

Decision 93621 OCT 6 1981**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the railroad
operations and safety practices of
SOUTHERN PACIFIC TRANSPORTATION CO.,
a Delaware Corporation.

OII 87
(Filed March 17, 1981)

Gary A. Laakso, Attorney at Law, for
Southern Pacific Transportation Co.,
respondent.

James P. Jones and J. L. Jim Evans, for
United Transportation Union,
interested party.

Alvin S. Pak, Carl Oshiro, Attorneys at
Law, Gary L. Rosenthal, and
Herm Privette, for the Commission
staff.

O P I N I O N

This is an investigation on the Commission's own motion to determine whether respondent Southern Pacific Transportation Co. (SP) has performed and is performing freight and passenger transportation over tracks with walkways and clearances which fail to comply with the various safety provisions of General Orders (GO) 26-D and 118.^{1/}

Public hearing was held before Administrative Law Judge O'Leary at San Francisco on July 7, 1981. The matter was submitted on July 15, 1981 with the filing of Exhibit 11.

^{1/} GO 26-D contains regulations governing clearances on railroads with reference to side and overhead structures and parallel tracks. GO 118 contains regulations governing the construction, reconstruction, and maintenance of walkways adjacent to railroad tracks.

A "Stipulation as to Facts and Recommended Disposition" entered into by all parties was received in evidence as Exhibit 1. Exhibit 3 is a copy of "GO 26-D-118/148, General Survey San Francisco to San Bruno Southern Pacific Company." Exhibit 4 is a copy of "General Survey: General Orders 26-D-118/151." Exhibit 5 is a copy of "GO 26-D-118/174 (handwritten): General Survey Regarding Impaired Clearances, Walkways and Unsafe Operating Conditions on Southern Pacific Transportation Company Western Division San Bruno to San Jose Including Branch Lines."

Exhibits 3, 4, and 5 contain descriptions of various tracks that do not comply with the provisions of GO 26-D and/or GO 118.

The Commission staff served copies of the exhibits upon SP as follows:

- Exhibit 3 on or about January 12, 1976,
- Exhibit 4 on or about November 23, 1976, and
- Exhibit 5 on or about June 13, 1977.

At the time of service SP was directed to correct the conditions noted within each exhibit.

At the time of the issuance of the OII (March 17, 1981), approximately 281 conditions remained to be corrected. As of the date of hearing 175 conditions which are set forth in Exhibit 11 remained to be corrected.

Exhibit 1 states that SP using best efforts could correct the yet uncorrected conditions by September 30, 1981.

The parties recommend the following disposition of OII 87:

- A. That SP should be ordered to complete all corrections on or before September 30, 1981;
- B. That SP should be ordered to provide progress reports to the Office of the Executive

Director of this Commission on or about July 31, 1981, and August 31, 1981, stating corrections made and those yet to be made and that a completion report be filed on October 2, 1981;

- C. That the Commission should find that no cease and desist orders should be issued with respect to any of the trackage identified in Exhibits 3, 4, and 5; and
- D. That SP be ordered to cease and desist from the violation of GO 26-D and 118 of this Commission with respect to the tracks and conditions identified in Exhibits 3, 4, and 5.

Findings of Fact

1. Copies of Exhibits 3, 4, and 5 were served upon SP on January 12, 1976, November 23, 1976, and June 13, 1977, respectively.
2. Exhibits 3, 4, and 5 contain descriptions of conditions that do not comply with the provisions of GO 26-D and/or GO 118.
3. At the time Exhibits 3, 4, and 5 were served upon SP the Commission staff directed SP to correct the conditions noted within each exhibit.
4. At the time of the issuance of the OII approximately 281 of the total of 2,053 conditions enumerated in Exhibits 3, 4, and 5 remained to be corrected.
5. At the time of hearing (July 7, 1981), 175 conditions remained to be corrected, which conditions are enumerated in Exhibit 11.

Conclusions of Law

1. SP should be ordered to correct the conditions remaining to be corrected.
2. The corrections should be ordered accomplished no later than October 31, 1981.
3. Since this matter affects public safety, the order which follows should be effective on the date of signature.

O R D E R

IT IS ORDERED that:

1. Southern Pacific Transportation Co. (SP) shall correct the deficiencies set forth in Exhibits 3, 4, and 5 for the trackage listed in Exhibit 11 no later than October 31, 1981.
2. Upon completion of the corrections ordered by paragraph 1, SP shall notify the Commission, and serve a copy of its notification on all appearances to this proceeding.

This order is effective today.

Dated October 6, 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

*I certify that this decision was approved
by the above Commissioners today.*

John E. Bryson
