

Decision No. 56141

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation into those)
grade crossings located at the inter-)
sections of public streets in the)
City of Redwood City with tracks of)
the Southern Pacific Company's main)
line, San Mateo County.)

Case No. 5934

Randolph Kerr and William R. Denton, for the
Southern Pacific Company.

George D. Moe, for the Department of Public Works
of the State of California.

Robert J. Costello and Axel E. Christiansen, for the
City of Redwood City.

Paul N. McCloskey, for Perry Feed Company.

Franklin G. Campbell, for the Commission staff.

O P I N I O N

This Commission, upon its own motion on April 22, 1957,
ordered an investigation into the safety, maintenance, operation, use
and protection of each, all or any part of the grade crossings here-
inafter mentioned for the following purposes:

1. To determine whether or not each, all or any part of said crossings is hazardous to the safety of the public;
2. To determine whether or not public safety, convenience and necessity require the abolishment of any of said crossings by physical closing thereof to public use, or require the alteration or relocation thereof, or require the installation and maintenance of protective devices thereat;
3. To prescribe the terms and conditions under which any such abolishment, closing, alteration, relocation, or installation and

maintenance of protective devices shall be made and the proportions in which the expense thereof shall be allocated and apportioned among the Southern Pacific Company, the City of Redwood City, and the State of California (Department of Public Works);

4. To enter any other order or orders that may be appropriate in the exercise of the Commission's jurisdiction.

The grade crossings involved are as follows:

<u>Street Name</u>	<u>Crossing No.</u>
Whipple Avenue	E-24.8
Brewster Avenue	E-25.2
Broadway	E-25.4
Jefferson Avenue	E-25.6
Maple Street	E-25.7
Main Street (State No. 107)	E-25.8
Cedar Street	E-25.95
Chestnut Street	E-26.0
Spruce Street	E-26.2

A public hearing was held in Redwood City on September 26, 1957 before Examiner Rowe, at which time evidence both oral and documentary was adduced. During this hearing Perry Feed Company appeared and requested that submission of the matter be deferred and that it be allowed a reasonable time in which to show damage to said Company should the Cedar Street grade crossing be closed. Further hearing was held on November 14, 1957 in Redwood City for the purpose of permitting said Perry Feed Company to produce evidence to support its contention. On said latter date, after further evidence was adduced, the matter was duly submitted for decision upon the filing of briefs which have now been received.

After a thorough study of the problem, the Commission staff recommended the installation of automatic gates at all grade crossings

in Redwood City that are to remain open to vehicular traffic. This recommendation also provides for the closing of the Cedar Street grade crossing. There was no substantial evidence in conflict with the recommendation of the staff. The evidence introduced by protestant Perry Feed Company sought to show that other streets which would have to receive traffic excluded by the closing of Cedar Street crossing might become more congested. Except for a showing that this protestant was located on Cedar Street in the block adjacent to the crossing and would be deprived ingress and egress over said crossing and would be relegated solely to the use of streets south and west of the tracks for access to the city street system, no showing was made that protestant would suffer in any manner more than other members of the public.

Two grade crossings, Whipple Avenue and Brewster Avenue, in the City of Redwood City, are presently protected by automatic crossing gates.

The Commission finds that, as to the remaining seven grade crossings in the City of Redwood City over the main line tracks of Southern Pacific Company, the safety conditions are bad and that these conditions can be greatly improved by carrying out the recommendation of its staff. It is further found that the limited use by the public of the Cedar Street crossing does not require its continuance and that its continued use constitutes a hazard to public safety which requires that it be closed, and that such closing will greatly reduce the hazard to life and property.

Protestant Perry Feed Company failed to show by any evidence of record that it will be damaged in any amount substantially

more than any other member of the public should Cedar Street be eliminated as a grade crossing by physical closing. In exercising its authority to determine whether a grade crossing should be eliminated by physical closing, the Commission considers among other factors the actual damage to private individuals. Considering the showing made by this protestant, the Commission finds that protestant has failed to make any showing which would justify an order to continue this little-used and dangerous street as a means of traversing the Southern Pacific Company tracks. The contention of Perry Feed Company that the proceeding, so far as it involves the closing of Cedar Street, is a step in eminent domain to acquire or damage private property rights for a public use, is without merit for the reasons that (1) the Commission is herein exercising the police power of the State, and (2) the closing of this grade crossing involves the termination of a public use and in no respect is there a taking for any use or a construction of a public improvement which in any respect involves the exercise of the State's power of eminent domain.

By written agreement, Southern Pacific Company and Redwood City have determined the method and the division of the costs of the protection and the elimination of the grade crossings in said city, except as to Main Street which is a State Highway (State Highway No. 107). This agreement is found to be reasonable and is hereby approved, except that the Commission finds that the City should unqualifiedly be ordered to pay its share of costs as determined in said contract regardless of whether allocation shall or shall not be made from the grade crossing protection fund. Allocations

from said fund are made by separate proceedings independent of the present investigation. Main Street will be ordered protected in accordance with the recommendation of the staff. The costs of such protection will be divided between the Railroad and the State Department of Public Works as they shall decide by contract. However, should they fail to agree within a reasonable time, either party may apply to the Commission and the proper division will be made by supplemental order.

O R D E R

An investigation on the Commission's own motion having been instituted, public hearings thereon having been held, the Commission now being fully advised and basing its decision upon the above findings and upon the evidence of record,

IT IS ORDERED:

1. That, within thirty days after the effective date hereof, the grade crossing of the Southern Pacific Company tracks at Cedar Street in Redwood City, which crossing is designated as Crossing No. E-25.95, shall be closed by Southern Pacific Company to all vehicular and pedestrian traffic by constructing fences or other proper barriers, and the street surface shall be removed from the railroad right-of-way.

2. That, within nine months after the effective date hereof, Southern Pacific Company shall acquire, construct and install two Standard No. 8 flashing light signals supplemented with two automatic crossing gates at each of the following grade crossings:

Broadway,	Crossing No. E-25.4
Jefferson Avenue,	Crossing No. E-25.6
Maple Street,	Crossing No. E-25.7
Main Street,	Crossing No. E-25.8
Chestnut Street,	Crossing No. E-26.0
Spruce Street,	Crossing No. E-26.2,

all in the City of Redwood City.

3. That, upon completion of the project, the Southern Pacific Company is authorized to eliminate the crossing watchmen at Broadway, Main Street and the control tower located between Jefferson Avenue and Maple Street.

4. That the cost of the construction to be so performed shall be borne as follows:

- a. The construction and work at Jefferson Avenue and at Cedar Street shall be at the sole cost of Southern Pacific Company.
- b. The construction at Broadway Street, Maple Street, Chestnut Street and Spruce Street shall be borne equally by Southern Pacific Company and by the City of Redwood City. The city shall pay to the Southern Pacific Company one-half of its share thirty days after the submission by Southern Pacific Company of the final bill covering such installation and the balance on or before December 31, 1958.
- c. The construction at Main Street shall be at the cost of Southern Pacific Company and of the State of California, Department of Public Works, as shall be provided by contract between said parties, or if they fail to agree, by subsequent order of the Commission.

5. That, within thirty days thereafter, Southern Pacific Company shall give the Commission written notice of the completion of all said construction and removal and its compliance with the terms hereof as to each of said grade crossings.

6. That the cost of maintaining the protective and other devices referred to in the preceding ordering paragraphs shall be borne by Southern Pacific Company.

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

Dated at San Francisco, California, this 21st day of January, 1958.



W. E. Mitchell
President
W. L. [unclear]
Matthew [unclear]
B. Hardy
E. Lynn Fox
Commissioners