

ORIGINAL

Decision No. 46125

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN PACIFIC COMPANY, for an)
order to require a crossing by a) Application No. 31749
publicly-used road by a railroad in)
Santa Clara County, California, be)
abolished.)

Commission Investigation into Baroni)
Avenue grade crossing with Southern) Case No. 5286
Pacific Company in Santa Clara County.)

Wilson E. Cline, for Pacific Utilities Commission of
the State of California.

R. S. Myers, for Southern Pacific Company, applicant
in Application No. 31749, and respondent in
Case No. 5236.

Eldon N. Dye, for California Farm Bureau Federation,
interested party.

Donald R. Currllin, Deputy County Counsel, for County
of Santa Clara.

Gerald S. Chargin, for Mary and Stephen Baroni.

O P I N I O N

The Commission, by Decision No. 41550, dated May 4, 1948,
in Application No. 28737, authorized the County of Santa Clara to
construct a public crossing of Baroni Avenue with the main tracks
of the Southern Pacific Company, in the vicinity of Lick Station,
to be identified as Crossing No. E-56.5. In such decision the
Commission said, among other things,

"As an alternate to the establishment of a public
crossing at Baroni Avenue, there is evidence that a
parallel road could be opened along the westerly
side of the railroad right-of-way for about a quarter
of a mile, to connect Baroni Avenue with Snell Road to
the south, where there is an existing public crossing
(No. E-56.7). This plan would require the acquisition
of right-of-way and the construction of a road over
property, some of which is now planted with young fruit
trees. If such a connecting road were constructed, a
single railroad crossing at either Baroni Avenue or at
Snell Road would adequately serve the public."

The County of Santa Clara, by letter dated August 1, 1950, in evidence herein as Exhibit 1, advised the Commission as follows:

"Gentlemen:

Re: Decision No. 41550

"Under the above numbered decision the County of Santa Clara elected to exercise its option not to construct the crossing at Baroni Avenue (E-56.5) and accepted the suggestion of the Commission to build a parallel road.

"This road has now been completed to a junction with Snell Road Crossing E-56.7 and is now in use. Therefore the County no longer has any interest in Baroni Avenue crossing."

Thereafter, the Southern Pacific Company filed an application in which it requested that Baroni Avenue crossing be abolished by physical closing.

By an order dated April 10, 1951, the Commission, on its own motion, instituted an investigation for the purpose of determining whether the said Baroni Avenue crossing, at grade, at Mile Post 56.46, should be abolished by physical closing or altered or relocated.

A public hearing, consolidating the above proceedings, was held on July 25, 1951, before Commissioner Mitchell and Examiner Silverhart at San Jose.

The record indicates that Baroni Avenue, a publicly used highway, is located west of El Camino Real and the railroad tracks and extends westerly therefrom for a distance of approximately 5,000 feet. Exhibit 2, a report prepared by an assistant transportation engineer on the Commission's staff, as a result of his study of the crossing herein involved, shows that there are four

residences and some ranch buildings situated on Baroni Avenue; that there is a grade crossing at Hillsdale Avenue (E-51.7), approximately 9/10 of a mile northerly of Baroni Avenue, protected by two No. 4 wigwags and two 2-train indicators; that another grade crossing protected by two No. 8 flashing lights and two 2-train indicators is established at Snell Road (E-56.7), approximately 1/5 of a mile southeasterly of Baroni Avenue; that there is no protection at Baroni Avenue crossing (M.P. 56.46); that the width of such crossing is ten feet, with a plus six per cent grade of approach on the east and a plus one per cent on the west; that such crossing is too narrow to permit passage by two passenger vehicles; that there is an impairment of vision at such crossing. The exhibit further discloses that Snell Road, a well graded, paved road running north and south connects with Baroni Avenue by means of a road known as Baroni Avenue Extension; that such extension was constructed within the past two years, parallels the Southern Pacific Company's tracks, is graveled and graded, and 24 feet in width and approximately 1,080 feet long.

The engineer testified that the Baroni Avenue crossing was little used; that the use of the Snell Road crossing by residents of Baroni Avenue would increase the distance to be traveled by about 2/5 of a mile only when northbound; that the Snell Road crossing afforded a means of ingress and egress to and from Baroni Avenue via Baroni Avenue Extension. He stated that an extra set of flashing lights, beaming down ⁽¹⁾ Baroni Avenue Extension, should be installed on the Snell Road crossing standard and recommended that the Baroni Avenue crossing be closed.

(1) The witness estimated the cost thereof at not in excess of \$300.

The senior assistant division engineer for Southern Pacific Company's Coast Division testified that a total of 28 passenger and freight trains moved during the 24 hours of June 28, 1951, a date selected for heavy train movements; that for a similar length of time on January 31, 1951, a date chosen for light train movements, 24 passenger and freight trains proceeded in both directions; that trains traveling through the area herein attain maximum speeds of 75 miles per hour for streamliners, 70 miles per hour for other passenger trains and 50 miles per hour for freight trains; that the approximate cost of installing an extra set of flashing lights at Snell Road would be approximately \$300.

A representative of the Peters Wheeler Seed Co. opposed the closing of Baroni Avenue crossing. He stated his company is and has been the lessee of the Baroni Ranch for 30 years during which time the Baroni Avenue crossing has been used to move out sugar beets and seed. He asserted he did not consider the Baroni Avenue crossing more dangerous than any other crossing but conceded upon cross-examination that the visibility at the Baroni Avenue crossing is impaired and that a user of such crossing would have to be careful. The cross-examination of this witness disclosed that trucks transporting sugar beets from his company's ranch move south to the sugar refineries.

The evidence does not demonstrate that the unprotected Baroni Avenue crossing, in addition to the Snell Road crossing (protected by automatic devices) but 1/5 of a mile distant there- from is necessary in order to adequately meet the public's requirements. Under such circumstance to permit the Baroni Avenue crossing to remain open would be to bear with the continuance of

a condition inherently fraught with danger and perils and thus tend to vitiate the oft expressed policy of the Commission to avoid grade crossings of streets with railroads whenever it is practicable and possible to do so at a reasonable expense.

An order will be made herein, directing that the Baroni Avenue crossing be closed and that the Southern Pacific Company install an extra set of flashing lights at the Snell Road crossing.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That the Southern Pacific Company and the County of Santa Clara, within 90 days after the effective date of this order, shall abolish, by physical closing, the crossing of Baroni Avenue (M.P. 56.46) with the main line railroad track of the Southern Pacific Company in the County of Santa Clara, and more particularly bounded and described as follows:

All that certain strip of land situated, lying and being in the County of Santa Clara, State of California, and being more particularly described as follows:

Beginning at the point of intersection of the center line of Baroni Avenue with the westerly line of the land of the Southern Pacific Railroad Company, said point being S. $38^{\circ}53'$ E. along said westerly line, 25.67 feet, from a 2" x 3" stake marked "M", at the point of intersection of said westerly line of said land of Southern Pacific Railroad Company with the northerly line of Baroni Avenue; thence S. $38^{\circ}53'$ E. along said westerly line, 6.1 feet; thence N. $60^{\circ}03'$ E. 60.7 feet, to the easterly line of the land of said Southern Pacific Railroad Company; thence N. $38^{\circ}53'$ W. along said easterly line, 12.2 feet, to a point; thence S. $60^{\circ}03'$ W. 60.7 feet, to the said westerly line of the land of said Southern Pacific Railroad Company; thence S. $38^{\circ}53'$ E. along said westerly line 6.1 feet, to the point of beginning. Containing an area of 729 square feet, more or less.

(2) That the Southern Pacific Company, at its sole expense, shall remove such crossing and approaches, within the limits of its right of way, and erect suitable barriers, in such manner as effectively to prevent the use of such crossing by vehicular traffic.

(3) That the Southern Pacific Company, solely at its expense, shall install and maintain an extra set of Standard No. 8 flashing light signals of the type shown in General Order No. 75-B, in and upon the standard located at the Snell Road crossing E-56.7, so as to cause such lights to beam toward and be visible from and on Baroni Avenue Extension.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 28th day of August, 1951.

[Signature]
President
[Signature]
[Signature]

Commissioners