

ORIGINALDecision No. 73007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the status, maintenance, operation, use, safety and protection of that crossing, at grade, of the track of the Southern Pacific Company by New Haven Road in Union City at Mile Post L. 25.3.

Case No. 7910

Investigation into the status, safety, maintenance, use and protection or closing of seven crossings at grade of the track of the Southern Pacific Company in Union City.

Case No. 8291

ORDER DENYING REHEARING
AND REQUEST FOR STAY

Decision No. 71990 (February 7, 1967) ordered Southern Pacific Company to abolish by physical closing its New Haven Road Crossing No. L 25.3 in Union City. Rehearing was denied. (Decision No. 72168.) Petition for writ of review was denied by the Supreme Court on May 31, 1967. (City of Union City v. Public Utilities Commission, S.F. No. 22519.) Rehearing was denied by the Court on June 28, 1967.

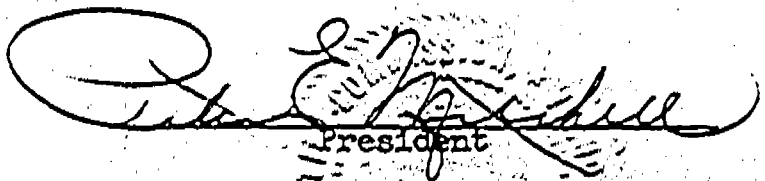
On August 15, 1967 Southern Pacific Company filed a request for a supplemental order. Its petition alleged that Union City had filed an action in the Superior Court (Alameda County, No. 368709) seeking to enjoin the railroad from carrying out the order in Decision No. 71990, and that the Superior Court had held that a demurrer should be denied because "it was not clear from the face of the Commission's order" that the railroad was required or

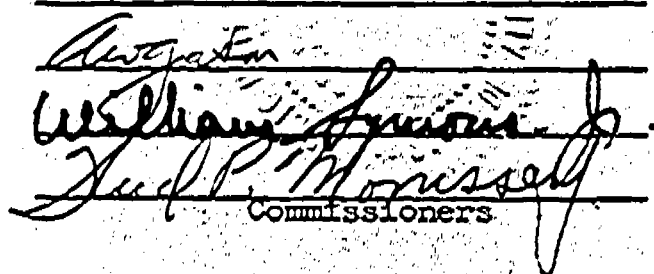
permitted to remove the paving from its tracks at the crossing. The petition requested a supplemental order clarifying the decision, and specifically stating that the railroad remove the pavement between the barricades erected at the crossing to physically close the crossing to public use.

Decision No. 72958 issued on August 22, 1967. It amended an ordering paragraph of Decision No. 71990 so as to require the railroad to physically close the crossing "by constructing barricades outside the tracks on each side thereof sufficient to prevent the passage of vehicles and by removing all planking, paving or other surfacing within the track area."

The City of Union City has petitioned for a rehearing of the supplemental order, and has requested a stay order pending a petition to the Supreme Court for a writ of review. The Commission having considered said petition and each of the allegations therein, IT IS ORDERED that the petition for rehearing and for a stay of Decision No. 72958 is denied.

Dated at San Francisco, California, this 30th day of AUGUST, 1967.


President


Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.