

ORIGINAL

Decision No. 77343

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the status,)
 safety, maintenance, use and)
 protection or closing of cross-)
 ings at grade of the tracks of)
 The Western Pacific Railroad)
 Company and Southern Pacific)
 Company, San Leandro and Hay-)
 ward and County of Alameda.)

Case No. 8367
 (Reopened September 23, 1969)

Robert I. Rutledge, for Standard Specialty
 Company, petitioner.
Richard W. Bridges, for The Western Pacific Rail-
 road Company; Harold S. Lentz, for Southern
 Pacific Company; and William C. Sharp, for
 the City of Oakland, respondents.
Malcolm Barrett and Steven H. Rodda, for San
 Francisco Bay Area Rapid Transit District;
 and John L. Wallis, for Brotherhood of
 Locomotive Engineers, interested parties.
William J. McNertney, Counsel, and M. E. Getchel,
 for the Commission staff.

O P I N I O N

By Decision No. 75593 dated April 22, 1969, Case No. 8367
 was reopened for further hearing for the purpose of determining
 whether Decision No. 72654, as amended, should be altered, amended or
 revoked, insofar as said decision relates to Crossings Nos. 4-10.4 at
 44th Avenue and 4-10.45 at 45th Avenue in the City of Oakland.
 Subsequent to the further hearing held pursuant to said Decision No.
 75593, the Commission issued Decision No. 76200 herein on September
 23, 1969.

The order in said Decision No. 76200 provided:

"1. Unless an adequate turn-around facility for
 trucks has been agreed upon by the parties of
 record to this proceeding at the 44th Avenue grade
 crossing of The Western Pacific Railroad Company
 in the City of Oakland and that unless the parties
 are in agreement as to the apportionment of con-
 struction and maintenance costs thereof and the

Commission is so advised within 45 days from the date hereof, further hearings in this proceeding shall be held for the following purposes:

- "a. Determination of the adequacy of turn-around facilities as proposed by The Western Pacific Railroad Company.
 - "b. Apportionment of the construction and maintenance costs for such facility if found to be adequate by the Commission.
 - "c. Consideration of additional evidence that may be presented as to the protection needs of the 44th Avenue grade crossings should an adequate turn-around facility not be determined per above Item 1a.
- "2. The suspension of further work in carrying out the provisions of Decision No. 72654 regarding Crossings Nos. 4-10.4 at 44th Avenue and 4-10.45 at 45th Avenue in the City of Oakland shall continue until further order by the Commission."

Pursuant to said order further hearings were held in San Francisco before Examiner Cline on January 28 and 29, 1970, and before Commissioner Vukasin and Examiner Cline on February 17, 1970. The matter was taken under submission on the filing of the transcript on February 26, 1970.

The following proposals for the alleviation of the existing traffic conditions and hazards on 44th Avenue between East 12th Street and the presently closed Grade Crossing No. 4-10.4 of The Western Pacific Railroad Company have been suggested to the Commission for consideration:

1. That Grade Crossing No. 4-10.4 on 44th Avenue remain closed, and a circular turn-around facility be constructed for trucks and other motor vehicles.
2. That Grade Crossing No. 4-10.4 on 44th Avenue remain closed, and a switchback turn-around facility be constructed for trucks and other motor vehicles.

3. That Grade Crossing No. 4-10.4 be reopened for one-way northbound vehicular traffic on 44th Avenue.
4. That Grade Crossing No. 4-10.4 be reopened for two-way vehicular traffic on 44th Avenue.

The issues to be resolved by the Commission in this proceeding are as follows:

1. Which of the above proposals for the alleviation of the existing traffic congestion and hazards on 44th Avenue should be adopted by this Commission?
2. If the Commission authorizes the reopening of Grade Crossing No. 4-10.4, what protection should be provided?
3. How should the costs of installation and the maintenance of such protection be allocated between The Western Pacific Railroad Company and the City of Oakland?
4. If Grade Crossing No. 4-10.4 on 44th Avenue is reopened, should Grade Crossing No. 4-10.45 on 45th Avenue be closed?
5. Should the suspension of further work in carrying out the provisions of Decision No. 72654 for the protection of Grade Crossing No. 4-10.45 on 45th Avenue be lifted?

Based upon a consideration of the record in this proceeding, the Commission finds as follows:

A. Findings regarding traffic congestion and hazardous conditions.

1. During the period from January 1, 1956 to December 31, 1965, there were four accidents at Grade Crossing No. 4-10.4 on 44th Avenue and two accidents at Grade Crossing No. 4-10.45 on 45th Avenue in the City of Oakland, in which no persons were killed or injured.

2. Prior to the closing of Grade Crossing No. 4-10.4 on 44th Avenue between East 12th Street and San Leandro Street, approximately 509 vehicles per day used said grade crossing, the vehicular traffic moved in a through direction on 44th Avenue between East 12th Street and San Leandro Boulevard, and although there was some delay in unloading trucks, the trucks did not experience any congestion or difficulty in leaving the plant of Standard Specialty Company.

3. By Decision No. 72654 the Commission ordered the closing of the 44th Avenue grade crossing and the installation of automatic gates at the 45th Avenue grade crossing.

4. On April 4, 1969, the 44th Avenue grade crossing was closed to motor vehicular traffic.

5. Standard Specialty Company, Harry Jensen, Gain Manufacturing Corporation, Melrose Spring and Tool Works, B & W Packing, and United Pharmaceutical are engaged in industrial businesses located on 44th Avenue between East 12th Street and San Leandro Boulevard in the City of Oakland.

6. The petition of Standard Specialty Company to reopen Grade Crossing No. 4-10.4 on 44th Avenue is supported by Melrose Spring and Tool Works, Gain Manufacturing Corporation, Harry Jensen and United Pharmaceutical.

7. In May of 1969 after the closing of the grade crossing on 44th Avenue approximately 460 motor vehicles per day used 44th Avenue.

8. On the afternoon of May 15, 1969, during a period of one hour and twenty minutes, twenty-nine trucks having two axles or more made pickups or deliveries from and to the businesses located on 44th Avenue between East 12th Street and the closed Western Pacific Grade Crossing No. 4-10.4.

9. On May 16, 1969, at 2:45 p.m., there were two four-axle trucks, two two-axle trucks, and one three-axle truck providing service to businesses located on 44th Avenue between East 12th Street and the closed Western Pacific Grade Crossing No. 4-10.4.

10. The following number of 5-axle trucks were observed on the dates indicated on 44th Avenue between East 12th Street and the closed Grade Crossing No. 4-10.4:

<u>Date</u>	<u>Time of Observation</u>	<u>Number of 5-Axle Trucks</u>
May 15, 1969	1:45 p.m. to 5:40 p.m.	3
October 3, 1969	11:14 p.m. to 12:14 p.m.	1
January 8, 1970	7:00 a.m. to 6:00 p.m.	1

11. Standard Specialty Company which is engaged in the candy manufacturing business has an average of 30 trucks a day calling at its place of business and two or three large tractor-type trucks a week making bulk deliveries of sugar to its plant on 44th Avenue.

12. Standard Specialty Company has received complaints from suppliers and from truck companies because of difficulties experienced in serving said company.

13. Drivers seeing the congestion on 44th Avenue between East 12th Street and closed Grade Crossing No. 4-10.4 sometimes refuse to wait and as a result Standard Specialty Company has experienced a number of missed pickups and deliveries.

14. With the closing of 44th Avenue trucks making pickups or deliveries on 44th Avenue between East 12th Street and the closed Grade Crossing No. 4-10.4 have to turn around by backing across 44th Avenue on to unimproved property, or by backing up 44th Avenue and on to East 12th Street.

15. If the driver of a truck elects to turn around on 44th Avenue between East 12th Street and the closed 44th Avenue grade crossing by backing on to unimproved property on 44th Avenue there is the danger of jack-knifing his equipment or backing the equipment into a creek located on the unimproved property.

16. It is dangerous for a truck driver to turn his truck around by backing up 44th Avenue and on to East 12th Street because of the vehicles driving off the Nimitz Freeway at the East 12th Street exit and because East 12th Street is a heavily traveled one-way street.

17. A truck exiting 44th Avenue between East 12th Street and the closed Grade Crossing No. 4-10.4 experiences additional difficulties because of the congestion caused by trucks waiting to make pickups or deliveries at the places of business along 44th Avenue.

18. The powdered sugar delivered in bulk to the candy plant of Standard Specialty Company on 44th Avenue is a volatile material.

19. In the event of an emergency neither fire equipment nor an ambulance could gain easy access to the places of business along 44th Avenue between East 12th Street and the closed Grade Crossing No. 4-10.4 if the street were blocked with trucks.

20. On September 30, 1969 during the hours between 3:00 p.m. and 5:00 p.m. motor vehicles attempting to enter San Leandro Street from 44th Avenue, if Grade Crossing No. 4-10.4 had been open to southbound traffic, would have been blocked on at least seven occasions during the traffic signal cycles at High Street and San Leandro Street. Exhibit No. 19 lists the numbers of times similar blockages would have occurred on the dates traffic studies were made as follows:

<u>Date of Observation</u>	<u>Period of Time Observed</u>	<u>Number of Occasions During Which Blockages Occurred</u>	<u>Duration of Blockage in Minutes</u>
Oct. 2, 1969	3:35 p.m. to 5:02 p.m.	12	
Oct. 3, 1969	noon hour	0	
Oct. 9, 1969	8:45 a.m. to 10:05 a.m.	0	
Oct. 13, 1969	12:06 p.m. to 4:57 p.m.	19	1 to 4
Nov. 20, 1969	12:35 p.m. to 4:35 p.m.	12	2
Dec. 3, 1969	3:45 p.m. to 4:50 p.m.	13	1 to 10
Jan. 4, 1970	3:35 p.m. to 5:05 p.m.	11	1 to 15
Jan. 6, 1970	7:00 a.m. to 6:00 p.m.	12	1 to 6
Jan. 8, 1970	7:00 a.m. to 6:00 p.m.	21	1 to 9

21. The view easterly along the track of Western Pacific Railroad Company by drivers of vehicles proceeding southerly on 44th Avenue and approaching Grade Crossing No. 4-10.4 is obstructed by the plant of Standard Specialty Company.

22. The view along the Western Pacific track by drivers of vehicles on San Leandro Street proposing to turn onto 44th Avenue and proceed across Grade Crossing No. 4-10.4, if reopened, is unobstructed.

23. There is a danger that accidents will result to vehicles on 44th Avenue proposing to cross Grade Crossing No. 4-10.4, if reopened, and to enter San Leandro Street by reason of the vehicles being stored on said grade crossing as a result of being blocked from entering San Leandro Street.

B. Findings relating to proposed circular turn around.

24. The circular turn-around facility proposed by Western Pacific Railroad Company provides a 48-foot turning radius for the inside or curb face area.

25. A mock-up circular turn around of the same dimensions as the circular turn-around facility proposed by Western Pacific was laid out in Western Pacific's Piggyback area with barrels placed to indicate the BART piers and other limiting factors to the edge of the BART right-of-way and with traffic cones or paperbags filled with sand to mark the turning radius for the truck drivers. On two occasions various truck drivers in the area used the mock-up circular turn around and were able to accomplish the complete turn with 48-foot truck and trailers. One of the drivers had difficulty completing the mock-up circular turn but by backing up a little he was able to correct his move and complete the turn.

26. At the mock-up demonstrations no 65-foot rig was available to run through the 48-foot radius circular turn around.

27. The proposed circular turn around allows for 12 inches of protection around the BART pier and still would provide for one foot distance between protective device and one side of the truck and one foot distance between the property fence adjacent to Mr. Jensen's property and the other side of the truck.

28. In order to construct the proposed circular turn-around facility it would be necessary to acquire the right to move over BART property and the right also to move over property which is in private ownership.

29. The estimated cost of acquiring the private property over which the circular turn around is proposed to be constructed is \$29,000 to \$30,000.

30. The estimated cost of constructing the proposed circular turn around, including curb, gutter, drainage facilities and protective device for the BART pier is \$8,000 to \$9,000.

31. Intersection details at East 12th Street and 44th Avenue show that trucks requiring in excess of a 48-foot turning radius cannot readily negotiate turns at this intersection.

32. Any truck capable of readily turning into 44th Avenue from East 12th Street would be able to negotiate the proposed circular turn around.

33. The Western Pacific Railroad Company has offered to pay 50% of the cost of the necessary land acquisition for the proposed circular turn around and the entire cost of constructing the proposed circular turn-around facility including the protective devices for the BART piers. Upon completion of the construction of the proposed circular turn-around facility the turn-around would be conveyed to the City of Oakland which upon acceptance of the conveyance would thereafter be responsible for its maintenance.

34. The construction of the proposed circular turn around is not acceptable to the City of Oakland for the following reasons:

- (a) Such construction would require the expenditure of City of Oakland funds for the benefit of only one or two property owners.
- (b) Large trucks would require considerable maneuvering to make the proposed circular turn around, and so there would be a tendency for those trucks still to back out on to East 12th Street which is a hazardous maneuver.

C. Findings relating to the proposed switchback turn around.

35. The objections to the proposed switchback turn around are as follows:

- (a) The BART columns located in the center of the right-of-way of the proposed switchback turn around would cause clearance problems on one side for the trucks, and on the other side of the proposed switchback turn around the Fraga building and the Gould fence would cause clearance problems for the trucks.
- (b) It would be difficult to inform the truck drivers of the purpose of the proposed switchback turn-around area.
- (c) The truckers using the proposed switchback turn around would have to drive into the proposed switchback turn around on one side of 44th Avenue and then back across 44th Avenue into the other portion of the switchback turn around. With so many turns and backup maneuvers required, the truckers may decide just to back out across 12th Street instead of using the proposed switchback turn around.
- (d) An asphalt area such as the proposed switchback turn around would not get repeated traffic on it, and as a result the asphalt would become dead and deteriorate rapidly, thus causing maintenance problems. Hence, the City of Oakland has represented that the City would not accept the proposed turn-around area as a public street.

D. Findings relating to the proposed reopening of Grade Crossing No. 4-10.4 to two-way vehicular traffic on 44th Avenue.

36. If Grade Crossing No. 4-10.4 is reopened to two-way vehicular traffic, the adjacent intersection at 44th Avenue and

San Leandro Street should be signalized in order to prevent storage of vehicles on the grade crossing.

37. The estimated cost of providing traffic signals at the intersection of 44th Avenue and San Leandro Street to prevent storage of vehicles on Grade Crossing No. 4-10.4 if reopened, including the cost of coordinating such traffic signals with the automatic railroad protection, is between \$17,500 and \$20,000.

E. Findings relating to the proposed reopening of Grade Crossing No. 4-10.4 to one-way northbound vehicular traffic on 44th Avenue.

38. Adequate control of the intersection of 44th Avenue and San Leandro Street to prevent storage of vehicles on Grade Crossing No. 4-10.4, if reopened, can best be accomplished by making 44th Avenue one-way northbound from San Leandro Street to East 12th Street and by not allowing vehicles to enter San Leandro Street from 44th Avenue across Grade Crossing No. 4-10.4, if reopened.

39. If Grade Crossing No. 4-10.4 is reopened to vehicular traffic, said crossing should be protected by two No. 8 flashing light signals and automatic gate arms, and such crossing should not be reopened to vehicular traffic until after such automatic signals and gates are installed and are in operation.

40. If Grade Crossing No. 4-10.4 is reopened to vehicular traffic, the City of Oakland should install some type of traffic device to warn vehicular traffic not to make either right turns or left turns from San Leandro Street into 44th Avenue during the approach of a train.

41. The estimated cost of installing automatic gate arms including predictors and other auxiliary equipment at Grade Crossing No. 4-10.4 is \$37,290, and the estimated annual maintenance cost of such protection is \$900.

42. If 44th Avenue be made a one-way street northbound between San Leandro Street and East 12th Street, traffic signals will not be required at the intersection of 44th Avenue and San Leandro Street and at the intersection of 45th Avenue and San Leandro Street to prevent storage of vehicles on the track at Grade Crossing No. 4-10.4.

43. The proposal of making 44th Avenue a one-way street northbound from San Leandro Street to East 12th Street has received the approval of the City of Oakland Traffic Committee composed of the Director of Public Works, one of the City Design Engineers, the Traffic Engineer and a representative of the City Managers' Office. The City of Oakland Fire Marshall also is agreeable to such proposal.

44. The City of Oakland Traffic Committee would accede to the installation of automatic gates at Grade Crossing No. 4-10.4 if it is reopened.

F. Findings pertaining to Grade Crossing No. 4-10.45 at 45th Avenue and San Leandro Street.

45. The City of Oakland Traffic Committee is of the opinion that Grade Crossing No. 4-10.4 on 44th Avenue should remain closed if its reopening is predicated upon the closing of Grade Crossing No. 4-10.45 on 45th Avenue, as 45th Avenue is a more important street than 44th Avenue in the City of Oakland traffic distribution pattern.

46. There is no need for additional traffic control devices at the intersection of 45th Avenue and San Leandro Street if Grade Crossing No. 4-10.4 on 44th Avenue is opened to one-way northbound traffic.

Based upon the foregoing findings the Commission concludes as follows:

1. To alleviate the existing traffic congestion and hazards on 44th Avenue in the City of Oakland, Grade Crossing No. 4-10.4 of The Western Pacific Railroad Company should be reopened for one-way vehicular traffic northbound on 44th Avenue between San Leandro Street and East 12th Street.

2. Before said Grade Crossing No. 4-10.4 is reopened it should be protected by automatic gates and two No. 8 flashing light signals.

3. Before said Grade Crossing No. 4-10.4 is reopened automatic signals should be installed at the intersection of San Leandro Street and 44th Avenue to warn vehicles not to make right or left turns northbound into 44th Avenue during the approach of trains at Grade Crossing No. 4-10.4.

4. The cost of reopening said Grade Crossing No. 4-10.4 as provided in conclusion numbered 1 above and of installing the automatic protection described in conclusions numbered 2 and 3 above should be apportioned 50 percent to The Western Pacific Railroad Company and 50 percent to the City of Oakland. The cost of the maintenance of said automatic protection should be apportioned pursuant to Section 1202.2 of the Public Utilities Code.

5. Before vehicular traffic is permitted to use Grade Crossing No. 4-10.4 in a southerly direction on 44th Avenue in the City of Oakland further hearings should be held in this proceeding to determine whether said Grade Crossing No. 4-10.4 should be reopened to such vehicular traffic and what additional protection should be provided at said Grade Crossing No. 4-10.4 and/or San Leandro Street to make said Grade Crossing No. 4-10.4 suitable and safe for two-way traffic.

6. Grade Crossing No. 4-10.45 of The Western Pacific Railroad Company on 45th Avenue in the City of Oakland should not be closed to vehicular traffic.

7. The suspension of further work in carrying out the provisions of Decision No. 72654 for the protection of Grade Crossing No. 4-10.45 on 45th Avenue in the City of Oakland should be lifted.

O R D E R

IT IS ORDERED that:

1. Within sixty days after the effective date of this order Grade Crossing No. 4-10.4 of The Western Pacific Railroad Company shall be reopened for one-way vehicular traffic northbound on 44th Avenue between San Leandro Street and East 12th Street in the City of Oakland.

2. Before said Grade Crossing No. 4-10.4 is reopened for one-way northbound vehicular traffic, (a) automatic gates and two No. 8 flashing light signals shall be installed at said grade crossing, and (b) automatic signals coordinated with train movements shall be installed at the intersection of San Leandro Street and 44th Avenue to warn vehicles not to make right or left turns northbound into 44th Avenue during the approach of trains at Grade Crossing No. 4-10.4.

3. The cost of reopening said Grade Crossing No. 4-10.4 and of installing the automatic protection as provided in ordering paragraphs numbered 1 and 2 above shall be apportioned 50 percent to The Western Pacific Railroad Company and 50 percent to the City of

Oakland. The cost of maintenance of the automatic protection shall be apportioned pursuant to Section 1202.2 of the Public Utilities Code.

4. Within thirty days after completion of the work to be performed pursuant to ordering paragraph 3 above The Western Pacific Railroad Company shall so advise the Commission in writing.

5. Before vehicular traffic is permitted to use said reopened Grade Crossing No. 4-10.4 in a southerly direction on 44th Avenue in the City of Oakland further hearings shall be held in this proceeding to determine whether said Grade Crossing No. 4-10.4 shall be reopened to such vehicular traffic and what additional protection should be provided at said Grade Crossing No. 4-10.4 and/or San Leandro Street to make said Grade Crossing No. 4-10.4 suitable and safe for two-way traffic.

6. The suspensions provided in Decision No. 75593 dated April 22, 1969, and in Decision No. 76200 dated September 23, 1969 of further work in carrying out the provisions of Decision No. 72654, dated June 27, 1967, for the protection of Grade Crossing No. 4-10.45 on 45th Avenue in the City of Oakland are hereby lifted on the effective date of this order.

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

Dated at San Francisco, California, this 9th day of JUNE, 1970.

William J. Lyons, Jr.
President
Augusta
William J. Lyons
James L. Stinson
Commissioners