

**ORIGINAL**Decision No. 62602

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation into the safety of the crossings at grade of the Southern Pacific Company's tracks in the City of Beaumont.

Case  
No. 7060

In the Matter of the amended application of the City of Beaumont, California, for an order authorizing the widening of an existing crossing of Beaumont Avenue over the mainline of Southern Pacific Company at said company's existing Crossing No. B-562.4, and for an order authorizing the construction of a grade separation at said Crossing No. B-562.4, Beaumont Avenue, and the mainline tracks of Southern Pacific Company and to apportion the cost thereof among applicant, Southern Pacific Company, Division of Highways of the State of California, the County of Riverside, the cities of San Bernardino, Colton, Redlands, Banning, Cabazon, Palm Springs, Indio, Coachella, Blythe, Hemet and San Jacinto and such other cities that may be affected thereby.

Application  
No. 42321

David N. M. Berk, for applicant.  
Ralph H. Prince, for City of San Bernardino;  
W. F. Peterson and Kenneth B. Husby, for  
City of Banning; Edward F. Taylor, for  
City of Redlands; C. F. Woolpert, for  
City of Indio; and Harry B. Connon, for  
City of Coachella; protestants.  
E. D. Yeomans, by James W. Obrien, for Southern  
Pacific Company; Lawrence A. Hutton, for  
City of Colton; Thomas M. Cox, for Cities  
of Hemet and San Jacinto; and George D.  
Moe, for Department of Public Works, State  
of California; interested parties.  
Sheldon Rosenthal for Commission's staff.

INTERIM OPINION

Application No. 42321 was filed by the City of Beaumont on June 2, 1960, and amended on December 6, 1960. As amended,

the application seeks authority to construct a crossing at separated grades across the Southern Pacific tracks at Beaumont Avenue (Crossing No. B-562.4) in the City of Beaumont, Riverside County, California. The city requests that the Commission allocate the costs of said crossing among the following in addition to the applicant: The Southern Pacific Company, the Division of Highways of the State of California, the County of Riverside, and the Cities of San Bernardino, Colton, Redlands, Banning, Cabazon, Palm Springs, Indio, Coachella, Blythe,<sup>1</sup> Hemet, and San Jacinto.

On February 7, 1961, the Commission issued its Order Instituting Investigation into the safety of the crossings at grade of the Southern Pacific Company's tracks in the City of Beaumont (Case No. 7060), and ordered that the hearing thereon be consolidated with the hearing in Application No. 42321.

A prehearing conference was held in Los Angeles on May 15, 1961, and consolidated hearings were held in Beaumont on June 13 and 14, 1961. The appearing parties, other than the applicant, the Southern Pacific Company, and the Commission staff, either orally or in writing, moved that the application be dismissed as to them for various reasons. It developed at the hearing that the applicant had not served copies of traffic counts on the parties as required by the Commission, and the matter was placed off calendar. At that time all parties were advised that the parties opposing contributions could file written motions to dismiss and the applicant could file its replies thereto.

In accordance with said permission, each of the cities, other than applicant, filed its motion to dismiss the application as to it. The Department of Public Works (joined as the Division of Highways of the State of California) filed its Special Appearance and Motion of State of California, Department of Public Works, to Dismiss the Department as a Party to this Proceeding.

<sup>1</sup> Blythe subsequently dismissed by mutual agreement between applicant and respondent city - Decision No. 62208, dated June 27, 1961.

On July 31, 1961, the City of Beaumont filed its brief in opposition to the various motions.

The general tenor of the motions by the cities is that this Commission does not have the jurisdiction to require them to contribute to the cost of crossings in the City of Beaumont. A secondary point raised by some cities is that they have no funds to pay any share of the costs and no method of raising funds.

The City of Beaumont urges that the political entities named as defendants are all affected by the crossing and hence should help pay the cost of a grade separation if one is required.

We are of the opinion and find that we have the jurisdiction to require the cities here named as defendants to contribute to the costs of said grade separation if such should be authorized and the evidence should show that they are affected by said grade separation. Although the proposed separation is entirely in the City of Beaumont and was proposed by it, we cannot say on the present state of the record that the cities named as defendants are too remote from the crossing at Beaumont Avenue to be affected by said crossing within the meaning of the law. The City of Beaumont will be given the opportunity at the continued hearings in these matters to show whether such defendant cities, or any of them, are affected by said crossing and, therefore, should be required to contribute to the costs thereof. The motions to dismiss as to each of said cities will be denied at this time.

The County of Riverside has not joined in this motion, although it was given notice of the hearings herein and has been served with copies of the pleadings.

The Department of Public Works of the State of California, by its special appearance, urges that the Commission lacks jurisdiction over it in the proceeding. We are of the opinion and find

that this Commission has the jurisdiction to apportion some of the costs of the grade separation of Beaumont Avenue, if authorized, against the Department of Public Works. Whether or not the Commission does so will necessarily depend on whether it finds, after a hearing, first, that a separation of grades is required, and, secondly, that the department is affected by the grade separation construction.

The motion to dismiss the application and the investigation as to the Department of Public Works will be denied.

INTERIM ORDER

The motions referred to in the opinion herein having been filed, the Commission having considered said matters,

IT IS ORDERED:

1. That the motions to dismiss Application No. 42321, as to them, made by each of the Cities of San Bernardino, Colton, Redlands, Banning, Cabazon, Palm Springs, Indio, Coachella, Hemet and San Jacinto, be, and they hereby are, denied.

2. That the motion of the State of California, Department of Public Works, to dismiss the department as a party to the proceedings be, and it hereby is, denied.

IT IS FURTHER ORDERED that the effective date of this order shall be five days after the date hereof.

Dated at San Francisco, California, this 25th day of SEPTEMBER, 1961.

Chertoff

President

S. L. Fox

George G. Hoover

Frederick B. Halaloff

Peter E. Mitchell  
Commissioners  
-4- necessarily absent, did not participate in the disposition of this proceeding.