

ORIGINALDecision No. 69497

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the safety, maintenance,)
 operation, use, and protection of the)
 following crossings of Southern Pacific)
 Company in the City of Guadalupe, County)
 of Santa Barbara: Crossing No. E275.8,)
 Crossing No. E275.9, Crossing No. E276.0,)
 and adjacent trackage.)

Case No. 7405

Randolph Karr and Harold S. Lentz, for Southern Pacific Company; Shipsey and Scitz, by John L. Seitz and Gerald W. Shipsey, for the City of Guadalupe; Robert K. Cutler and Stanley C. Hatch, for the County of Santa Barbara, respondents.

Richard D. Gravelle and Bernard A. Peeters, for the Commission staff.

O P I N I O N

This investigation was instituted by the Commission on its own motion on July 24, 1962, into the safety, maintenance, operation, use and protection of the following crossings, at grade, over Southern Pacific Company's tracks in the City of Guadalupe:

Eleventh Street (Crossing No. E-275.8)

Tenth Street (Crossing No. E-275.9)

Ninth Street (Crossing No. E-276.0)

Public hearings were held in Guadalupe, before Examiner Fraser, on November 29 and 30, 1962, July 16 and 17, 1963, and March 4, July 7, 8 and 9, 1964. Four days of hearing were devoted to the motions of the Southern Pacific Company to bring in the Guadalupe Joint Union School District, the County of Santa Barbara and the County of San Luis Obispo as additional necessary and proper parties. The Commission issued an order on December 17, 1963 which brought in the County of Santa Barbara as an additional respondent. The matter was submitted on October 14, 1964 after the filing of concurrent opening and closing briefs.

Evidence was presented by the Commission staff, the Southern Pacific Company, the City of Guadalupe and the County of Santa Barbara.

The Crossings

Guadalupe is located in Santa Barbara County on State Route 1 approximately 26 miles south of San Luis Obispo and 8 miles west of Santa Maria. It has an area of approximately 0.69 square miles and a population of 2,614. It is a very old community but was not incorporated as a city until 1946. Guadalupe is approximately bisected in a north-south direction by the Coast Route of the Southern Pacific Company.

The tracks enter the north city limit of Guadalupe after passing over the Santa Maria River, which is also the county boundary (southern limit of San Luis Obispo County and northern limit of Santa Barbara County). The rails run down the center of Pacheco Street for 0.42 mile, first crossing Twelfth Street, which is blocked at the tracks and extends only two blocks in each direction, then crossing Eleventh, Tenth, and Ninth Streets. Pacheco Street ends 575 feet south of the Ninth Street intersection, and the tracks then enter and proceed for 4,000 feet through an area best described as a large vacant lot before crossing West Main Street (State Highway 166) and the southern city limit of Guadalupe. Fourth Street is located 1,600 feet south of the end of Pacheco Street in the middle of the vacant lot. It is blocked and vehicles cannot cross the tracks on this street. Thus, Guadalupe has only four streets which cross the tracks: three streets (Ninth, Tenth, and Eleventh) in the downtown area and West Main Street at the southern city limit, 4,500 feet south of the other crossings. The three downtown crossings are 466 feet apart, with Ninth Street less than 1/5th of a mile (932 feet) from Eleventh Street. Pacheco Street is partially paved and is used

between Twelfth and Ninth Streets, as well as south of Ninth Street by residents on Pacheco.

Eleventh Street

This street is the farthest north of the three downtown crossings. It is 44 feet wide and the approaches are level on both sides. There are a main line track and an extra siding track, in addition to which a spur track extends out of the crossing to serve a shipper located east of the rail line. The street extends three blocks west of the tracks and terminates at an irrigated field on the outskirts of town. A county park (Le Roy Park) is located at the western terminus of Eleventh Street. The street proceeds easterly from the tracks four blocks to the city limit, then extends approximately two miles into the farmland surrounding Guadalupe and turns south for two miles, where it intersects State Route 166; the State highway connects Santa Maria with Guadalupe and ends three miles west of Guadalupe (Exhibit No. 1). All parties agree that this crossing should remain open.

Tenth Street

This street is 42 feet wide. The approach is level on the west and is a 3 percent ascending grade on the east. The street crosses two tracks; the main line and a siding. Tenth Street terminates at the edge of a plowed field three blocks west of the crossing and at the Guadalupe School one block east of the crossing. All parties agree that this crossing should remain open.

Ninth Street

The width of the street varies from 46 feet on the east where there is a 5 percent ascending approach, to 28 feet west of the tracks, where the approach is level. The street crosses a main line and siding track and provides the principal route for school children proceeding to or from school. The railroad has maintained

a watchman at this crossing since 1949. He is on duty from 8:00 A.M. to 4:00 P.M., Monday through Friday, during the school year. The street ends three blocks west of the crossing at a vacant lot and one block east of the crossing at the Guadalupe School. The Commission staff and the Southern Pacific Company recommended that this crossing be closed and that a raised walkway be provided for pedestrians. The City of Guadalupe requested that the crossing remain open.

Protection at each of the three crossings consists of one Standard No. 3 wigwag and two Standard No. 1 reflectorized crossing signs. Each crossing also has artificial illumination. The crossing signals are actuated only by main line movements. Vehicle speeds over the crossings are relatively slow. The maximum train speeds allowed in the timetables are 50 miles an hour for passenger trains and 40 miles an hour for freight trains. The 24-hour train count is 6 through passenger trains, 19 through freight trains and 10 movements on the siding track.

Position of the Commission staff

A Commission transportation engineer testified as follows: A 24-hour traffic count taken in November 1962 disclosed that 682 vehicles used the Ninth Street crossing, 591 vehicles used the Tenth Street crossing and 1,793 vehicles used the Eleventh Street crossing; the crossings also provide access to the Guadalupe School, which handles children from kindergarten to the eighth grade and enrolls children from a part of San Luis Obispo and Santa Barbara Counties in addition to the City of Guadalupe; the total enrollment is 924 pupils, with 355 living west of the tracks, 424 east of the tracks and an additional 145 outside of the city limits; teachers and parents direct the children to cross at Ninth Street, which is protected by

the watchman; as a result, out of the 256 children who walk or bicycle over the crossings, only 6 percent use Tenth or Eleventh Streets.

The staff Exhibit No. 7 filed on November 30, 1962 recommended that the Tenth Street crossing be closed. During rebuttal the staff witness testified as follows: The Tenth and Eleventh Street crossings should be improved and left open with proper automatic warning signals and gates; the Ninth Street crossing should be closed and a pedestrian overpass or bridge should be constructed at the Ninth Street crossing to enable pedestrians to pass safely at all times without regard to train movements; the closing of Ninth Street will eliminate the watchman at an annual salary of \$4,190.22 and will eliminate the \$244.00 annual cost of maintaining the crossing; if the total sum of \$4,434.22 is capitalized at 5 percent ($\$4,434.22 \times 20$ years) as provided in Section 1202.5(e) of the Public Utilities Code, the Southern Pacific Company will save a total of \$88,684.40 if the Ninth Street crossing is closed.

All of the final staff recommendations are given below. The 1964 recommendations differ in many respects from those included in the staff's 1962 exhibit.

1. Ninth Street (Crossing No. E-276.0)

Close and barricade the crossing.

2. Tenth Street (Crossing No. E-275.9)

Install two Standard No. 8 flashing light signals equipped with automatic gates; make necessary repairs to the street; paint clearance lines and RXR's on the pavement; and patch the paving along rails of both tracks.

3. Eleventh Street (Crossing No. E-275.8)

Install two Standard No. 8 flashing signals equipped with automatic gates; patch the paving along rails and repair timber header; install reflectorized advance warning sign east of the crossing; paint clearance lines and RXR's on the pavement.

4. A pedestrian overhead crossing should be constructed over the tracks at Ninth Street and, in conjunction therewith, a chain link fence should be installed along the west side of the main line track at clearance sufficient to connect with the depressions or fences on either side of Ninth Street.

5. In view of the savings in expenses which the railroad will realize as the result of the removal of the watchman at Ninth Street and the closing of the grade crossing at Ninth Street, installation and construction costs (up to the amount of such savings) should be assessed to the railroad for the following:

- A. Installation of Standard No. 8 flashing light signals equipped with automatic gates and signal circuits,
- B. Construction of a pedestrian overhead bridge,
- C. Installation of fence,
- D. Repair of pavement and timber heading in crossing area between lines two feet outside rails.

If total installation costs exceed savings, such excess should be apportioned 50 percent to the railroad and 50 percent to public agencies.

6. Maintenance costs should be assigned 100 percent to the railroad.

7. The city should pay for:

- A. Installation of advance warning sign,
- B. Painting of clearance lines and EXR's on pavement.

8. Physical construction of the following should be by the city:

- A. Pedestrian overpass at Ninth Street,
- B. Fencing at Ninth Street.

The staff witness estimated that the pedestrian overpass will cost \$27,000 to construct and that the cost of upgrading the protection at Tenth and Eleventh Streets will be \$37,000 according to an estimate prepared by the Southern Pacific Company. These amounts total \$64,000.

Commission staff counsel in brief argues that the Southern Pacific Company should pay all costs on the three crossings until the estimated saving of \$88,684.40 is exhausted plus any additional sum that may be apportioned to the Southern Pacific Company due to the presence of railroad facilities as provided in Section 1202.5(b) of the Public Utilities Code. If the construction and installation costs exceed the savings to the railroad, the staff brief recommends that the excess be apportioned 50 percent to the railroad and 50 percent to the public agencies.

Position of City of Guadalupe

The mayor of Guadalupe testified as follows: He is in the restaurant business and has been the mayor of Guadalupe for the last fourteen years; the mayor and city council strongly urge that all three crossings in Guadalupe be left open; if any are closed it will affect the ability of the fire and police departments to get from one side of town to the other and will inconvenience many of the residents of Guadalupe.

A member of the city council testified that the population of Guadalupe is in four residential areas with about half of the people living on each side of the track. He testified further that the city has only one man employed in its street department and has no department of public works. The city has no personnel to supervise or perform extensive street repairs or construction.

The city clerk testified that she is the only clerical help the city employs, and that most of the money the city has is designated for a particular use such as a sewer project or street improvement. She further testified that the city maintains a general fund out of which the expenses are paid, totaling \$24,000 in July 1964 at the time she testified (Exhibit No. 14); if the general fund is exhausted the city temporarily draws checks on its

reserve fund until the general fund is reconstituted through the payment of taxes and fees. She stated the reserve fund consists of surplus funds which are not needed and remain in the general account at the end of the fiscal year; the reserve fund was about \$35,000 when she became city clerk in 1958, but increasing expenses had reduced it to \$15,000 (in July of 1964).

The city fire and police chiefs testified that both Ninth and Tenth Streets are occasionally blocked at the same time by a train parked on the siding; the crossing at Eleventh is only blocked when a train is passing over it. Both men stated their departments need all of the crossings. Each department has only one vehicle, and both departments use the same building, located west of the tracks, for a station house. If one or more of the streets are closed, it will make it more difficult for a police or fire vehicle to get to the point where it is needed.

The brief filed by the city urges that all crossings be left open and suggests that the Southern Pacific Company pay all necessary costs to improve the crossings and provide automatic warning signals and gates.

Position of Santa Barbara County

The county presented no witnesses and placed only four exhibits (16 through 19) in evidence. The exhibits show that Le Roy County Park in the City of Guadalupe was originally deeded (in 1831) to three trustees to be held in trust for the use and enjoyment of the residents of the City of Guadalupe, that it is still so held and that the city manages and controls said park.

The county in its brief argues that the Commission has no jurisdiction to require the county to pay any costs because it is not an "affected" political subdivision under Section 1202(c) of the

Public Utilities Code. The county counsel made a motion during the proceeding that the county be dismissed as a party.

Position of Southern Pacific Company

The Southern Pacific Company presented extensive testimony and documentary evidence. The railroad agreed with the staff on the work to be done and the protection to be provided. A signal engineer testified that it will cost \$18,500 per crossing to equip each of the crossings at Tenth and Eleventh Streets with the recommended gates and automatic protection; if Tenth Street is closed, it will cost \$42,000 (\$21,000 per crossing) to install automatic protection and gates at the Ninth and Eleventh Street crossings. The local trainmaster testified that local switching movements and the parking of trains on the siding to allow other trains to pass will block only Ninth and Tenth Streets; Eleventh Street is never closed unless a through train is moving across the intersection or a train is moving on the spur track.

The Southern Pacific Company was not permitted to introduce evidence on the cost and history of maintaining signal protection at railroad crossings. The railroad took exception and presented an oral and written offer of proof.

The Southern Pacific Company also recommends that Ninth Street be closed and provided with a pedestrian overpass. It will pay for the work to be done at Ninth Street until the money saved by the elimination of the watchman is exhausted. It then suggests that any excess expense be allocated 10 percent to the railroad and 90 percent to the public agencies involved. The railroad argues that the separation of the pedestrian way from the railroad is a grade separation under Section 1202.5 of the Public Utilities Code and that the costs of constructing the pedestrian overpass must be

allocated according to this section of the Code. The railroad argues that the savings from the elimination of the watchman can be applied only to the Ninth Street crossing, which must be considered by itself as a grade separation. The railroad considers each of the other crossings as a separate entity and recommends that the cost of installing the automatic signal protection at Tenth and Eleventh Streets should be borne 50 percent by the railroad and 50 percent by the public agencies involved. The railroad does not favor the theory of the Commission staff which considers all three crossings as a single project.

Discussion

A grade separation requires that the road or highway intersecting the railroad be physically separated from the tracks and constructed so as to carry traffic either under or over the railroad right-of-way. Southern Pacific Company correctly argues that the proposed bridge for pedestrians at Ninth Street is a grade separation. "Highway" is defined as ". . . a road or way on land or water that is open to public use as a matter of right whether or not a thoroughfare: a public road or way (as a footpath, road, or waterway) . . ." Webster's Third New International Dictionary, 1961. (Cf. City of Long Beach v. Payne, 3 Cal.2d 184 (1935).) A railroad crossing which has been closed to vehicular and pedestrian traffic by barricades and a fence is converted to a grade separation by the construction of an elevated walkway to enable pedestrians to cross the railroad right-of-way.

The railroad maintains that each of the three crossings is a separate entity and that the savings realized by the railroad on Ninth Street can be used only at Ninth Street. We disagree. In the past, when the facts have warranted such treatment, this Commission has treated multiple grade crossings as a unit for the purpose of determining adequate crossing protection and the apportionment of

costs. The facts adduced in this case lead us to treat the three crossings involved herein as a unit. Southern Pacific Company's own witness testified: "Well, these crossings, of course, are approximately 450 feet apart, so that a train approaching Ninth Street for instance, from the south, is operating the signals at all three crossings before he arrives at Ninth Street. You can see from that that there is quite a bit of material or circuiting that is common to all three crossings. You get the crossings further apart, this problem of common facilities becomes less and less." The public utilizes the three crossings almost interchangeably. An individual motorist can use all three crossings in less than a minute. If one crossing is blocked, the traffic normally using the closed crossing can proceed over one of the other two without appreciable delay. We find that the railroad for some purposes, and the public for most purposes, treat these crossings as an entity; comparable treatment is reasonable herein, and we shall require the savings realized by the railroad from the closing of one crossing to be used to offset improvements on the other two crossings.

The County of Santa Barbara argues that it cannot be affected by a crossing located within the city limits of an incorporated municipality and that it is a basic rule of law that an incorporated municipality is solely responsible for streets located within its boundaries. Public utilities Code §1202(c) provides that this Commission may prescribe the proportions in which the expense of construction of grade crossings shall be divided between the railroad and the public entities "affected". We find that the county is affected and should be partially responsible for the construction of necessary improvements at a railroad crossing where an interstate railroad intersects a city street which provides an entry to a county park two blocks west of the crossing and enters

unincorporated area of the county three blocks east of the crossing, and where the municipality involved is so small in area (less than a square mile) and population (less than 2,800) that it is a type of town which is normally not incorporated and which requires occasional county assistance on school districts, fire or police protection districts, street layout or repair, or other municipal functions.

Based upon the evidence herein, we find that:

1. The Ninth Street crossing is dangerous to public health and safety and should be closed; its vehicular traffic can be easily accommodated by the Tenth and Eleventh Street crossings.

2. Public health, convenience and safety require that a pedestrian bridge be constructed over the Ninth Street crossing before it is blocked and that the watchman should remain at the crossing until the bridge is completed and in use. The crossing should be blocked to pedestrians and vehicles as recommended by the staff, after the bridge is in operation.

3. Public health, convenience and safety require that the signal protection at the Tenth and Eleventh Street grade crossings in the City of Guadalupe be Standard No. 8 flashing light signals equipped with automatic crossing gate arms.

4. (a) The railroad crossing at Ninth Street, which is to be closed to vehicular and pedestrian traffic by barricades and a fence, will be converted to a grade separation upon the construction of an elevated walkway to enable pedestrians to cross the railroad right-of-way.

(b) The railroad crossings at Ninth Street, Tenth Street, and Eleventh Street, in the City of Guadalupe, are the only downtown crossings. The crossings are located on three parallel streets 466 feet apart and all three streets lead to a school one block east of the crossings which enrolls children from the city and parts of two

counties. A train approaching from either direction will activate the signals at all three crossings prior to its arrival at the first crossing. There is electrical circuitry that is common to all three crossings. The closing of one crossing will force all of the vehicular traffic formerly using the closed crossing to use the remaining two crossings. The relationship of the three crossings is such as to render it reasonable and equitable to treat them together for the purpose of prescribing crossing protection and apportioning the cost thereof.

(c) It is reasonable and equitable to apply the sum saved by the railroad from the elimination of the cost of maintaining crossing protection at Ninth Street to the cost of installing automatic crossing protection at the other two crossings.

5. (a) The grade separation project herein contemplated does not clearly fall within the provisions of any one of the categories in subdivisions (a), (b), (c) or (d) of Public Utilities Code Section 1202.5. Pursuant to subdivision (c) of said section, we specifically find as a fact that the project herein contemplated does not bear a relation to subdivisions (a), (c) or (d) of said section, but does bear a relation to subdivision (b) thereof in that the separation herein ordered has been initiated by the Commission.

(b) The closing of the Ninth Street crossing will eliminate the watchman there, whose annual salary is \$4,190.22, and will eliminate the \$244 in other annual costs of maintaining the crossing; this total sum of \$4,434.22 per annum constitutes the direct and computable savings to the railroad from the elimination of the cost of crossing protection at the Ninth Street crossing, as contemplated by subdivision (e) of said section 1202.5; capitalized at 5 percent it amounts to \$88,684.40.

6. It is fair and reasonable, and the public safety, convenience and necessity require, that:

(a) The \$88,684.40 saved by Southern Pacific Company due to the elimination of crossing protection at the Ninth Street crossing should first be applied to pay all costs of the closing of the Ninth Street crossing and of the construction of the fence and pedestrian bridge there.

(b) The balance of such savings, if any, should be applied equally to the costs of automatic signal protection at the Tenth Street crossing and the Eleventh Street crossing.

7. It is fair and reasonable, and the public safety, convenience and necessity require, that the cost of constructing automatic signal protection at the Tenth Street crossing, after deducting any monies applied pursuant to Finding No. 6(b), should be apportioned 50 percent to the railroad and 50 percent to the City of Guadalupe.

8. The County of Santa Barbara is affected by the crossing at Eleventh Street, which extends out of the city limits and connects with a State highway. It is not affected by the crossings at Ninth or Tenth Streets, each of which serves streets only five blocks long and wholly within the city limits of Guadalupe.

9. It is fair and reasonable, and the public safety, convenience and necessity require, that the cost of automatic signal protection at the Eleventh Street crossing, after deducting any monies applied pursuant to Finding No. 6(b), should be apportioned 50 percent to the railroad, 25 percent to the City of Guadalupe, and 25 percent to the County of Santa Barbara.

10. Maintenance cost of the Tenth Street and Eleventh Street crossings outside of lines two feet outside of rails should be borne by the City of Guadalupe. The Southern Pacific Company should bear maintenance cost of the crossings between such lines.

11. Maintenance cost of the Ninth Street pedestrian bridge should be borne by the City of Guadalupe.

12. The staff's recommendations on the work to be done at each crossing are reasonable and should be adopted.

13. The motion of the County of Santa Barbara to be dismissed as a party should be denied.

14. Allocation of the cost of maintaining protective devices at the crossings herein should be deferred.

Based on the above findings, the Commission concludes that the crossing at Ninth Street should be closed and provided with a pedestrian bridge, the signal protection at the Tenth and Eleventh Street crossings should be improved with flashing lights and automatic gates, and costs should be apportioned as provided in the findings herein.

O R D E R

IT IS ORDERED that:

1. The crossing of Ninth Street (No. E.276.0) over the tracks of the Southern Pacific Company in the City of Guadalupe shall be closed by the Southern Pacific Company to all vehicular and pedestrian traffic as provided in the findings herein.

2. The City of Guadalupe shall construct and maintain a pedestrian bridge over the tracks of the Southern Pacific Company in the City of Guadalupe as described and in the manner provided in the findings herein. Clearance shall be in accordance with the provisions of General Order No. 26-D.

3. The Southern Pacific Company shall, within six months after the effective date of this order, improve the protection of the Tenth and Eleventh Street crossings in the City of Guadalupe to the standards set forth in the findings herein.

4. The cost of the installations required by the preceding paragraphs of this order shall be allocated to the Southern Pacific

Company, the City of Guadalupe and the County of Santa Barbara as provided in the findings herein.

5. Allocation of maintenance costs for signal protective devices at the crossings herein is deferred until further order of the Commission. Other maintenance costs shall be borne in accordance with Findings 10 and 11.

6. The motion of the County of Santa Barbara to be dismissed as a party is denied.

7. All work to be accomplished under the above ordering paragraphs shall be completed within twelve months after the effective date of this order, except as otherwise expressly provided. Within thirty days after completion of work pursuant to this order, Southern Pacific Company and the City of Guadalupe shall each so advise this Commission in writing.

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

Dated at San Francisco, California, this 3rd day of AUGUST, 1965.

Fredrick B. Holbrook
President

Angela
William G. Stevens

Commissioner George W. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioners