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ORIGINAL

Decision 93501 SEP 1 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN PACIFIC  
TRANSPORTATION COMPANY, a  
corporation, for a variance from  
the requirements of General Order  
No. 26-D, Section 3.2.

Application 59470  
(Filed February 25, 1980)

Anthony P. Parrille, Attorney at Law, for  
Southern Pacific Transportation Company,  
applicant.

James P. Jones, for United Transportation  
Union, protestant.

Lynn T. Carew, Attorney at Law, and  
Herman Privette, for the Commission staff.

O P I N I O N

This is an application by Southern Pacific Transportation Company (SP) which seeks a variance from the requirements of General Order 26-D (GO 26-D) in connection with a railroad switch in Alhambra, California.

A duly noticed public hearing was held in this matter before Administrative Law Judge Donald B. Jarvis in Los Angeles on March 3 and 4, 1981. The United Transportation Union (UTU) appeared as a protestant. The Commission staff (staff) presented evidence. The proceeding was submitted on March 16, 1981.

Material Issues

The material issues in this proceeding are: (1) Should a variance be authorized? (2) If a variance be authorized, should conditions be imposed along with the variance?

There is little dispute over the facts. The Commission makes the following findings.

Findings of Fact

1. The Alhambra Lowering Project (Project) was one in which 2.85 miles of SP track running at grade in the City of Alhambra (Alhambra) was placed in a slot or trench approximately 46 feet wide, varying in depth from 0-30 feet. The Project eliminated nine crossings at grade. Eight overcrossings were constructed. Construction of the Project began in September 1976, and it was completed in March 1979.

2. Switch 2370 was one of the items constructed as part of the Project. The purpose of the switch is to permit trains to leave the westerly SP main line and go to the Alhambra depot area. This permits trains to serve industries which are on the drill track in the depot area, those on the Palm Avenue lead and an adjacent team track. The switch is located in the slot approximately 28 feet below the surface of the street. The slot is 46 feet wide at this point. The slot is encased with walls that are vertical at their base, which then angle to the surface of the street. The walls consist of concrete pilings, with earth in between, to which two coats of gunite were applied.

3. The Project was instituted by Alhambra, which was the lead agency for its construction and design. The primary contractor for the Project was Irvine-Santa Fe. Switch 2370 was constructed by a subcontractor, Pacific Railroad Constructors.

4. SP had a resident engineer at the site during the construction of the Project.

5. Switch 2370 is a manually operated one. It is not operated electrically by centralized traffic control. It is held in position by an electric lock when it is aligned to permit main line traffic.

6. There is a diamond-shaped metal target mechanism on top of Switch 2370. The purpose of the target is to indicate to train crews how the switch is aligned. If the switch is in a position to permit traffic on the westbound main line the target is aligned parallel to the track. If the switch is positioned to permit a train to enter the depot spur, the target is aligned at 90 degrees to the track so it is visible from a train. There is red, reflective paint on the target. ✓

7. There is a maintenance road between Switch 2370 and the gunite wall. The distance between the switch and the wall is 10 feet 2 inches. The road is used primarily by SP personnel to maintain track and signals along the railroad right-of-way. The Alhambra police and fire departments have an emergency plan which utilizes the maintenance road in case of an emergency in the slot.

8. Sections 3.1 and 3.2 of GO 26-D provide that:

"3.1 Minimum side clearances from center line of tangent standard gauge railroad and street railroad tracks, which are used or proposed to be used for transporting freight cars, except as hereinafter prescribed, shall be as shown below.

<u>Description</u>	<u>Minimum Side Clearance</u>
"3.2 All structures and obstructions above the top of the rail except those hereinafter specifically mentioned . . . . .	8' 6"
"Note: Posts, pipes, warning signs and similar obstructions should, where practicable, have a side clearance of ten (10) feet."	

9. On September 27, 1978, during the course of an inspection of the Project, a staff Senior Transportation Operations Supervisor noticed that the temporary installation for Switch 2370 did not comply with GO 26-D and called this to the attention of SP

personnel. At this time the adjacent wall for the slot was 96% completed. All that remained to complete the wall was to apply a second coat of gunite in certain places.

10. Switch 2370 is positioned  $6\frac{1}{2}$  feet from the center line of track.

11. If the target were removed and the stand lowered approximately one inch, Switch 2370 would be in compliance with GO 26-D.

12. Removal of the target from Switch 2370 would create an unsafe operating condition and would not be reasonable.

13. If Switch 2370 were moved two feet toward the gunite wall, it would be in compliance with GO 26-D. However, this would impair the clearance of vehicles using the maintenance road.

14. If there is not sufficient clearance for vehicles using the maintenance road, there is the possibility of vehicles scraping the gunite wall resulting in damage to the vehicle and/or the wall. However, the greatest danger presented by impaired roadway clearance is that vehicles would run over the switch. This could result in damage to the switch stand and electric lock. Were this to occur the points on the switch could open, causing a train to derail.

15. If Switch 2370 were moved closer to the gunite wall it would be in compliance with GO 26-D. However, the target would not be readily visible to train crews. The maintenance road would be close to the tracks in violation of GO 118. It would not be reasonable to move Switch 2370 to a position near the gunite wall.

16. Switch 2370 is used on a regular basis twice a day, six days a week. A switch crew departs from the Taylor yard at 5 p.m., depending on its work; the train arrives in the vicinity of Switch 2370 between 6 p.m. and 9 p.m. After receiving permission from the dispatcher, the switch is opened to permit the switch engine and cars to enter the depot spur. After the train clears the switch it is locked into position to allow main line traffic. The switch engine and cars depart from the depot area between 10 p.m. and 11 p.m.

Switch 2370 is opened in the manner previously described to permit entry to the main line so the train can return to the Taylor yard. Occasionally, there are additional switch movements over the depot spur.

17. The hazard posed by Switch 2370 in its present location is that a detraining switchman anticipating a normal size toe path (GO 118) could be injured by jumping into the switch. SP rules prohibit detraining in front of a switch. However, in emergency situations, such as a derailment, it may be necessary to detrain in front of a switch.

18. Since train operations in the vicinity of Switch 2370 occur at night, illumination of the area would decrease the hazard.

19. The cost of illuminating the area in the vicinity of Switch 2370 would be approximately \$5,000.

20. The cost of moving the gunite wall to permit locating Switch 2370 8½ feet from the center of rail and providing a maintenance road with adequate clearance would be approximately \$150,000.

21. There have been no accidents in the vicinity of Switch 2370 since it was placed in operation.

The noncompliance of Switch 2370 came to light on September 27, 1978 during the inspection of the project by the staff. The staff member noted that the temporary installation for Switch 2370 did not comply with GO 26-D, and brought it to SP's attention. Then on October 23, 1978, during another inspection, SP's resident engineer noted that the adjacent wall was already 96% complete. Thereafter, until February 15, 1980, staff had numerous contacts with SP aimed at getting Switch 2370 in compliance with GO 26-D. These efforts failed and SP filed this application for a GO 26-D variance.

#### Discussion

SP contends that Switch 2370 poses no hazard, and a variance from the requirements of GO 26-D should be granted. It argues that there have been no accidents at the switch. Generally, there are only two movements a day over the switch, and the crews operating in the area are aware of its existence.

UTU argues that SP should be required to make Switch 2370 comply with the provisions of GO 26-D.

At the public hearing staff took no position with respect to granting the variance. However, its witness testified that illumination of Switch 2370 would make conditions safer than they are now, if a variance is granted. Also, he testified that relocating the switch would alleviate the noncompliance with GO 26-D and that moving the gunite wall would put the switch in conformance with GO 26-D.

Considering the location of the switch, the amount of usage, and the accident record, the Commission is of the opinion that a variance should be granted on the condition that the area be illuminated. The Commission makes the following conclusion.

Conclusion of Law

SP should be granted a variance from GO 26-D for Switch 2370 on the condition that it install and maintain adequate illumination at the switch.

O R D E R

IT IS ORDERED that:

1. Within 60 days after the effective date of this order, Southern Pacific Transportation Company (SP) shall submit to the Commission's Transportation Division plans for constructing and maintaining illumination at Switch 2370.
2. Within 90 days after the plans provided for in Ordering Paragraph 1 have been approved by the Transportation Division, SP shall construct and maintain the required illumination.

3. After SP complies with Ordering Paragraphs 1 and 2 of this decision, it is granted a variance from the provisions of GO 26-D (3.2) for Switch 2370. The variance shall remain in effect so long as SP continues to provide and maintain the illumination required by this order or until further order of the Commission.

This order becomes effective 30 days from today.

Dated SEP 1 1981, at San Francisco, California.

John E. Byrne  
President  
Richard D. Powell  
Edmund W. Kinnis  
Victor Calvo  
Frank C. Green  
Commissioners