

ORIGINAL

Decision No. 7292

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN PACIFIC COMPANY for a determination by the Commission on the necessity for additional or existing grade crossings, for barricades, and for protective signs or automatic devices in the vicinity of the public grade crossing of Trout Gulch Road, Crossing No. EC-112.8, over the tracks of Southern Pacific Company at or near Aptos in the County of Santa Cruz, State of California.

Application No. 50386
(Filed July 12, 1968)

Harold S. Lentz, for applicant.
Raymond A. Amrhein, for Fred Toney and Elma Toney, protestants.
Dwight L. Herr, for County of Santa Cruz, interested party.
William J. McNertney, Counsel, for the Commission staff.

O P I N I O N

By this application, Southern Pacific Company (Railroad) seeks a determination by the Commission as to whether unprotected pedestrian and vehicular grade crossings in the vicinity of the Trout Gulch Road grade crossing (Crossing No. EC-112.8) over its tracks in Aptos, an unincorporated town in the County of Santa Cruz (County), should be closed and, if not, whether said unprotected crossings require protective devices or signs. In the event protective devices or signs are required, Railroad requests the Commission to prescribe the terms of installation and the allocation of construction and maintenance costs thereof. A map showing the location of the three crossings and the immediate surrounding area is attached hereto as Appendix A.

Public hearing was held before Examiner Mooney in the City of Santa Cruz on January 2 and 3, 1969. The matter was submitted subject to the filing of briefs on or before March 18, 1969. Evidence, including both oral testimony and exhibits, was presented on behalf of Railroad, Fred and Elma Toney (Protestants) and the Commission staff. Briefs were filed by each of the aforementioned and by the County.

Background

The following undisputed facts are established by the record and we find them to be such:

1. The rail line through Aptos was constructed as a narrow gauge railroad by the Santa Cruz Railroad Company and operated by it between Santa Cruz and Pajaro (now Watsonville Junction) from 1876 through 1882. Said company was acquired by Railroad and changed to standard gauge in 1884.

2. For many years there has been a crossing at grade over Railroad's single line track at Trout Gulch Road. Said crossing is located in the easterly portion of the central business district of Aptos. The southern terminus of Trout Gulch Road forms a "T" with Soquel Drive which generally parallels the track on the southerly side both westerly toward Santa Cruz and easterly toward Watsonville. Aptos Street parallels the track on the north side and east of Trout Gulch Road.

3. At the time Santa Cruz Railroad Company was constructing its line, Jose Arano owned the parcel of land in the northwest quadrant of what is now the above-described terminus of Trout Gulch Road with Soquel Drive. By Grant Deed dated December 30, 1876, Jose Arano granted to said company a right-of-way for the construction of railroad facilities on the southern portion of his property

bordering the county road (now Soquel Drive). The deed provided in part that grantee shall construct no structures on the land conveyed except tracks, switches and a passenger platform which shall be level with the tracks; that no freight or baggage shall be stored on said property other than that received for immediate shipment or delivery; that grantee shall grade the ground and plank or pave its tracks so that they will not be an obstruction between grantor's retained property and the county road; that grantor reserves the full and free right-of-way over the land conveyed; and that all terms and conditions shall bind the heirs, assignees and successors of the parties thereto.

4. By deed dated March 23, 1944, Protestants acquired the aforementioned property from the successors in interest to Jose Arano.

5. At the time of said acquisition by Protestants, the Bay View Hotel, a several story hotel and restaurant, was located on the southerly portion of the property and adjacent to Trout Gulch Road. The track area between the parking lot for the hotel and Soquel Drive was paved for a distance of approximately 120 feet from Trout Gulch Road. Vehicles could cross any part of the paved area between the parking lot and Soquel Drive and could also enter the parking lot from Trout Gulch Road.

6. In 1946 and 1947, the Bay View Hotel was moved to its present site which is on the westerly side of Protestants' property and farther back from the rail tracks. Shortly thereafter, a commercial building, which housed several stores, was constructed on the easterly portion of the property bordering Trout Gulch Road. The commercial building was set back approximately the same distance from the rail tracks as the hotel and was separated from the hotel

by a passageway which was blocked to vehicular traffic by pole barricades. The area in front of both the building and hotel was paved for parking. An American Legion Hall was constructed to the west of the hotel. Protestants allowed the American Legion to use their parking lot. Behind the hotel and commercial building to the north was another building and surfaced area owned by Protestants. Said other building was leased by a newspaper. The surfaced area, which had access from and to Trout Gulch Road, was used for receiving deliveries for the various buildings and by the newspaper and employees of the restaurant. Other than the changes described hereinafter in the means of ingress and egress to and from the parking lot in the front, the physical layout of Protestants' property remains substantially the same. There are now a grocery, liquor, hardware and art store in the commercial building.

7. In 1947, Railroad, at the request of Protestants, repaved the paved area of the tracks between the parking lot and Soquel Drive.

8. The paved area over the tracks, including both the Trout Gulch Road crossing and the driveway between the parking lot and Soquel Drive, extended a distance of approximately 150 feet.

9. Certain view conditions are restricted at the Trout Gulch Road crossing. The southbound motorist on said road has a restricted sight distance to the west, toward Santa Cruz, because of the buildings on the right constructed on the street line. East of the crossing, the track is on fill, so that motorists approaching the crossing from the east on either Soquel Drive or Aptos Street would have a westward moving train high above them as they approach Trout Gulch Road.

10. During the month of December 1964, representatives of Railroad, County, other public agencies having jurisdiction and the Commission staff inspected public grade crossings in the county, including the cities therein, to consider possible recommendations for improvements in protection to increase public safety. Staff recommendations were set forth in a report entitled "Study of Railroad Grade Crossings in County of Santa Cruz", dated June 4, 1965. At this time there was no automatic protection at the Trout Gulch Road crossing. The report recommended that Railroad and County investigate possibilities of channelizing traffic to reduce the 150-foot width and that two Standard No. 3 flashing light signals be installed. The existing 150-foot crossing was too wide for the usual type of automatic protection.

11. An agreement, dated December 7, 1966, regarding improved protection at the Trout Gulch Road crossing was entered into by Railroad and County. The agreement provided for the removal of existing pavement along the rails between the parking lot and Soquel Drive; the extension of the pavement on the east side of the crossing to align Trout Gulch Road at this location; the installation of approximately 125 lineal feet of suitable barricade along the north side of Soquel Drive where the pavement had been removed; and the installation of two flashing light grade crossing signals with automatic gates and all necessary actuating and operating circuits and equipment. The agreement also covered the allocation of costs between Railroad and County for said work and installation.

12. The work covered by the above-described agreement was commenced by Railroad in early 1968. The work was completed on February 20, 1968. The area from which the pavement was removed was approximately 30 feet in width and 125 feet in length. The

barricade consisted of posts set in the ground along the edge of the shoulder on the north side of Soquel Drive so as to keep autos seven and one-half feet from the nearest rail. Direct access between Protestants' parking lot and Soquel Drive was thereby closed, and the only access was the Trout Gulch Road entrance.

13. Protestants were never contacted at any time by anyone, including Railroad and County, regarding the removal of the pavement in the area between their parking lot and Soquel Drive prior to the commencement of work by Railroad in January 1968.

14. Within several months after the barricades were installed, some were removed. At the locations where they were removed, Protestants installed a gravel roadway and a gravel pedestrian crossing between their parking lot and Soquel Drive. The gravel roadway is approximately 30 feet in width and is approximately 130 feet westerly of the center line of Trout Gulch Road. The gravel pedestrian crossing is approximately 80 feet westerly of said center line. No authorization for said gravel crossings was either sought or obtained from the Commission.

15. There are several buildings and businesses and a sidewalk on the south side of Soquel Drive opposite Protestants' property. There is a shoulder for parking but no sidewalk on the north side of Soquel Drive. There are crosswalk markers painted across Soquel Drive between the sidewalk and gravel pedestrian crossing. Five or six years ago a new post office was opened on the south side of Soquel Drive opposite the then paved track area. The crosswalk was first painted at that time.

16. 24-hour mechanical vehicle counts taken by the Commission staff at the easterly driveway between Protestants' parking lot and Trout Gulch Road, at the westerly gravel driveway between said parking

lot and Soquel Drive and at the protected rail crossing at Trout Gulch Road between 4:00 p.m., Wednesday, October 16, 1968, and 4:00 p.m., Thursday, October 17, 1968, disclosed the following results:

<u>Location</u>	<u>No. of Vehicles</u>
Trout Gulch Road	3,133
Easterly Driveway	796
Westerly Gravel Driveway	298

17. A visual count taken by the Commission staff on Friday, October 18, 1968, of the vehicle traffic flow pattern and pedestrian usage at the two driveways, the gravel pedestrian crossing and the intersection of Trout Gulch Road and Soquel Drive disclosed the following results:

- a. The majority of the vehicle traffic is to or from the west on Soquel Drive. 81 percent at the westerly gravel driveway, 61 percent at the easterly driveway and 75 percent at the intersection are to or from said direction.
- b. Of the 19 pedestrians observed crossing Soquel Drive, over 30 percent used the gravel crossing and the balance crossed at the edge of Trout Gulch Road.
- c. Five eastbound vehicles on Soquel Drive used the intersection, the two driveways and parking lot for a turnabout rather than making a "U" turn on Soquel Drive.

18. An action by the Protestants has been filed in the Superior Court in Santa Cruz County to have the rights of Railroad declared forfeited and to have their access to Soquel Drive restored. A preliminary injunction was denied. Railroad has cross-complained in the action to have said access condemned.

Position of the Parties

Following is a summary of the position and recommendations of each of the parties:

A. Railroad

It is the position of Railroad that the gravel crossing is unnecessary and should be closed and that the gravel pedestrian crossing should be relocated to a place adjacent to and close by the automatic gates at the protected Trout Gulch Road crossing.

In support of its position, Railroad asserted as follows: The evidence does not establish that public convenience and necessity require a grade crossing at the location of the gravel crossing; the protected crossing at Trout Gulch Road is capable of meeting the public needs; although the gravel crossing is being used at times by members of the general public as an alternative means of crossing the railroad tracks without stopping or doing business on Protestants' property, it cannot be considered a "publicly" used crossing unless the general public has acquired a right to use said crossing, which has not been established; the only possible necessity for the gravel crossing is as a private crossing, and there has likewise been no showing of any reasonable need therefor; Protestants' property would continue to have reasonable access without the gravel crossing, and a circular route for vehicles between the parking lots in the front and rear of said property could be accomplished by removing the barricades on the driveway between the hotel and store buildings; if said driveway were too narrow for two-way traffic, it could be restricted to one-way traffic and still provide a circular route; although there are only two trains per day traveling at relatively low speed over the tracks, this fact does not lessen the degree of necessity required to be shown; the gravel crossing does not meet

any of the standards for grade crossings set forth in the Commission's General Order No. 72; if the gravel crossing is allowed to remain, it would have to be reconstructed to the standards required by said general order and should have the same type of automatic protection with gates as at the Trout Gulch Road crossing to prevent attempts by any members of the public to avoid delays by cutting across Protestants' property when a train is approaching; the costs of such installations and the maintenance thereof would be substantial and are not justified; the normal location for a pedestrian crossing is the location that provides benefit from the existing automatic protection which in this case would be adjacent to the protected Trout Gulch Road crossing; adequate wheel stops or barricades should be installed adjacent to the tracks to assure that vehicles shall not park closer than seven and one-half feet from the nearest rail as required by Section 32521 of the Vehicle Code.

Railroad argued that the Commission does not have jurisdiction to order the opening of a public or "publicly" used crossing; that the public agency involved has such jurisdiction and control and has not requested a second crossing in the vicinity of the existing Trout Gulch Road crossing; that since the gravel crossing is at times used by members of the general public as an alternate route over the tracks without stopping, the Commission would be doing indirectly what it cannot do directly if it authorized said crossing as a private crossing; that the Commission does not have before it an application for a private crossing; and that if closure of the gravel vehicle and pedestrian crossings will result in the taking of private property rights, Protestants are entitled to compensation in an action in a proper forum.

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B. Protestants

It is the position of Protestants that the pavement over the tracks which was removed by Railroad in early 1968 should be restored and the crossing between Soquel Drive and the parking lot reestablished as it existed prior to said removal; that this would include the area now occupied by both the gravel vehicle and pedestrian crossings; that the crossing gates at Trout Gulch Road could be removed; that flashing lights would adequately protect both the crossing to the parking lot and the Trout Gulch Road crossing; that none of the costs for said charges should be borne by Protestants; that wheel stops could be installed on each side of the tracks to keep vehicles the legal distance therefrom; and that participation by Protestants in the proceeding herein is in no way to be construed as a waiver of any of their rights against Railroad for interference with any of their property rights.

Protestants, in support of their position, asserted as follows: With the realignment of Trout Gulch Road, the remaining 21-foot driveway between the parking lot and said road was inadequate; the effect of closing off access to Soquel Drive was disastrous to the hotel and restaurant and the businesses in their building; the volume of business dropped substantially; the people who had been leasing the hotel and restaurant from them gave them up, and they were required to take them back and operate them; traffic jams occurred at the Trout Gulch Road entrance frequently and potential customers would, because of the delay, drive on and do business elsewhere; a safety problem could occur if northbound traffic on Trout Gulch Road was backed across the tracks by an auto attempting to make a left-hand turn into the parking lot and a train approached; when the court refused to grant a temporary

injunction to have access to Soquel Drive restored, they were left to self-help and put in the gravel crossing; they are of the opinion that Railroad by its action forfeited its right to use their land; this is the only crossing in the county where such drastic measures have been employed by Railroad which owns the land adjacent to them on Soquel Drive; there are only two trains per day through Aptos; the speed of the trains rarely reaches ten miles per hour, and the total time both are in Aptos is approximately 12 minutes per day; it would not be safe to open the passageway between the hotel and business to vehicle traffic because it is narrow and has restricted view conditions.

C. County

County does not take any position as to whether there should be a crossing between the parking lot and Trout Gulch Road. However, it asserts that in the event the crossing is to continue, no installation or maintenance costs in connection therewith should be assessed to it. In this regard, it points out that such a crossing could not be considered a part of the roadway system of the county; that it would derive no benefit from the crossing; and that it has an adequate roadway crossing at Trout Gulch Road.

County questions the necessity of installing automatic protection of the type at Trout Gulch Road at the gravel vehicle crossing. It is of the opinion that such protective devices might be an economic waste and that the use of stop signs at the exits and other appropriate signs at the entrances to the parking lot restricting its use might be sufficient. It points out that the volume of vehicles using the gravel crossing is not great; that the speed of vehicles over the crossing is relatively slow; and that there are apparently no significant view restrictions at said crossing.

D. Staff

The staff takes no position as to whether the gravel vehicle crossing should be closed. However, it urges that if said crossing is to continue it should be improved to the minimum standards of General Order No. 72 and should have the same type of automatic protective devices as the Trout Gulch Road crossing, and that if not so protected, it should be closed. It is of the opinion that the pedestrian crossing should be an extension of the sidewalk on the westerly side of Trout Gulch Road, positioned so that pedestrians using it will have the benefit of the protective devices at said location. The staff suggests that the costs of any automatic protective devices that may be installed and the pedestrian crossing should be apportioned equally between Railroad and County.

The staff also suggests that suitable barricades be placed in the parking lot to assure that vehicles do not park closer than seven and one-half feet from the nearest rail.

The staff is of the opinion that the crossing in issue is a private crossing which is "publicly" used. It cites Section 7537 of the Public Utilities Code which provides as follows:

"The owner of any lands along or through which any railroad is constructed or maintained, may have such farm or private crossings over the railroad and railroad right of way as are reasonably necessary or convenient for ingress to or egress from such lands, or in order to connect such lands with other adjacent lands of the owner. The owner or operator of the railroad shall construct and at all times maintain such farm or private crossing in a good, safe, and passable condition. The commission shall have the authority to determine the necessity for any crossing and the place, manner, and conditions under which the crossing shall be constructed and maintained, and shall fix and assess the cost and expense thereof."

In support of its position that the gravel vehicle crossing is "publicly" used, the staff points out that the evidence establishes that all of the public are invited to frequent the businesses on Protestants' property; that the parking lot has been used by members of the public going to the American Legion Hall and by some while doing business at establishments across Soquel Drive; that it has been used by some members of the public to "short-cut" the intersection or to make "U" turns from Soquel Drive; and that there are no signs to give notice that the crossing is private.

The staff asserts that the word "convenient" in Section 7537 should be liberally construed. However, it points out that there are complicating factors in this proceeding which overshadow the basic issue of necessity. In this regard, it points out that considerations of title and right to possession or use of the involved land are being litigated in court; while Protestants allege that they lost considerable business when direct access between the parking lot and Soquel Drive was cut off, some of this could have been due to the construction of a new freeway and shopping center in the vicinity; and there is another entrance from Trout Gulch Road behind Protestants' building and a paved passageway between the hotel and building which could perhaps be used as another entrance to the parking lot. The staff concludes that the gravel crossing is not necessary for ingress and egress, but it certainly appears to be a convenient access road.

The staff alleges that the Commission has authority to order safety protection for the crossing irrespective of whether it is considered private, public or "publicly" used. In support of its position, it cites Sections 7537 and 768 of the Public Utilities Code

if the crossing is to be considered private and Section 1202(a) thereof if it is considered public or "publicly" used. Section 7537 is quoted hereinabove. Crossings authorized under Section 7537 are required, under Section 7538, to have stop signs placed as protective devices. Section 768 bestows broad powers on the Commission to, among other things, require a railroad, after a hearing, to install and maintain appropriate safety or other devices, including safety devices at grade crossings, and does not restrict this power to public or "publicly" used crossings. Section 1202(a) specifically authorizes the Commission to order protective devices at public or "publicly" used road or highway crossings.

The staff argues that if the involved crossing is to remain open, it is essential that it have the same type of protection as the Trout Gulch Road crossing because of its proximity thereto, otherwise some members of the public may attempt to avoid the protected crossing when the gates are down by cutting through the parking lot, and also a person using both crossings would expect a gate to be down if a train were approaching.

The staff's contention that the cost of automatic protective devices should be apportioned equally between Railroad and County is based on its position that the subject crossing is "publicly" used; that County is the affected governmental agency that should share the costs of increased protection for the benefit of its citizens; and that Railroad must continue to assume its burden of sharing a fair and reasonable cost of charges for increased protection. It points out that both recognized this policy by incorporating a 50-50 apportionment of the costs of protective devices at the Trout Gulch Road crossing, and that the

need for the protective devices resulted directly from the alteration of the prior 150-foot crossing.

The staff asserts that it is not a valid argument that since Protestants did not make an application to the Commission for the crossing in question, it should not be allowed. In this connection, the staff points out that the instant application is a sufficient basis on which to consider the need for additional grade crossings and protective devices.

Findings

In addition to the above 18 findings, the Commission further finds as follows:

19. The realignment of Trout Gulch Road and the closing of direct access between Protestants' property and Soquel Drive created some inconvenience to vehicles using or attempting to use the parking lot.

20. The gravel vehicle crossing is not a public crossing. It is a private crossing between a private parking lot and a public roadway. However, it is "publicly" used. It is open, without restriction, to any and all members of the public patronizing the businesses on Protestants' property and to those attending the American Legion Hall. It has been used at times by members of the public while doing business at establishments on the other side of Soquel Drive and by some to make a "U" turn from Soquel Drive or to "short-cut" the intersection of Trout Gulch Road and Soquel Drive. There is no reasonably effective means, other than a guard or locked gates, by which the general public could be prevented from using it. Because the general public is invited to patronize the businesses on Protestants' property, a guard or locked gates at the crossing would not be feasible.

21. A showing of public convenience and necessity is not necessary for a private crossing irrespective of whether it is "publicly" used. Section 7537 of the Public Utilities Code requires that it be established that the private crossing is reasonably necessary or convenient for ingress to or egress from the private land. Mere convenience alone is not enough. Convenient must be considered along with "reasonably" for otherwise there would be no limiting factor as to the number of "convenient" private crossings a landowner could have. This is the obvious Legislative intent.

22. Although the gravel vehicle crossing is not an absolute necessity, it is reasonably necessary or convenient to Protestants, and the various businesses on their premises. The single driveway at Trout Gulch Road does not adequately serve the parking lot. Because of the safety factors involved, it would not be feasible to use the passageway between the hotel and building as an alternate entrance to the parking lot.

23. The existing gravel vehicle crossing may meet the minimum requirements for a "Standard No. 1 Graveled Road Crossing" as set forth in General Order No. 72. However, the Standard No. 1 is restricted to crossings of unimportant dirt roads. The crossing here is between a paved road and a paved parking lot. It should be improved to meet at least the minimum requirements for a "Standard 2-A Oil Macadam Road Crossing" as set forth in the aforementioned general order.

24. Protection of the improved crossing should be by two private crossing signs in accordance with Section 7538 of the Public Utilities Code. The volume of vehicles using the gravel crossing is not substantial and their speed over the crossing would

be relatively slow. Also, view conditions at the crossing are not restricted. Automatic protection of the type at the Trout Gulch Road crossing (Standard No. 8 flashing light signals supplemented with automatic crossing gates) are not required by conditions as they presently exist at the crossing in issue. Furthermore, Trout Gulch Road is a public roadway which has relatively heavy traffic.

25. The gravel pedestrian crossing should be closed. Said crossing should be relocated to the western edge of Trout Gulch Road, and a sidewalk should be installed at this location.

26. Suitable permanent barricades should be installed by Railroad along Soquel Drive adjacent to the parking lot and by Protestants in the parking lot to assure that vehicles do not park closer than seven and one-half feet from the nearest rail as required by Section 32521 of the Vehicle Code.

27. The costs of improving and maintaining the private crossing and the private crossing signs should be borne by Railroad. It was the action of the Railroad which resulted in the removal of the pavement between the parking lot and Soquel Drive.

28. The costs of constructing the pedestrian crossing at the western edge of the Trout Gulch Road should be apportioned to the County and Railroad on a 50-50 basis, since such crossing will be a part of the public crossing at Trout Gulch Road. Railroad should maintain the crossing between lines two feet outside of the rails and the County should maintain the crossing outside such lines.

29. While there is no application by Protestants for a crossing before the Commission, all pertinent issues which would be raised by such an application are included in the instant proceeding.

Conclusions

The Commission concludes that:

1. The gravel vehicle crossing should be improved and remain open, signs should be installed at said crossing, the gravel pedestrian crossing should be closed, a new pedestrian crossing should be constructed at the west edge of the protected Trout Gulch Road crossing and the costs of all construction and maintenance of said improvements should be apportioned between Railroad and County as provided in the order which follows.

2. Suitable permanent barricades should be installed and maintained by Railroad at its expense along Soquel Drive adjacent to the parking lot and by Protestants at their expense in the parking lot to assure that vehicles do not park closer than seven and one-half feet from the nearest rail.

O R D E R

IT IS ORDERED that:

1. Southern Pacific Transportation Company (the successor in interest to Southern Pacific Company) shall improve the gravel vehicle grade crossing over its tracks between the parking lot on the property of Fred and Elma Toney and Soquel Drive to the minimum requirements for a "Standard 2-A Oil Macadam Road Crossing" as set forth in General Order No. 72 and shall maintain the crossing at said standard.

2. Southern Pacific Transportation Company shall install and maintain two private crossing signs in accordance with Section 7538 of the Public Utilities Code.

3. Southern Pacific Transportation Company shall construct and maintain a suitable pedestrian grade crossing over its tracks

at the west edge of the protected railroad grade crossing at Trout Gulch Road.

4. The costs of constructing and maintaining the improved vehicle grade crossing and the protective signs ordered by ordering paragraphs 1 and 2 shall be apportioned to and borne by Southern Pacific Transportation Company.

5. The costs of constructing the relocated pedestrian crossing should be apportioned equally between the Railroad and the County. The costs of maintaining the relocated pedestrian crossing between lines two feet outside of the rails shall be borne by the Railroad. Maintenance costs of the crossing outside such lines shall be borne by the County.

6. The gravel pedestrian grade crossing over the tracks of Southern Pacific Transportation Company shall be removed by Fred and Elma Toney at their expense.

7. Fred and Elma Toney shall install and maintain at their expense suitable permanent barricades on their parking lot and Southern Pacific Transportation Company shall likewise install and maintain at its expense suitable permanent barricades along Soquel Drive adjacent to said parking lot to assure that vehicles do not park closer than seven and one-half feet to the nearest track as provided in Section 32521 of the Vehicle Code.

8. All of the improvements, installation and construction ordered by ordering paragraphs 1 through 7 shall be completed within six months after the effective date hereof.

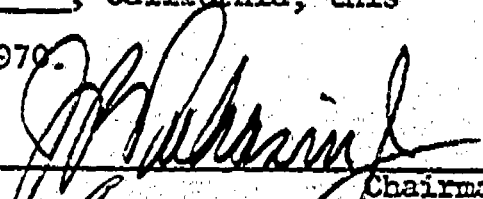
9. Within thirty days after completion of the improvements and construction each is directed to undertake by the order herein,

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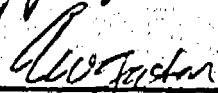
Southern Pacific Transportation Company and Fred and Elma Toney shall each so notify the Commission in writing.


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

Dated at San Francisco, California, this 4th day of NOVEMBER, 1970.



Chairman



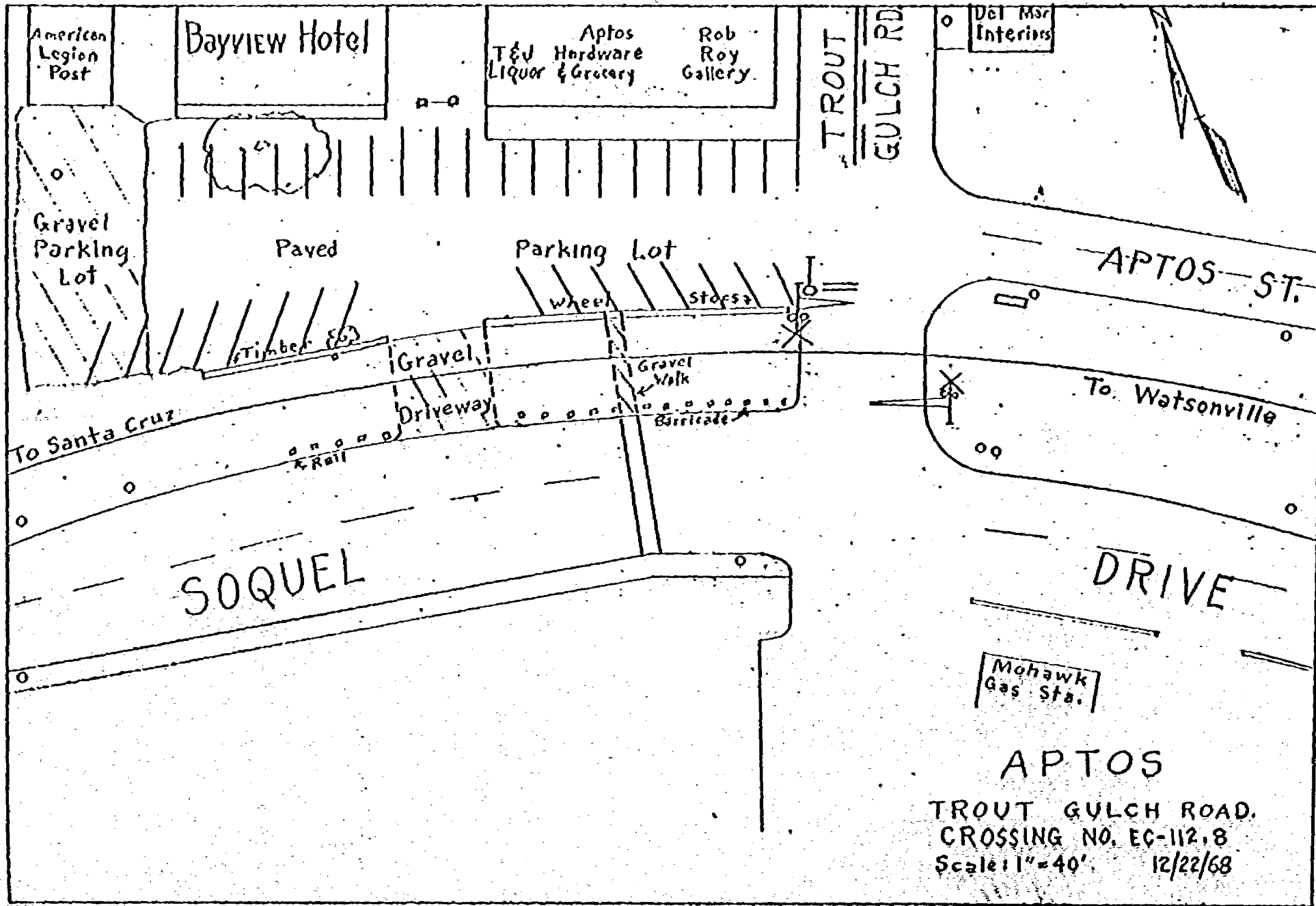






Commissioner

I Dissent
Vernon L. Sturges



APPENDIX A