

**ORIGINAL**Decision No. 48549

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF MILLBRAE, )  
 San Mateo County, California, to )  
 construct a grade crossing over the ) Application No. 33760  
 Southern Pacific Railway Co. right )  
 of way at Center Street, Millbrae, )  
 California. )

Kirkbride, Wilson, Harzfeld & Wallace and  
Harold N. Blake, for applicant.  
Lee E. Ham, Deputy City Engineer, City of  
 Millbrae, for applicant.  
R. S. Myers, for Southern Pacific Company,  
 interested party.  
James K. Gibson and M. E. Getchel, for the  
 Commission's staff.

O P I N I O N

The City of Millbrae seeks an order authorizing it to construct a public crossing at grade over the tracks of the Southern Pacific Company at Center Street in said city in the manner delineated on a map attached to the application.

A public hearing was held at Millbrae before Examiner Silverhart on March 31, 1953 at which time the matter was submitted.

Center Street runs westerly of the Southern Pacific Company's right of way and by prolongation easterly across the main line double track becomes Spruce Street. The record shows that the present crossing at Center Street (M.P.-12.8) is a publicly used, one-way, unpaved roadway, with approximately a 14 per cent grade of approach on the west and five per cent on the east and protected by two standard No. 1 crossing signs. A public crossing protected by two automatic crossing gates is located 1.4 miles northerly of the Center Street crossing. To the south there is a private crossing 0.3 of a mile distant and a public crossing protected by two No. 3 wigwag signals, with two train indicators, 0.9 of a mile away.

Applicant proposes to pave said Center Street crossing to a width of 36 feet together with a 7-foot sidewalk area on each side. The grade of approach from Center Street will be plus 3.4 per cent and that from Spruce Street will be plus 2.4 per cent. Front Street which is contiguous to the tracks will be closed; Monterey Street, approximately 100 feet easterly of the right of way, will be extended northerly to Bay Street and will intersect Spruce Street.

The trainmaster of the Southern Pacific Company's Coast Division testified that the proposed crossing is situated in a double track, high speed territory, through which some 90 trains pass daily, and that such crossing should be provided with automatic crossing gates.

The company's senior assistant division engineer estimated the cost of automatic crossing gates at \$13,300 and the cost of annual maintenance thereof at \$200. He estimated the cost of installing the portion of the crossing between lines two feet outside of the outside rails at \$1,115 and annual maintenance therefor at \$270.

The evidence shows that the Center Street crossing is the only means of ingress and egress to and from that part of Marino Vista Park Subdivision which lies easterly of the tracks and westerly of the Bayshore Freeway and is bounded generally by Bay Street on the north, Santa Paula Avenue on the south, Bay Street on the east and Monterey Street on the west.

Transportation engineers of the Commission's staff recommended that the proposed crossing be authorized because no other public means of access are available to the area here involved, and, because of the heavy volume of high speed train traffic, further recommended the installation of automatic protective devices, including automatic gates.

It appears from the record in this proceeding that the public interest would be best served by authorizing the construction of the crossing as proposed, upon the condition that automatic crossing gates be installed in connection therewith. The ensuing order will so provide.

The testimony discloses that the applicant is willing to assume the cost of constructing the crossing, exclusive of the cost of automatic protective devices. The city maintains that the existing protection is adequate and if any automatic devices are required by the Commission, the cost thereof should be borne both by the city and the Southern Pacific Company.

The Southern Pacific Company, by its counsel, stated that while it did not oppose the proposed crossing, the entire cost thereof including protective devices should be assessed solely against the city, for the reason that the need for protection arises from the public use rather than railroad activities.

We have heretofore indicated that a railroad's responsibility to keep at a minimum the hazards at all points of highway crossings with its line, is a continuing one and the cost of providing protection at grade crossings depends upon the circumstances and equities in each instance. We conclude therefore, that a proper allocation of the costs requires that applicant bear the entire expense of construction of the crossing provided for in the plans and drawings attached to the application, except that the railroad shall assume one-half the costs of installing the protective devices described in the following order. The cost of maintaining the grade crossing between lines two feet outside of the outside rails and the protective devices shall be borne by the railroad.

O R D E R

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

IT IS ORDERED:

(1) That the City of Millbrae is authorized to construct a public crossing of Center Street with the tracks of the Southern Pacific Company at the location more particularly outlined and in the manner delineated upon the drawings attached to the application subject to and only upon the following conditions:

- (a) The above crossing shall be identified as crossing No. E12.8.
- (b) The entire expense of constructing the crossing, except to the extent set forth in subparagraph (d) hereof, shall be borne by applicant.
- (c) Said crossing shall be constructed equal or superior to type shown as standard No. 2 in General Order No. 72 and shall be protected by two automatic crossing gates incorporated as a supplement to two standard No. 8 flashing light signals of the type shown in General Order No. 75-B.
- (d) The entire cost of acquiring and installing such flashing light signals and automatic crossing gates shall be borne 50 per cent by the applicant and 50 per cent by the Southern Pacific Company.
- (e) The cost of maintaining said gates and lights and those portions of said crossing between lines two feet outside of the outside rails shall be borne by the Southern Pacific Company.

(2) Within thirty days thereafter applicant shall give the Commission written notice of the completion of the installation of said crossing and of its compliance with the conditions hereof.

(3) The authorization herein granted shall lapse if not exercised within one year from the date hereof, unless further time is granted by subsequent order.

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

Dated at SAN FRANCISCO, CALIFORNIA, California, this 28th day of April, 1953.

A. J. [Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners