

6-2-23  
Decision No. 12208

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

-oOo-

In the matter of the application )  
of Southern Pacific Company for an )  
order authorizing the construction )  
at grade of a spur track across ) Application No. 8923.  
West Main Street in the vicinity of )  
Ventura Junction, County of Ventura, )  
California. )

Wm. V. Herrin, for Applicant.

BY THE COMMISSION:

O P I N I O N

This is an application filed by Southern Pacific Company for permission to construct a spur track at grade across West Main Street in the City of San Buenaventura, commonly known as Ventura.

A public hearing was held on this application before Examiner Williams, in Ventura, May 24, 1923.

The spur track on which the crossing is located is to serve the substation or oil distributing plant of the Shell Company of California, which, near the westerly boundary of the City on Main Street, at the point of the proposed crossing, is on the official route of the State Highway between San Francisco and Los Angeles, via the coast. In addition, this street is the principal business street of Ventura. The spur track in

question diverts from the Ojai branch of the Southern Pacific just north of Main Street, the Ojai branch itself having been constructed across this thoroughfare for many years.

Southern Pacific Company, the evidence indicates, filed this application with the Commission on April 16, 1923 as a result of a request made by the Shell Company, on December 27, 1922, for service to its property. The track was actually constructed on April 20, 1923 without permission from the Railroad Commission and in violation of Section 43 of the Public Utilities Act.

At the hearing an assistant engineer of the applicant stated that the responsibility for constructing this crossing without proper authority from the Commission was due to an error or oversight on his part and that on March 27, 1923, he issued an order to the Roadmaster directing that the track be built.

The evidence indicates that it is entirely feasible to give service to the property occupied by the Shell Company without constructing a track across any street by taking this spur from the Ojai branch at a point a few hundred feet south of Main Street. If service were given in this manner it might be necessary to, at some later time, construct an additional track across Santa Clara Street in order to serve property adjacent. Santa Clara Street, however, is a relatively unimportant street approximately paralleling Main Street and located about six hundred feet southerly thereof and it further appears that Santa Clara Street extends only a few hundred feet west of the railroad, terminating at the Ventura River. In fact, one of the reasons why Main Street carries such a heavy traffic is that

it is the only thoroughfare in this vicinity upon which there is a bridge constructed across the Ventura River with the result that Main Street carries all of the traffic to and from the city from the west.

It appears further that a crossing of this spur over Main Street is not only unnecessary but that it creates a more than ordinary hazard. It is estimated that from fifteen to twenty cars per month will be placed on the Shell Company's spur and that there would ordinarily be four movements across Main Street for each loaded car placed on the spur and for each empty car taken from the spur or a total of approximately one hundred and twenty additional railroad movements per month across the street due to the existence of this crossing. It is clearly evident that this amount of switching across a highway carrying in excess of two thousand vehicles per day should not be permitted when it could be so easily avoided. The situation, in this instance, is made the more serious because of the fact that the view at this crossing is quite seriously obstructed.

Although a single employee assumed all responsibility for the construction of this grade crossing in violation of the provisions of Section 43 of the Public Utilities Act, the record indicates that this employee had a remarkable lack of detailed knowledge, not only as to the physical conditions at the point of crossing, but also as to the administrative negotiations preliminary to its construction. Furthermore, the record in this case shows that this is not the only instance in which the Southern Pacific has been negligent in the matter of fully complying with the provisions of Section 43 of the Public Utilities Act or of the Commission's orders in connection

with tracks constructed across public highways. In view of all these facts, the conclusion is inescapable that the responsibility for this and other violations does not rest with a single employee but that it actually rests with Southern Pacific Company and its responsible officers. The Commission at this time reiterates that it cannot and will not condone acts of this kind done with or without the knowledge of the carrier's executive officers. This application has not been justified and it will, therefore, be denied and the crossing ordered removed.

Any expenditure already made contingent upon the installation of this crossing cannot be considered as a reason for the granting of the application, as has heretofore been announced, in Decision No. 10994.

#### O R D E R

Southern Pacific Company having applied to the Commission to install a spur track at grade across West Main Street in the City of San Buenaventura, a public hearing having been held, the Commission having been apprised of the facts, the matter being under submission and ready for decision,

IT IS HEREBY ORDERED, that the above entitled application be and it is hereby denied, and,

IT IS HEREBY FURTHER ORDERED, that applicant forthwith abolish the grade crossing illegally established at the location described in the above entitled application by removing its spur track from said West Main Street.

Dated at San Francisco, California, this 18<sup>th</sup> day of June, 1923.

Oliver

Director

J. T. Whitting  
Commissioners