

ORIGINALDecision No. 58213

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SOUTHERN PACIFIC COMPANY relating to)
 the provisions and terms of a contract)
 between Southern Pacific Company and)
 the County of Santa Clara providing)
 for the installation of crossing pro-)
 tection at Palm Avenue and Church)
 Avenue and also the physical closing)
 of San Bruno Avenue, Miramonte Avenue,)
 Live Oak Avenue and Madrone Avenue)
 where said streets cross the railroad)
 tracks of Southern Pacific Company)
 between the stations of Perry and)
 Gilroy in the County of Santa Clara.)

Application No. 39875

Investigation into the safety, main-)
 tenance, operations, use and protec-)
 tion of crossings at grade with)
 public highways and streets and the)
 lines of the SOUTHERN PACIFIC COMPANY,)
 in the County of Santa Clara, State of)
 California.)

Case No. 6089

In the Matter of the Application of)
 the COUNTY OF SANTA CLARA, State of)
 California, for the Reopening of the)
 Crossing of Live Oak Avenue (E-67.4))
 over the Railroad Tracks of the)
 SOUTHERN PACIFIC COMPANY.)

Application No. 40447

Randolph Karr and Harold S. Lentz, for Southern
 Pacific Company, applicant and respondent.
John R. Kennedy, for the County of Santa Clara,
 applicant and petitioner.
Robert Morgan, for Santa Clara County Farm
 Bureau, the A.F.L. and C.I.O, and residents
 living near the crossings; J. Reg. Wahl, for
 the City of Morgan Hill, protestants.
George D. Moe, for the State Department of
 Public Works; and Stanley Thwardus, for the
 City of San Jose, interested parties.
Elmer Sjostrom and James K. Gibson, for the
 the Commission staff.

O P I N I O N

A petition for rehearing with respect to Decision
 No. 57317, dated September 10, 1958, in Application No. 39875 and

Case No. 6089 which ordered the protection of Palm and Church Avenues and the closing of San Bruno, Miramonte, Live Oak and Madrone Avenues, was filed on September 29, 1958 by Alfred Fantozzi and was granted October 7, 1958; a petition by the County of Santa Clara was filed on September 10, 1958, requesting that the County be granted an extension of time to close Live Oak Avenue grade crossing over the Southern Pacific tracks; and said County, also on September 23, 1958, filed Application No. 40447 requesting that said Live Oak Avenue grade crossing be reopened and that the Commission issue its order authorizing the widening of Live Oak Avenue crossing and the installation of protective devices thereat.

The rehearing was held in San Jose on March 3 and 4, 1959, before Examiner Rowe, at which hearings additional evidence was adduced and the matters were submitted upon such evidence and the evidence introduced at the previous hearings, as well as upon a stipulation of the parties entered into on the second day of rehearing which provided for affirming Decision No. 57317, except that the County's request that Live Oak Avenue crossing be left open be granted and that Application No. 40447 be also granted and that two Standard No. 8 flashing light signals as defined in General Order No. 75-B be installed as protective devices at the grade crossing of Live Oak Avenue and the Southern Pacific tracks (Crossing No. E-67.4), at the sole cost of the County of Santa Clara.

Counsel for the petitioner for rehearing did not specifically join in said stipulation. However, he stated that he approved the provisions of the stipulation and had no objection to having its terms embodied in the Commission's order on rehearing.

The Commission finds said stipulation to be supported by the evidence of record herein and that its terms should be embodied in the following order. It is further found that public convenience

and necessity require that Live Oak Avenue crossing of the Southern Pacific Company tracks remain open if properly protected and that such proper protection consists of the installation and construction of two Standard No. 8 flashing light signals and that public safety requires that such flashing light signals be installed.

O R D E R

Public hearings having been held and the above matters having been duly submitted for decision,

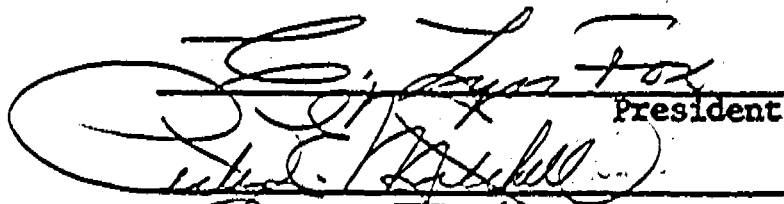
IT IS ORDERED:

1. That except as modified in the following order by paragraphs numbered 2, 3 and 4 hereof, Decision No. 57317, dated September 10, 1958, is affirmed.
2. That Live Oak Avenue grade crossing of the Southern Pacific Company tracks (Grade Crossing No. E-67.4) in the County of Santa Clara remain open to the public.
3. That the County of Santa Clara is authorized to widen Live Oak Avenue at the crossing thereof with the Southern Pacific Company tracks as provided in its Application No. 40447.
4. That within 120 days after the effective date of this order Southern Pacific Company shall install two Standard No. 8 flashing light signals, as defined in General Order No. 75-B, at the grade crossing of Live Oak Avenue and the tracks of the Southern Pacific Company being Grade Crossing No. E-67.4 at the sole cost of the County of Santa Clara. Said signals shall be constructed in compliance with Exhibit No. 36 in the record herein and shall be paid for upon bills submitted by the railroad company. All maintenance costs shall be borne by Southern Pacific Company.

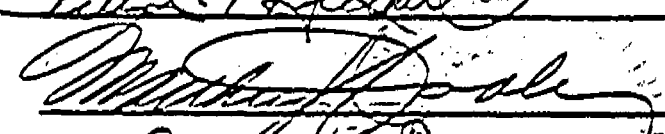
5. That within thirty days after the construction has been completed Southern Pacific Company shall give written notice of compliance with the terms of this decision.

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

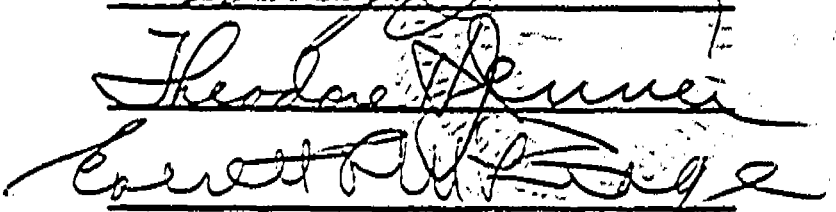
Dated at San Francisco, California, this 31st day of March, 1959.



President



Theodore J. [unclear]



Commissioners