

Decision No. 62673**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the safety, use,
 and protection of the following
 crossings of Southern Pacific Company
 in and near the City of San Jose,
 County of Santa Clara:
 Snell Road - Crossing No. E-56.7
 Edenvale Avenue - Crossing No. E-57.5
 Chynoweth Avenue - Crossing No. E-58.2
 Cottle Road - Crossing No. E-58.6

Case No. 7195

Randolph Karr and Harold S. Lentz, for Southern
 Pacific Company; George D. Moe, for State
 Department of Public Works; County of Santa
 Clara, by John R. Kennedy; Ferdinand P. Palla,
 by Donald C. Atkinson, for City of San Jose;
 respondents.

Joseph Zukin, Jr., for Frontier Village; D. D.
Wight, in propria persona; interested parties.
Elmer Sjostrom, for the Commission staff.

INTERIM OPINION

Case No. 7195 is an investigation on the Commission's own
 motion into the safety, maintenance, operation, use, and protection
 of each of four grade crossings over the Southern Pacific Company's
 mainline Coast Route tracks in the City of San Jose. Said crossings
 are designated as follows:

Snell Road - Crossing No. E-56.7
 Edenvale Avenue - Crossing No. E-57.5
 Chynoweth Avenue - Crossing No. E-58.2
 Cottle Road - Crossing No. E-58.6

The purposes of the investigation, as stated in the
 Commission's Order Instituting Investigation dated October 3, 1961,
 are:

1. To determine whether any of such crossings
 are or will be hazardous to the safety of the public.

2. To determine whether public safety, convenience, and necessity require the immediate abolishment of the Edenvale Avenue crossing by physical closing thereof, or require alteration of, or installation and maintenance of, additional protective devices at any or all of the crossings hereinabove listed.

3. To prescribe the terms and conditions under which any such closing, alteration, or installation of protective devices shall be made, and the allocation and apportionment of expense thereof between Southern Pacific Company, City of San Jose, County of Santa Clara or the Division of Highways of the Department of Public Works.

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

By the aforesaid order Southern Pacific Company, City of San Jose, County of Santa Clara and the Division of Highways of the State Department of Public Works are made respondents.

Public hearing of the matter was held before Commissioner Frederick B. Holoboff and Examiner Carter R. Bishop at San Jose on October 9, 1961. Evidence on behalf of the Commission's staff was adduced through a senior transportation engineer. A representative of Frontier Village, a corporation, testified regarding the position of that company relative to the proposed closing of the Edenvale Avenue crossing. At the close of the hearing, the question as to whether public safety, convenience and necessity require the immediate abolishment of the Edenvale crossing was taken under submission. Case No. 7195, insofar as it relates to the remainder of the subjects under investigation, was adjourned to a date to be later set.

The record shows that the Commission, by Decision No. 62375, dated August 1, 1961, in Application No. 43583, authorized City of San Jose to construct Branham Lane (Crossing

No. E-57.3) at grade across tracks of Southern Pacific in San Jose. Said decision provided that upon the opening of the Branham Lane crossing, Edenvale Avenue Crossing No. E-57.5 be abolished by physical closing and barricading by Southern Pacific. The Branham Lane crossing has not yet been constructed.

All of the crossings here in issue are adjacent to U. S. Highway 101 (Monterey Road), which parallels the aforesaid mainline tracks of Southern Pacific in the area in question. The proposed Branham Lane crossing will provide access from Monterey Road into Frontier Village, a recreation and amusement project now being completed. Direct access to the Village is now had only via the Edenvale Avenue crossing. This crossing is adjacent to the entrance to the Village, and is located about two-tenths of a mile southeast of the proposed Branham Lane crossing. Less direct access to the Village is available via the Snell Avenue, Chynoweth Avenue and Cottle Road crossings.

Traffic over the Edenvale crossing is currently quite light. It is expected, however, that when Frontier Village is opened to the public, which opening is now scheduled for October 18, 1961, the volume of traffic over said crossing will increase tremendously. The Village parking area will accommodate 700 cars and it is anticipated that on peak days as many as 5,000 people will visit the Village. The volume of traffic over the Edenvale crossing will be even more greatly augmented when a drive-in theater, now under construction on Edenvale Avenue beyond the Frontier Village property, is opened for business. The theater is designed to accommodate 1,100 cars.

According to the testimony of the engineer, the Edenvale crossing is a hazardous one, and not at all suitable for the volume

of traffic which will be generated by Frontier Village and the drive-in theater. Edenvale Avenue is a narrow, two-lane, paved road, which, after crossing the double-track mainline of the Southern Pacific, forms a dead-end junction with Monterey Road. The latter is a three-lane highway, with a maximum speed limit of 55 miles per hour. The maximum speeds on the railroad at this crossing are 79, 60 and 55 miles per hour for passenger trains, light engines and freight trains, respectively.

The protection afforded at the Edenvale crossing consists of two standard No. 1 ("cross buck") signs. The motorist is also confronted with a boulevard stop sign before crossing the tracks preparatory to entering the highway. The view of the tracks for motorists on the highway is partially obscured by a row of trees planted between said highway and the railroad property. The view of approaching trains is also partially obscured for motorists on Edenvale Avenue by a steel fence and other obstructions. The closeness of the railroad tracks to the highway, the record shows, will permit the storage, during the passing of a train, of not more than two vehicles in the Edenvale crossing approach between the highway and said tracks.

The high speeds of the highway vehicles and of the trains, the obstructed view of approaching trains, the lack of storage space for cars waiting to cross and the inadequate crossing protection all combine, the engineer testified, to render the Edenvale crossing exceedingly hazardous, and particularly for the heavy volume of traffic which will move over it when Frontier Village is in operation. The recommendation of the staff, he stated, is that the Edenvale crossing be closed and that this be done as soon as

possible, in view of the fact that the Village will be open for business within a few days.

The record shows that the crossings at Snell Avenue and Chynoweth Avenue have standard No. 8 flashing, "two-train" crossing signals, that the Cottle Road crossing, consisting of four lanes, is provided with standard No. 8 flashing signals and automatic crossing gates, that all three crossings have more storage space for cars waiting to cross the tracks, and are wider than the Edenvale crossing. In the opinion of the engineer, these three alternate crossings could safely handle the anticipated heavy volume of traffic when Frontier Village and the drive-in theater are opened, without the necessity of providing additional protection.

The representative of Frontier Village stated that his company does not protest the closing of the Edenvale crossing. He added that the Village requests the cooperation of all parties concerned in proceeding with the establishment of the Branham Lane crossing.

It is clear from the record that the Edenvale crossing will be extremely hazardous for the heavy volume of vehicular traffic with which it will be shortly burdened. It appears, moreover, that several months may elapse before the proposed Branham Lane crossing will be completed. It further appears that neighboring crossings, hereinbefore specified, can, pending construction of the Branham crossing, adequately handle the Frontier Village and drive-in theater traffic without additional protection. Upon careful

consideration we hereby find that public safety, convenience and necessity require that the Edenvale Avenue crossing (No. E-57.5) be closed and that this be accomplished prior to the opening of Frontier Village. In view of the urgency of the matter the order which follows will be made effective as of the date hereof.^{1/}

INTERIM ORDER

Based upon the evidence of record and upon the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED that:

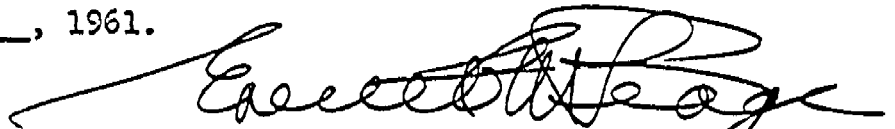
1. The grade crossing in the City of San Jose over the tracks of the Southern Pacific Company's mainline at Edenvale Avenue (designated on the Commission's records as Crossing No. E-57.5) shall be closed by Southern Pacific Company to all vehicular and pedestrian traffic by the construction of fences or other proper barriers, said closure to be accomplished at the earliest possible date, but in no event later than the date immediately prior to that on which Frontier Village will open for business (which opening is now scheduled for October 18, 1961).

^{1/} At the outset of the hearing counsel for respondent Southern Pacific Company moved that no evidence be received relative to improvement of, or additions to the existing protection at any of the crossings included in the instant investigation until United California Theaters (owners of the drive-in theater hereinabove mentioned) should be brought into action as a party to the proceeding. The motion was taken under submission. Disposition of it will be made in a subsequent order since the motion did not relate to the issue of whether the Edenvale crossing should be closed.

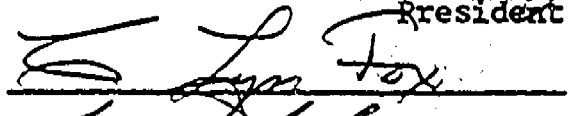
2. Within five days thereafter Southern Pacific Company shall give the Commission written notice of the completion of said closure.

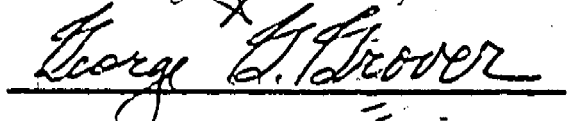
The effective date of this order shall be the date hereof.

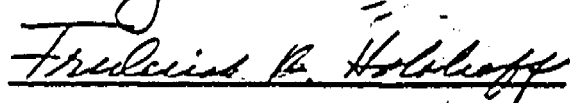
Dated at _____, California, this _____ day of _____, 1961.



President







Commissioners