

Decision No. 50085**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion for the purpose of establishing a list of railroad grade crossings of city streets or county roads most urgently in need of separation, as contemplated by Section 189 of the Streets and Highways Code, as amended by Statutes 1957, Chapter 2091.

Case No. 5994

(List of Appearances is set forth in Exhibit A.)

O P I N I O N

Statutes 1957, Chapter 2091 added new Section 1202.5 to the Public Utilities Code, setting forth standards in apportioning costs of construction, alteration, or relocation of railroad grade separations.

The same 1957 statute amended Section 189 of the Streets and Highways Code to read as follows:

"189. On or before the first day of each year the Public Utilities Commission shall establish and furnish to the Department of Public Works a list of crossings at grade in separation of grade districts and of city streets or county roads and the tracks of any railroad corporation or corporations in the order of priority which in the judgment of the Commission justifies the elimination of the crossing at grade by the erection or construction of separation structures. The Commission shall include in such listing only such crossings which in its judgment are most urgently in need of separation, taking into consideration the possibility of financing the same under the provisions of this code."

New Section 190 provides that in each annual budget report prepared by the California Highway Commission and the Department of Public Works commencing with the 1958-1959 fiscal year, \$5,000,000 shall be set aside for allocations to grade separation projects of separation of grade districts, cities, cities and counties, and

counties on county roads or city streets as provided in Sections 189-191, of the Streets and Highways Code. Section 190 also provides, for that department, and the California Highway Commission to make allocations from this list.

The 1957 Statutes also added a new Section 191 to the Streets and Highways Code, reading as follows:

"191. Allocations for specific projects shall be deemed expenditures within the county in which the project is situated for the purpose of compliance by the department and the Commission" (California Highway Commission) "with Sections 188 and 188.4" (These sections relate to allocations of highway funds to counties.) "in the same manner as if such allocations had been expenditures upon state highways in that county."

As stated in the Order of Investigation it should be noted that allocations are to be made by the Department of Public Works and the California Highway Commission, and not by the Public Utilities Commission. The Public Utilities Commission is required, on or before the first of each year, to establish and furnish to the Department of Public Works a "priority list" of grade crossings which in the Commission's judgment justifies elimination by construction of separation structures. It should also be noted that such annual list shall be of crossings of city streets or county roads. The present investigation was ordered instituted for the purpose of establishing a list of railroad grade crossings of city streets or county roads most urgently in need of separation, as contemplated by said Section 189 of the Streets and Highways Code.

Pursuant to Commission direction the Secretary duly served copies of the Order of Investigation and of the Notices of Hearings thereon to be held in Los Angeles and San Francisco, upon each city, county and city and county in which there is a grade crossing, upon

each railroad corporation operating in the State, upon the Department of Public Works and the California Highway Commission, upon the Greater Bakersfield Separation of Grade District and upon the League of California Cities and the County Supervisors Association.

Public bodies desiring to have a particular crossing or crossings considered for inclusion in the first annual list were requested to send to the Commission within twenty days the original and one copy of a letter request for such consideration setting forth the following information as to each such crossing.

1. Identification of crossing, including name of street or road, name of railroad, and crossing number.
2. Twenty-four hour vehicular traffic volume count.
3. Twenty-four hour train count.
4. Type of separation proposed (overpass or underpass).
5. Cost estimate of project, if available.
6. Statement as to the amount of money available for construction of the project.
7. Statement as to need for the proposed improvement.

Public hearings were held in Los Angeles on November 26 and 27, 1957 and in San Francisco on December 5 and 6, 1957, before Commissioner C. Lyn Fox and Examiner John A. Rowe, Jr., evidence both oral and documentary was adduced and on December 6, 1957, the matter was duly submitted for decision. Some nominations and also additional evidence and arguments by public bodies which had previously submitted nominations were received after the matter was formally submitted. These documents have also been considered by the Commission in preparing the list. Consideration of such documents was included because the Commission in acting to carry out delegated legislative functions

is required to follow no strict procedure but is free and in fact required to use all available aids in accomplishing its objective. A total of thirty-five public bodies presented for consideration sixty-one proposed grade separations.

In compiling the list for the grade separations the Commission has included only those crossings which constitute county roads or city streets. Existing roads and streets which have been made a part of the state highway system have been excluded because the Commission is of the opinion that relevant statutes contemplate that the five million dollar fund should be expended for city streets and county roads as to which the State Highway Commission has no direct supervision or financial obligation.

In considering requests for the widening of existing overpasses or underpasses and for the construction of grade separations on new city streets or county roads, the Commission gave weight as to whether adjacent crossings at grade would be eliminated. Consideration of the prospect of grade crossing elimination is a factor which this Commission considers of major importance in determining a project on the list. It is the opinion of the Commission that the Legislature did not have in mind projects which have been previously authorized by this Commission and as to which contracts or other provisions have been made for financing with the respective railroad and other agencies.

Five major factors were considered by the Commission in determining the priority of projects. These factors were:

1. The accident potential.
2. The traffic potential, vehicular and rail.
3. The economic benefit to be derived.
4. The cost of a project.
5. The state of financial readiness of the local governmental agency concerned.

Attention is invited to the fact that in the first of the two factors cited the "potential" rather than the "actual" is considered. These studies are for the future, thus the future use of a separation is of greater importance than the current use of a grade crossing. In determining the economic benefits to be derived, consideration was given to the economic loss to vehicular traffic as well as to rail traffic by the blocking of crossings by trains. The cost of a project was weighed against the economic benefits to be derived.

At the hearing, extensive consideration was given to the state of readiness of the political subdivision or public body. This was defined in the Order of Investigation as the sixth request for information. This requirement called for a statement of the "amount of money available for project". It was felt that unless a local governmental agency concerned had taken tangible steps toward meeting its financial share of a project, little was to be gained by placing the agency high on the priority list. Since the statute provides for a sharing of cost, a political subdivision or public body which had made no provision for meeting its share of the cost of a recommended project could not be considered as having qualified for a high place on the priority list. In response to the Commission's request for "nominations of projects" the various public bodies made various showings as follows:

1. The sponsor's money was on hand or bonds or other obligations were authorized.
2. The local authorities had taken the necessary steps for performing the work but no steps other than the assurance of a public officer that money would be made available.

3. The City Council or other legislative authority had authorized the nomination and stated an intention to submit to the voters the proposition of incurring the necessary indebtedness.
4. Much preliminary engineering work had been performed but no official action had been taken by the governing body of the sponsor.
5. No preliminary plans prepared but only a rough estimate of costs and no financing steps taken but some administrative officer has given assurance that all necessary steps would be taken.

Those nominations which fall in the first category present no problem. Categories 2 to 5 present problems in progressively increasing difficulty. However, only in those instances where there appears to be, at this time, an impossibility of financing under the provisions of the Streets and Highways Code, as amended, have the projects in either of the categories been excluded from the list.

The following list is the result of a comprehensive and sincere effort to determine the relative priority of projects with necessary exclusions as above stated. The Commission was impressed with the showing made by the various public agencies as to the urgency for separation of their respective crossings. Almost all of the sixty-one crossings considered were felt to be worthy of separation in the near future. This list in referring to the various projects in each instance includes a reference to one or more grade crossing to be eliminated. This elimination is a vital and necessary part of the project and if it should be excluded such project would automatically be no longer on the list.

The list and the priority of the projects thereon is as follows:

PRIORITY LIST OF GRADE SEPARATION
PROJECTS FOR THE YEAR OF 1958

PURSUANT TO SECTION 189 OF THE STREETS AND HIGHWAYS CODE

<u>Priority No.</u>	<u>Crossing No.(s)</u>	<u>Street or Streets (existing crossings to be eliminated)</u>	<u>Street (separation)</u>	<u>Local Agency</u>
1	2B-0.3	Rialto Ave.	Rialto Ave.	City of San Bernardino
2	B-477.3	Brand/Glendale Blvd.	Brand/Glendale Blvd.	City of Glendale
3	E-31.6 E-31.9	California Ave. Page Mill Road	Oregon Ave.	City of Palo Alto
4	2-163.9 3Y-16.3	Nicolas Avenue Nicolas Avenue	Nicolas Ave.	City of Fullerton
5	E-45.6	Hedding Street	Hedding St.	City of San Jose
6	D-92.0 4-94.7	Harding Way Harding Way	Harding Way	City of Stockton
7	B-313.5	Haley St.	Beale Ave.	Greater Bakersfield Sep. of Grades Dist.
8	6A-2.76-C	Alameda St.	Alameda St.	City of Los Angeles
9	E-44.3	Brokaw Rd.	De La Cruz Blvd.	City of Santa Clara
10	E-0.13 E-0.18 E-0.23	Fourth St. New Fourth St. Jordan Alley	Fourth St.	City of San Francisco
11	B-314.4	Mt. Vernon Ave.	Mt. Vernon Ave.	County of Kern
12	4-136.0	Sutterville Rd.	Sutterville Road	City of Sacramento
13	B-207.8 2-995.6	Jensen Avenue Jensen Avenue	Jensen Ave.	County of Fresno
14	2B-11.8	Central Avenue	Central Ave.	City of Riverside
15	3-32.5 3-32.4 3-32.8 B-514.9 B-514.8 B-515.2	Towne Avenue Eleanor St. San Antonio Ave. Towne Avenue Eleanor St. San Antonio Ave.	Towne Ave.	City of Pomona
16	E-460.8	Hollywood Way	Hollywood Way	City of Burbank
17	B-610.9	Jackson St.	Oasis St.	City of Indio
18	A-10.67	Buchanan St.	Buchanan St.	City of Albany
19	B-417.8	Pearblossom Rd.	Pearblossom Road	County of Los Angeles
20	E-214.9	Twenty-Sixth St.	Twenty-Fourth Street	City of Paso Robles
21	B-461.9	Brand Blvd.	Brand Blvd.	City of San Fernando
22	2B-7.3	Iowa Avenue	Iowa Ave.	County of Riverside

O R D E R

The Commission having on its own motion instituted the above investigation, public hearings having been held and the Commission being fully advised.

IT IS ORDERED that the Secretary furnish a full, true and correct copy of this decision and order to the State Department of Public Works.

The effective date of this decision and order shall be the date hereof.

Dated at San Francisco, California, this 31st day of December, 1952.

	President
<u><i>R. L. ...</i></u>	
<u><i>M. ...</i></u>	
<u><i>R. Hardy</i></u>	
<u><i>C. L. Fox</i></u>	Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES
(all as interested parties)

Warren P. Marsden, for State Department of Public Works and California Highway Commission.
Fred R. Metheny, Sam R. Kennedy and William D. Keller, for the County of Los Angeles.
Alan G. Campbell, Roger Arnbergh, T. M. Chubb and Paul L. Garver, for the City of Los Angeles.
Roland S. Woodruff, for Greater Bakersfield Separation of Grades District.
Samuel Gorlick and Clayton W. Paige, for the City of Burbank.
Stanley B. Christensen and William Stockey, for the City of Fullerton.
Henry McClernan, William L. O. Martini and John H. Lanten for for the City of Glendale.
James D. Tennant and Thomas E. Selman for the City of Indio.
C. C. Wood for the City of San Bernardino.
Jerry Keithley for the City of Palo Alto.
Peter J. Koltnow, for the County of Fresno.
Harold J. Flannery, for the City of San Jose.
John Waggoner and William Carresse for the County of Kern.
James P. O'Drain, for the City of Richmond.
Sherman P. Duckel and George Baglin, for the City and County of San Francisco.
John C. Lilly and Monroe Langdon, for the City of Stockton.
William Roe, for the City of Paso Robles.
J. Raymond Abicht and Ray Abbey for the City of Capitola.
Robert L. Jaffe, for the City of Santa Clara.
Milton Hetzel, for the City of Sunnyvale.
Arthur C. Heckenlaible, and Robert H. Mullen, for the City of Lodi.
J. F. Martinek and William Flye for the City of Riverside.
Vern Cline for the County of Contra Costa.
Peter Koltnow, for the City of Fresno.
Elmer J. Sjostrom and James K. Gibson, for the Commission's staff.
E. L. Van Dellen for the Western Pacific Railroad Company.
Robert W. Walker and J. H. Cummins for The Atchison, Topeka and Santa Fe Railway Company.
Randolph Karr and H. S. Lentz, for the Southern Pacific Company.
E. D. Yeomans and Randolph Karr for Pacific Electric Railway Company.
Malcolm Davis and M. V. Vorkink, for the Union Pacific Company.
Graham R. Mitchell, for Brotherhood of Locomotive Engineers.
Gordon R. Forrest for the League of California Cities.

END OF EXHIBIT A