

**ORIGINAL**Decision No. 71133

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the status, safety, )  
 maintenance, use and protection or )  
 closing of crossings at grade of the )  
 tracks of The Western Pacific Railroad )  
 Company and Southern Pacific Company )  
 in Cities of Oakland, San Leandro and )  
 Hayward and County of Alameda. )

Case No. 8367

Warren P. Marsden for San Francisco  
 Bay Area Rapid Transit District,  
 petitioner.  
Harold S. Lentz for Southern Pacific  
 Company, protestant.  
William L. Oliver for the Commission  
 staff.

ORDER ELIMINATING GRADE  
CROSSING NO. 4-8.1 FROM INVESTIGATION

By its order dated March 15, 1966, the Commission instituted an investigation into the status, safety, maintenance, use and protection or closing of grade crossings in the Cities of Oakland, San Leandro and Hayward.

On April 22, 1966, San Francisco Bay Area Rapid Transit District (District) filed a petition requesting an order of this Commission withdrawing from consideration Grade Crossing No. 4-8.1 at 12th Avenue in the City of Oakland. It alleged that construction of its rapid transit system will necessitate closure of 12th Avenue at its present point of crossing of the Western Pacific tracks. All costs connected with the closure will be assumed by the District.

On May 18, 1966, Southern Pacific Company filed an answer to the petition and alleged that the 12th Avenue grade crossing serves three parcels of property owned by Southern Pacific Company which are leased to D & W Drive-Away Service, Walton Drayage &

Warehouse Co., and Breckenridge Supply Co. According to Southern Pacific Company, closure of the 12th Avenue grade crossing would deprive these companies of adequate access.

A public hearing was held before Examiner Daly on July 12, 1966, at San Francisco. No other protest was received.

The matter was submitted on a stipulation between the parties. The stipulation provided that Southern Pacific Company would withdraw its protest to the closure of the 12th Avenue crossing on the condition that the District would provide adequate access over a private crossing located at 7th Avenue. All costs for improving the 7th Avenue crossing, including the installation of automatic gates, are to be paid for by District.

After consideration the Commission finds that the petition to remove Grade Crossing No. 4-8.1 from the instant investigation should be granted. The Commission further finds that said crossing should be closed pursuant to the terms of the stipulation heretofore mentioned.

IT IS ORDERED that:

1. Grade Crossing No. 4-8.1 is hereby withdrawn from further consideration in this investigation.

2. After the effective date hereof, San Francisco Bay Area Rapid Transit District may close Grade Crossing No. 4-8.1 and shall bear all expense involved therewith.

3. As a condition precedent to the authority granted by ordering paragraph (2) hereof, San Francisco Bay Area Rapid Transit District shall provide adequate access over the 7th Avenue crossing. Said access shall be provided to the satisfaction of Southern Pacific Company and all expense, including the cost of providing automatic gates, shall be paid for by San Francisco Bay Area Rapid Transit District.

4. The authority to close Grade Crossing No. 4-8.1 shall expire if not exercised within one year from the date hereof.

The authority to close Grade Crossing No. 4-8.1 shall become effective when Southern Pacific Company files with this Commission an acceptance of the improved access facilities over the 7th Avenue grade crossing.

In all other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16<sup>th</sup> day of AUGUST, 1966.

Edwin E. Mitchell  
President

George J. Hoover

Augusta

William L. Bennett  
Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.