

ORIGINAL

Decision No. 79466

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation for the purpose of establishing a list for the year 1972 of railroad grade crossings of city streets or county roads most urgently in need of separation, or existing separations in need of alteration or reconstruction as contemplated by Section 189 of the Streets and Highways Code.

Case No. 9257
(Filed August 10, 1971)

(Appearances are listed in Appendix A)

O P I N I O N

On August 10, 1971, the Commission issued an order instituting an investigation to establish the 1972 annual priority list of railroad grade crossings of city streets or county roads most urgently in need of separation and of existing grade separations in need of alteration or reconstruction. Thereafter, such list is to be furnished to the Department of Public Works. Such a list is in conformity with Sections 189-191 of the Streets and Highways Code, which provides that the annual budget of the Department of Public Works shall include the sum of \$5,000,000 for allocations to grade separations or alterations made to existing grade separations. The actual allocation of money from State Highway Division funds is made by the Department of Public Works and the California Highway Commission.

Public hearings were held in Los Angeles and San Francisco before Examiner Daly and the matter was submitted on October 20, 1971.

Copies of the order instituting this investigation were served upon each city, county and city and county in which there is a railroad grade crossing or separation; each railroad corporation; the Department of Public Works; the California Highway Commission; the Greater Bakersfield Separation of Grade District; the League of California Cities; the County Supervisors Association; and other persons who might have an interest in the proceeding.

In response to the Order Instituting Investigation, various public bodies desiring to nominate crossings or separations for inclusion on the 1972 priority list filed with the Commission the following information:

For Crossings at Grade
Proposed for Elimination

1. Identification of crossing, including name of street or road, name of railroad and crossing number.
2. Twenty-four-hour vehicular traffic volume count, by either 60- or 30-minute periods.
3. Number of train movements for one typical day segregated by type, i.e., passenger, through freight, or switching.
4. Statement as to delay at crossing.
5. Type of separation proposed (overpass or underpass).
6. Preliminary cost estimate of project.
7. Statement as to the amount of money available for construction of the project.
8. Statement as to need for the proposed improvement.

For Grade Separations
Proposed for Alteration

1. Identification of crossing, including name of street or road, name of railroad and crossing number.
2. Twenty-four-hour vehicular traffic volume count, by either 60- or 30-minute periods.
3. Description of existing separation structure, with principal dimensions.

4. Type of alteration proposed.
5. Preliminary cost estimate of project.
6. Statement as to the amount of money available for construction of the project.
7. Statement as to the need for the proposed improvement.

During the course of hearing, Exhibit 2 was introduced by the Commission staff. Said exhibit considered the nominations and pertinent data filed pursuant to the Order Instituting Investigation in relation to certain tangible and intangible factors. These factors were used for the purpose of comparing the relative importance of one crossing with another in order to assign priorities. Considered among the tangible factors were traffic, cost, accident, state of readiness, impaired clearance and demand. The intangible factors considered were potential traffic, position and relation to city street pattern, relationship to railroad operations, available alternate routes, accident potential and vehicular delays. Also considered was elimination of existing grade crossings, located at or within a reasonable distance from the point of crossing of the grade separation as required by Section 1202.5(a) of the Public Utilities Code.

In addition to the nominations filed, the staff also nominated several crossings which it felt were in need of separation. These nominations are included in the list.

Representatives of various cities and counties introduced evidence in support of their nominations.

In determining the position of the grade crossings or separations nominated, consideration was given to the availability of funds for each and consequent ability to commence construction in 1972 and whether or not an application had been filed with the Public Utilities Commission.

In order to determine the relative position of the grade crossings to be separated, each was ranked according to the factors

enumerated in Exhibit 2; viz., traffic factor, cost factor and accident factor. They were then varied in position according to any special conditions such as the intangible factors heretofore mentioned. In the case of the separations to be altered or widened, the factors considered were the constriction to traffic flow, the cost of each project and impaired clearances which may exist.

Because of the carryover of \$5,262,000 from the 1971 fund, the year 1972 will have a total fund of \$10,262,000.

During the course of hearing three issues were raised by attorneys for the Southern Pacific Transportation Company and the Department of Public Works. The issues are as follows:

1. Does the eligibility of a public agency to obtain allocations from the fund depend upon the amount or lack of contribution by a railroad?

2. Does a certain agreement (Exhibit 14) entered into between the Southern Pacific Transportation Company and the County of Santa Cruz relating to the cost of reconstructing an existing separation preclude the Commission from making an allocation of costs?

3. Can a railroad make nominations?

The first two issues would require declaratory opinions of the Commission in the anticipation of subsequent proceedings. The Commission has consistently held that it has no authority to grant declaratory relief. (American Transfer Co., Decision No. 76038, dated August 19, 1969; Moore Truck Lines, Decision No. 75413, dated March 11, 1969, in Application No. 50536; Holabird v. Railroad Commission, 171 Cal. 691, 696; Borden v. The California Company, 21 C.R.C. 23, 25; Pickham, 30 C.R.C. 851; concurring opinion in Arizona Edison v. So. Sierras 31 C.R.C. 609; Pickwick Stages, 34 C.R.C. 61; Re. Loomis, 34 C.R.C. 137, 138; and LA & S.L.R. Co.; 46 C.R.C. 790, 793.) The purpose of the instant proceeding is to establish a priority list of crossings that may qualify for allocations from the fund. The actual determination as to the amount of

money that a crossing is entitled to receive from the fund, if any, can only be made upon the filing of an application and a consideration of the circumstances peculiar to each proceeding. The first two issues raised herein are premature and should be raised in an appropriate application proceeding.

With respect to the third issue there is no fixed statutory procedure relating to the nomination of crossings. The Commission staff has been nominating crossings for many years. There is nothing improper with a railroad placing a crossing in nomination. In the final analysis, the public agency will have to support the nomination by filing an application and complying with all requirements as to qualification before favorable consideration can be given.

The crossing nominated by the Southern Pacific Transportation Company is the proposed Farallon Drive crossing in San Leandro. Also, the City of Ontario nominated the proposed Grove Avenue crossing over the Southern Pacific Transportation Company. The nominations were made in anticipation of the possible passage of A.B. 1587 or A.B. 388, which would make not only "existing" grade crossings, but "proposed" grade crossings, eligible to receive from the fund.

The Commission, after considering all of the nominations, establishes the following priority list for 1972.

PRIORITY LIST OF GRADE SEPARATION PROJECTS OR ALTERATIONSYEAR 1972PURSUANT TO SECTION 189 OF THE STREETS AND HIGHWAY CODE

| Priority : | No. : | Crossing No. : | Street : | Agency : | Railroad : |
|------------|-------|----------------------------|------------------------------|--------------------|----------------|
| 1 | | D-20.6 | Winton Ave. | Hayward | SPT |
| 2 | | 3-9.8 | Paramount Blvd. | Los Angeles County | UP |
| 3 | | EG-498.8 and BBM-499.17 | 223rd St. | Los Angeles County | SPT |
| 4 | | 2H-14.1 | El Segundo Blvd. | Los Angeles County | AT&SF |
| 5 | | 2B-10.3 and 3-57.0 | 14th St. | Riverside | AT&SF & UP |
| 6 | | 2-131.1 | Walnut St. | Pasadena | AT&SF |
| 7* | | 36D-5.2-B | 47th St. | San Diego | SD&AE |
| 8* | | 2-252.9-A | Miramar Rd. | San Diego | AT&SF |
| 9 | | A-91.0 | 28th St. | Sacramento | SPT |
| 10 | | DA-40.0 and 4G-10.1 | Abel St. | Milpitas | SPT & WP |
| 11 S | | 2-165.1 and 3Y-17.6 | Lemon St. | Fullerton | AT&SF & UP |
| 12 | | 2B-0.7 | Rialto Ave. | San Bernardino | AT&SF |
| 13 | | L-42.6 | Lafayette St. | Santa Clara | SPT |
| 14 | | B-210.3 | Chestnut Ave. | Fresno County | SPT |
| 15* | | D-5.9-A | Adeline St. | Oakland | SPT |
| 16* | | 2-225.0-A | Harbor Drive | Oceanside | AT&SF |
| 17* | | E-440.3-A | Santa Susana Pass Rd. | Ventura County | SPT |
| 18* | | EC-108.9-B | San Andreas Rd. | Santa Cruz County | SPT |
| 19* | | D-75.6-B | Canal Blvd. | San Joaquin County | SPT |
| 20 | | A-14.5 and 2K-1.8-B | 23rd St. | Richmond | SPT & AT&SF |
| 21 | | B-483.5 thru B-483.7 | Mission Rd./ Griffin Ave. | Los Angeles | SPT |
| 22 | | B-469.4 | Hollywood Way | Los Angeles County | SPT |
| 23 | | B-109.5 thru B-110.9 | Carpenter Rd. | Stanislaus County | SPT |

PRIORITY LIST OF GRADE SEPARATION PROJECTS OR ALTERATIONSYEAR 1972PURSUANT TO SECTION 189 OF THE STREETS AND HIGHWAYS CODE

| Priority : | No. : | Crossing No. : | Street : | Agency : | Railroad : |
|------------|-------|------------------------|------------------------------|--|---------------|
| | 24 | 2-249.1 | Edelweiss St. | San Diego | AT&SF |
| | 25 | B-609.7 | Monroe St. | Indio | SPT |
| | 26* | E-46.6-B | Julian St. | San Jose | SPT |
| | 27* | A-105.1-BC | Subway Rd. | Roseville | SPT |
| | 28 | A-13.8 | Cutting Blvd. | Richmond | SPT |
| | 29 S | E-15.2 | Broadway | Burlingame | SPT |
| | 30 | E-23.2 | Holly St. | San Carlos | SPT |
| | 31 | AA-61.7 and AB-62.0 | Lombard Station | Napa | SPT |
| | 32 S | B-487.4 | Fremont Ave. | Alhambra | SPT |
| | 33 S | 2-162.4 | Gilbert St. | Fullerton | AT&SF |
| | 34 S | 2-164.7 and 3Y-17.1 | Highland Ave. | Fullerton | AT&SF & UP |
| | 35 S | 2-B-44.0 | State College Blvd. | Fullerton | AT&SF |
| | 36 | 4-9.7 | Fruitvale Ave. | Oakland | WP |
| | 37 | 2-887.6 | "F" St. | Greater Bakersfield Separation of Grade District | AT&SF |
| | 38 | 3-8.5 | Montebello Blvd. | Montebello | UP |
| | 39 S | 2-1062.5 | Bellevue Rd. | Atwater | AT&SF |
| | 40* | 5-14.7-B | Sir Francis Drake Blvd. | Larkspur | NWP |
| | 41@ | 1-17+ | Parallon Dr. | San Leandro | SPT |
| | 42 | 8N-1.85 thru 8N-2.6 | Montezuma St./ Harbor St. | Pittsburg | SN |
| | 43@ | B-521.4+ | Grove Avenue | Ontario | SPT |

* Alteration projects for existing separation structures.

S Staff Nomination.

@ Nomination is only to be considered in the event that
A.B. 1587 or A.B. 388 should become law.

O R D E R

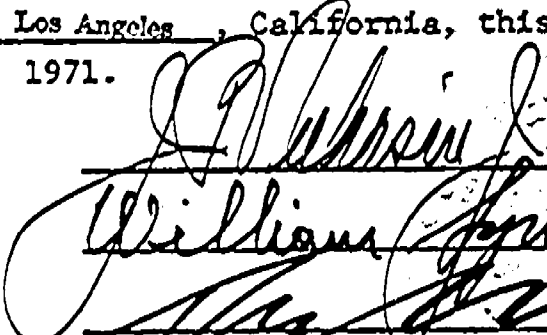
IT IS ORDERED that:

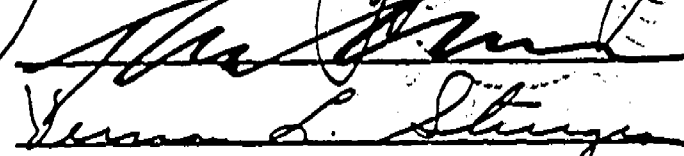
1. The Secretary shall furnish a full, true and correct copy of this decision and order to the State Department of Public Works.


2. The agencies named for the first 30 crossings specified in the 1972 Priority List shall file with this Commission status reports of their respective projects by February 1, 1972.

The effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 14th
day of DECEMBER, 1971.



Chairman




Commissioners

APPENDIX A

LIST OF APPEARANCES

Respondents: John C. Beke and Edwin P. Benedict, for Los Angeles County Road Department; James F. Martinek, for the City of Riverside; Gary Dysart, for the City of Fullerton; William J. Ghormley and Ross E. Cox, for the County of Ventura; Leslie E. Corkill, for the Department of Public Utilities and Transportation, City of Los Angeles; Arthur A. Krieger, for the City of Pasadena; Allen D. Morrison, for the City of Simi Valley; Harold S. Lentz, Attorney at Law, for the Southern Pacific Transportation Company; John D. Maharg, County Counsel, by Ronald L. Schneider, Attorney at Law, for the County of Los Angeles; John A. Fantham, for the County of Santa Cruz; Robert M. Barton, for the City of Milpitas; Douglas S. Cruickshank, for the City of Hayward; John S. Jones, for the City of Santa Clara; Frederick Barnett, for the City of Roseville; and Jack Navone, for the County of San Joaquin.

Interested Parties: Melvin R. Dykman, for the Department of Public Works, Division of Highways.

For Commission Staff: William L. Oliver.