

Decision S4 12 025

DEC 5 1984.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

UNITED TRANSPORTATION UNION,
CALIFORNIA STATE LEGISLATIVE BOARD,
a labor organization,

Complainant,

vs

SOUTHERN PACIFIC TRANSPORTATION
COMPANY, a corporation,

Defendant.

Case 84-05-105
(Filed May 31, 1984)

MODIFICATION OF JULY 5, 1984
CEASE AND DESIST ORDER

On July 5, 1984, in response to allegations and verified statements filed by complainant United Transportation Union that defendant Southern Pacific Transportation Company's railroad requires its railroad operating personnel to make walking inspections pursuant to defendant's Operating Rules 827 and 829 in the area between Sandcut and Cable on defendant's San Joaquin Division, despite alleged lack of or inadequacy of physical walkways adjacent to the track as required by Commission General Order (GO) 118, thereby exposing those personnel to possible injury or fatality, this Commission found that a present danger appeared to exist which merited immediate relief, and pending hearing and determination of need for continued restraint, issued its Decision (D.) 84-07-062 ordering defendant to cease and desist from application of those portions of those rules which would require walking inspections of stopped trains between Sandcut and Cable.

On August 7, 1984, following two days of public hearing before Administrative Law Judge (ALJ) John B. Weiss in San Francisco,

and after filing of a petition from defendant seeking vacation of the cease and desist order, which petition was opposed by complainant and staff, this Commission concluded that a clear and present danger existed and continued to exist, and that the public interest required retention of the July 5, 1984 cease and desist order until further order of the Commission.

Four more days of public hearing have been concluded and the complaint has been submitted subject to final briefing. During the hearing evidence was adduced which confirms that in some areas walkways not only do not meet GO 118 standards but in other areas are virtually nonexistent. However, evidence also confirms that substantial stretches of the subgrade provide standard safe walkways, including stretches defendant has worked up to standard since filing of the complaint.

As we have observed elsewhere, the safety of the crew members called upon to perform walking inspections is our fundamental consideration. But we also must fully agree with defendant that the nonemergency routine inspections which take the opportunity given by a nonemergency, unscheduled stop to give the train additional inspection, even though there has been no indication of a problem, are highly desirable, particularly in this arduous mountain territory in the Tehachapi characterized by severe grades and sharp reverse curves in which equipment is heavily stressed. We recognize and appreciate that such routine walking inspections can save lives - including the lives of the very crew members who would be involved in such inspections - and property. The exercise of constant vigilance by all crew members, including taking advantage of every opportunity to safely make inspections, is important to meet the goal of bringing each train to its terminal safely, expeditiously, and economically. Relying on yard inspections alone will not suffice. Between

terminals there are many opportunities for mechanical defects and loading problems to arise with potentially catastrophic consequences. When advantage can be taken of these opportunities safely, walking inspections should be performed.

Resolution of the issues posed by this complaint will require considerable further close study of the voluminous amounts of evidence and review of the briefs to be received. This will require time. Corrective work continues. Some areas obviously cannot be brought to standard without major reconstruction. Other areas just as obviously are to standard now. Meanwhile, heavy traffic continues on this sole rail outlet to the south from the San Joaquin Valley for both defendant and the Santa Fe. We are deeply concerned that there be no incident resulting in derailment, loss of life, or great property damage on these standard areas, which accident might have been prevented by a routine walking inspection. The interests of safety overall must be served.

O R D E R

Accordingly, IT IS ORDERED that defendant Southern Pacific Transportation Company, pending further order of this Commission, shall cease and desist from application of those portions of defendant's Rules 827 and 829 which would require walking inspections in nonemergency situations of stopped trains at the following locations on the San Joaquin Division of its railroad between the location near Bakersfield, California, known as Sandcut (at approximately Milepost (M.P.) 325) and the location near Tehachapi, California, known as Cable (at approximately M.P. 358):

M.P. 326 - M.P. 327	South Side Track No. 2.
M.P. 329	Both Sides of Main Track.
M.P. 330 - M.P. 331.6	Both Sides of Mainline and Tracks Nos. 1 and 2 in the Ilmon Area.
M.P. 333.8 - M.P. 333.9	North Side Track No. 1 Vicinity Old Tunnel 1.
M.P. 335.1	Area of East Switch and Spur Switch at Caliente.
M.P. 337.8 - M.P. 338.4	North Side of Bealville Siding around Curve No. 28.
M.P. 341.5 - M.P. 345.1	Through Tunnel 5, Mainline in Cliff Area and Cliff Siding, through Tunnels 7 and 8, and Mainline to West Switch Rowen.
M.P. 347.2	South Side Mainline in Rock Cut.
M.P. 348.25	Area under Bridge on both Mainline and Woodford Siding.
M.P. 349.6 - M.P. 351.5	Both Sides Mainline through Cuts, Tehachapi Creek Bridge Area and Tunnel 9 to West Switch Waylong.
M.P. 352.35 - M.P. 353	From Tunnel 10 to West Switch Marcel.
M.P. 354.3 - M.P. 355.3	Both Sides Mainline from East Switch Marcel to Tunnel 14.
M.P. 355.4 - M.P. 356.0	South Side Mainline Area from Tunnel 14 to Tunnel 17.

Areas between Sidings and Main Tracks, and Areas between Adjacent Tracks.

As to application of Rules 827 and 829 to the balance of the San Joaquin Division between Sandcut and Cable, the cease and desist order issued by D.84-07-062 on July 5, 1984, and continued by D.84-08-122 dated August 7, 1984 is vacated except during hours of darkness or during inclement weather which materially impairs visability.

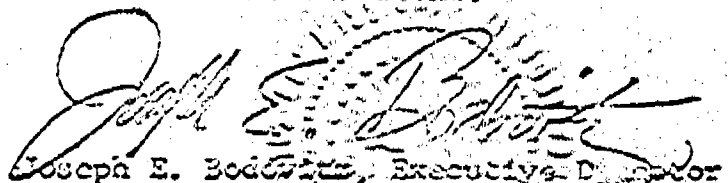
The Executive Director of the Commission is directed to cause personal service of this order to be made upon Southern Pacific Transportation Company.

This order is effective today.

Dated DEC 5 1984, at San Francisco, California.

DONALD VIAL
President
VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
FREDERICK R. DUDA
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

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Resolution of the issues posed by this complaint will require considerable further close study of the voluminous amounts of evidence and review of the briefs to be received. This will require time. Corrective work continues. Some areas obviously cannot be brought to standard without major reconstruction. Other areas just as obviously are to standard now. Meanwhile, heavy traffic continues on this sole rail outlet to the south from the San Joaquin Valley for both defendant and the Santa Fe. We are deeply concerned that there be no incident resulting in derailment, loss of life, or great property damage on these standard areas, which accident might have been prevented by a routine walking inspection. The interests of safety overall must be served.

This matter did not appear on our public agenda as required by the Government Code; however, the interest of safety justifies our action today on an emergency basis under Public Utilities Code § 306(b).

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