ordinarily the reduction of train speeds will not in itself eliminate or materially reduce such hazards. This fact is illustrated by the record of accidents at the two grade crossings here involved, for it reveals the occurrence of accidents when trains were operated at unusually low speeds and even while standing.

A great deal of progress has been made during recent years in the development of grade crossing protective devices. With the installation of an appropriate device giving the public advance warning of an approaching train, it becomes the duty of highway traffic to heed such warning signals. The law provides an effective means of securing adequate crossing protection, together with a fair allocation of the costs involved in the event of disagreement among the parties affected. The Commission believes that the proceeding which has been instituted to determine the type of protection needed at the crossing in Brentwood not now equipped with automatic signals will, after the facts are fully developed, afford an appropriate vehicle for determination of all the safety problems involved. The record made in the instant proceeding relating only to the question of reasonable train speeds does not indicate that speeds through Brentwood in excess of twenty-five miles per hour, as prohibited by Ordinance No. 31, bear a direct relationship to existing crossing hazards. Therefore, because of the substantial burden upon the railroad shown to result if it be required to comply with the provisions of the ordinance, the Commission finds it necessary and proper to authorize the Southern Pacific Company to continue the operation of trains within the city at its official time table speeds until further order of the Commission.

The Commission will proceed diligently to conduct a public hearing on Application 30439 relating to crossing protection, and the order herein made will be subject to reconsideration after the hearing and determination of said application.

O R D E R

Application as above entitled having been filed, the Commission being fully advised in the premises,

IT IS ORDERED that until further order of this Commission, Southern Pacific Company is authorized to continue to operate its trains through the City of Brentwood at permissible speeds as prescribed in its official Western Division time table.

The effective date of this order shall be September 9, 1949.

Dated at San Francisco, California, this 29th day of August, 1949.

R. E. Anderson
James I. Calver
John H. Gault
Harold P. Kula
COMMISSIONERS