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**ORIGINAL**

Decision No. 67800

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the County of Santa Clara, State of California, for an order authorizing construction of a grade separation crossing of the tracks of the Southern Pacific Company in connection with the construction of San Tomas Expressway in Santa Clara County.

Application No. 46261  
(Filed March 4, 1964)

Gerald J. Thompson, for applicant.  
Myron D. Hawk, for the City of Campbell, protestant.  
Harold S. Lentz, for Southern Pacific Company,  
interested party.  
William L. Oliver, for the Commission staff.

INTERIM OPINION

By this application the County of Santa Clara requests authorization to construct a grade separation to be known as San Tomas Expressway Overhead No. 2 over the tracks of Southern Pacific Company. This crossing will be identified on the company's records as L-51.7-A.

Public hearing was held on August 11, 1964 in San Jose before Examiner Rowe, at which time the matter was submitted. The issue of whether Camden Avenue should also be closed has been set for hearing September 15, 1964, in San Jose.

The County introduced evidence of public need for the separated crossing and the closure of the grade crossing at Sunnyoaks. There also was testimony supporting a finding of urgency, because this project has a high priority on the Commission's list of separations entitled to State funds. In order for

this construction to share in such funds, this authorization must be obtained before October 1, 1964.

The following stipulation was agreed to by all parties present at the hearing:

"MR. THOMPSON: It is hereby stipulated and agreed between the County of Santa Clara, the Southern Pacific Company, and the City of Campbell, that if an interim order be entered authorizing the construction of a grade separation and closure of the crossing of Sunnyoaks, the question of allocation of costs is to be in accordance with an agreement to be made by the County of Santa Clara and Southern Pacific Company,

"It is stipulated that the matter of the closure of the Camden Avenue crossing be postponed to a future hearing at a later date so that all interested parties may be heard.

"It is stipulated that the proposed construction and closure of Sunnyoaks shall take place whether or not the Camden Avenue crossing is closed or not.

"The County and City of Campbell stipulated that if after hearing the Commission decides in favor of the closure of Camden Avenue crossing, they will accept said condition as a condition to authorization of the construction of the grade separation. Whether Camden Avenue crossing is closed or not will not affect the construction of the grade separation and closure of Sunnyoaks crossing.

"And this stipulation has been agreed to by the three parties involved, the Southern Pacific Company, the County of Santa Clara and the City of Campbell."

Based upon the above evidence and the stipulation the Commission finds that:

1. The separation of grades proposed by the County of Santa Clara is practicable and is required by public safety and convenience.
2. After this separation is completed there will be no need for the grade crossing of Sunnyoaks and Southern Pacific Company's tracks (L-51.8).

The Commission concludes that this grade separation should be authorized, and that the grade crossing of Southern Pacific Company's tracks at Sunnyoaks should be closed by the erection of physical barriers.

INTERIM ORDER

IT IS ORDERED that:

1. The County of Santa Clara is hereby authorized to construct a crossing at separated grades over the track of Southern Pacific Company, near Campbell, Santa Clara County, at the location and substantially as shown by map (Exhibit B) attached to the application, to be identified as Crossing No. L-51.7-A, and the grade crossing at Sunnyoaks, L-51.8, shall be closed by the erection of adequate barriers upon completion of the grade separation. Construction and maintenance expense shall be borne in accordance with an agreement entered into between the parties relative thereto, and copy of said agreement, together with plans of said crossing approved by Southern Pacific Company, shall be filed with the Commission (prior to commencing construction). Should the parties fail to agree, the Commission will apportion the cost of construction and maintenance by further order. Clearances shall conform to the provisions of General Order No. 26-D.

2. Within thirty days after completion pursuant to this order applicant shall so advise the Commission in writing. This authorization shall expire if not exercised within three years, unless time be extended or if conditions are not complied with.

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

Dated at San Francisco, California, this 1st day of September, 1964.

Frederick B. Hallock  
President

Carol A. Rags

George E. Hoover

William L. Conrad

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Commissioners

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