

ORIGINAL

Decision No. 54529

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the grade crossing of Bernardo Avenue and tracks of Southern Pacific Company in the City of Mountain View, Santa Clara County, being Crossing No. E-37.4

Case No. 5757

In the Matter of the Application of Southern Pacific Company for an Order to require that a crossing by a public road by a railroad in Mountain View, Santa Clara County, be abolished.

Application No. 37781

Randolph Karr, for Southern Pacific Company, applicant and interested party.

Philip T. Lawlor, for the City of Mountain View, protestant.

Robert P. Berkman, for the City of Sunnyvale, protestant.

Robert M. Hawthorne and Lloyd Mason, for the Mountain View Elementary School District, protestant.

William C. Bricca, for the Commission Staff.

O P I N I O N

By Application No. 37781, filed February 24, 1956, Southern Pacific Company alleges that the grade crossing of Bernardo Avenue, in Mountain View, designated as No. E-37.4, may be closed without undue inconvenience to the public and the Commission is requested to abolish said closing by ordering its physical closing.

Case No. 5757 is an order on the Commission's own motion filed May 1, 1956, in which it is alleged that it appears that said crossing may be hazardous to the public by reason of its physical condition, lack of protective devices or other defects, and that public safety, convenience or necessity may require the abolishment of said crossing by physical closing, or the closing thereof to public use, or the alteration thereof, or the installation of protective devices.

This order instituted an investigation into the safety, maintenance, operation, use and protection of such grade crossing for the following purposes:

1. To determine whether or not said crossing is hazardous to the safety of the public.
2. To determine whether or not public safety, convenience or necessity requires the abolishment of said crossing by physical closing, or the closing thereof to public use, or the alteration thereof, or the installation and maintenance of protective devices.
3. To prescribe the terms under which any such abolishment, closing, alteration, maintenance, or installation shall be made and the proportions in which the expense thereof shall be divided between the Southern Pacific Company, the City of Mountain View, the City of Sunnyvale, and the County of Santa Clara.
4. To enter any other order or orders that may be appropriate in the exercise of the Commission's jurisdiction.

Copies of this order instituting investigation and notice of the hearing thereon and of the hearing on Application No. 37781 were served upon all interested parties. Also, notice was published in a newspaper of general circulation in the area affected. Notice was posted near the crossing of Bernardo Avenue and the Southern Pacific tracks. Public hearings were held in Sunnyvale before Examiner Rowe on August 30, 1956, and on November 13, 1956. By stipulation of counsel both matters were heard on a consolidated record. Evidence was adduced and on the latter date both matters were duly submitted for decision.

Bernardo Avenue (Crossing No. E-37.4) is a crossing of approximately 82 degrees. The crossing and approaches are 20 feet in width, are paved and in fair condition. The grade of approach on the north is approximately plus 2 per cent while that to the south is approximately plus 8 per cent. The right of way of Southern Pacific Company is paralleled by and is adjacent to Evelyn Avenue.

There are two main line high speed tracks at this location. The present protection consists of two Number 1 crossing signs and two reflectorized advance warning signs situated north and south of the railroad tracks. The speed limits of trains as set by Southern Pacific Company at the location of this crossing are: Streamlined passenger, 79 mph., other passenger equipment, 70 mph., and freight trains, 55 mph.

Visibility at the Bernardo crossing is fully obstructed from the north by orchards at a point 100 feet from the center line of the right of way. From the south visibility is hampered by the closeness of the Bernardo-Evelyn Avenue intersection. This grade crossing is the only such crossing on the Peninsula line which is not protected by an automatic crossing signal or by the presence of a flagman. During the last ten years only one serious accident has occurred at the Bernardo crossing but it resulted in a death. The staff engineers who made a study of this crossing recommend that if not closed it be protected by two crossing gates. Their specific finding was that the volume of vehicular traffic across the Bernardo Avenue crossing does not warrant keeping it open for public use. The staff, however, recommends that should the Commission find that public convenience and necessity require its retention as a public crossing, then automatic crossing gates should be installed.

The public use of this crossing is not shown to be great. A manual traffic count on June 20, 1956, between 7:00 a.m. and 7:00 p.m., reveals that on that date 170 automobiles and 39 trucks crossed the tracks. Assuming this number to be 75 per cent of a twenty-four hour day, the vehicular traffic for an entire twenty-four hour day would be 279 vehicles. During the same twelve hours and the succeeding twelve hours there were 77 train movements consisting of 37 eastbound and 40 westbound.

The Bernardo Avenue crossing is only three-tenths of a mile southeasterly, or in railroad parlance, east of the Alviso-Mountain View Road grade crossing (Crossing E-37.1). One-half mile southeasterly, or east of Bernardo is the Mary Avenue crossing (Crossing E-37.9). The Alviso-Mountain View Road crossing is protected by Crossing Gates and the Mary Avenue crossing by two No. 3 Wigwags. Gates are also in process of being installed at this latter crossing.

The crossing is located entirely within the city limits of Mountain View. The county territory of the County of Santa Clara commences at the easterly line of the right of way of Bernardo Avenue and is north of the northerly lines of Evelyn Avenue. Westerly of the county territory is the city territory of Mountain View. This city extends some 200 to 300 feet southerly of the tracks. Bernardo Avenue to the south is in the City of Sunnyvale.

South of Evelyn Avenue in the county and in the City of Sunnyvale the land is zoned for industrial use. To the north both in Mountain View and in county territory the zoning is agricultural. The railroad expert witness testified that in view of the light use of this crossing it should be closed. According to his opinion, Bernardo Avenue would have to be improved in Sunnyvale before any increase in traffic could be anticipated. A number of residents and land owners testified that they would be seriously inconvenienced if this crossing were closed because they would be required to travel various additional distances.

According to the testimony of the City Manager of Sunnyvale this crossing should remain open because Bernardo Avenue in the future will be improved and will become a major traffic artery. In his opinion, when Bernardo is connected with Arques Road the traffic over the Bernardo crossing will reach 500 vehicles per hour. He expects the growth of population in this area will justify this

estimate of use within from three to fifteen years. However, this witness did not question the staff's estimate of the present use of this crossing. By 1970 this witness expects Sunnyvale to have a population of 200,000. He expects Arques, which does not presently exist but is planned, will contribute very largely to the use of Bernardo.

The traffic engineer of Santa Clara County testified that since no part of the crossing at Bernardo is in unincorporated county territory the county should be required to bear no part of the cost of its protection. The railroad witness estimated that the installation of gates at this point would cost \$25,000. A witness representing the Farm Bureau testified that in his opinion the county should share in this cost. Also, according to this witness, the crossing should remain open for use by farmers and others. According to the testimony of the City Manager of Mountain View, the crossing should remain open but protected by gates, the cost of which should be shared 50 per cent by the railroad and the other 50 per cent should be borne equally by the county and by each of the two cities.

From the evidence of record, the Commission is of the opinion and finds that the continuance of this grade crossing is not justified by a substantial public convenience and necessity. The present public use of this crossing would not justify the expenditure of the cost of the necessary protection, which would permit its continuance with relative safety. The crossing consequently will be ordered closed to vehicular traffic. If at some time in the future, population growth and changed conditions may warrant a crossing at this point, application may be made for its opening by the proper public authority and the Commission will view the question in the light of the then prevailing situation.

O R D E R

Application therefor having been made and an order of investigation having been filed, public hearings having been held, the matter being under submission, and the Commission being fully advised,

IT IS ORDERED:

(1) That the grade crossing, over the Southern Pacific Company's tracks of its main line Coast Route in the City of Mountain View designated on the Commission records as Crossing No. E-37.4 shall be closed to vehicular traffic within sixty days after the effective date of this decision by the construction of proper barriers at the sole cost of the Southern Pacific Company to prevent the use of said crossing by vehicular traffic.

(2) That after such closing to vehicular use Southern Pacific Company shall bear maintenance costs of said crossing to be designated as E-37.4-D as a pedestrian crossing at least six feet in width between lines two feet outside the outer rails and shall continue the maintenance of the two standard No. 1 crossing signs (General Order No. 75-B) presently installed.

(3) That within thirty days after the construction required by ordering paragraph (1) hereof has been completed, Southern Pacific Company shall give the Commission written notice of compliance with the terms of this decision.

(4) That the investigation in Case No. 5757 is discontinued.

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

Dated at San Francisco, California, this 11th day of FEBRUARY, 1957

Peter E. Mitchell
 President

Raul J. Winterer

Michael J. Dore

W. H. Hart

E. J. Fox
 Commissioners