

Decision No. 12853

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the matter of the application of)
the County of Tulare for permission)
to construct a crossing of a public)
highway over a railroad of the Vi-)
salia Electric Railroad Company on)
the east line of the west half of)
the northwest quarter of Section 32,)
Township 17 South, Range 27 East,)
Mt. Diablo Base and Meridian.)

Application No. 9155.

Frank Lamberson, for Applicant.
Power & McAdzean, for Visalia Electric Railroad Company.

BY THE COMMISSION:

O P I N I O N

In this application the County of Tulare requests permission to construct a public crossing at grade over the track of the Visalia Electric Railroad Company on the east line of the west half of the northwest quarter of Section 32 Township 17 South, Range 27 East, Mt. Diablo Base and Meridian near Naranjo, Tulare County.

A public hearing upon this application was held by Examiner Satterwhite at Visalia on October 2, 1923.

The crossing is on a north and south road running from a point about one-quarter mile south of the railroad to an east and west paved county highway about one-quarter mile north of the crossing. This paved highway leads westerly to Woodlake, the nearest trading point and westward to paved highway leading to Visalia and intermediate points. The purpose in asking for the crossing is to enable those living or having business south of the railroad to have direct access to the

paved county highway and to Woodlake.

Along the east and west center line of Section 32, there is a county road extending easterly from the south end of the road upon which the proposed crossing is located across the track of the railroad near Wranjo Station and connects with the paved county highway a short distance east of the track.

On December 3, 1920, Tulare County applied for permission to construct this crossing (Application No. 6358) and the Commission in the order in its Decision No. 8888 denied the application. In that decision it was suggested that the east and west road on the center line of Section 32 could be extended one quarter mile west and connect with a north and south road on the west line of Section 32, which crosses the track of the railroad and connects with the paved highway one fourth mile north of the railroad. The County has since made an effort to secure the right of way for this one quarter mile extension but has found that it would be necessary to institute condemnation proceedings, which in its judgment would cost more than would be commensurate with the benefit to be derived.

The railroad was built in 1909 and at that time a private crossing was installed at the location of the crossing applied for in this proceeding and for about one year gates were maintained on both sides of the crossing but since the removal of the gates the crossing has been generally used by the public.

It was shown that the road upon which the proposed public crossing is located was set aside as a public road by the filing, on February 1, 1899, with the County, of a map of the Antelope Heights Tract, that this road and crossing

has been generally used by the public for many years. Also, the mail carrier, the school buses and the delivery wagons use this crossing in serving the territory south of the railroad.

The local water company has a pipe line along this road, and pumps located thereon, and it is necessary to use the road and crossing in operating and maintaining their pumps and pipe line.

It may be that the County of Tulare has all the rights for the maintenance of this crossing that it seeks, but be that as it may, it appears that the public convenience and necessity justify its construction and maintenance as the most feasible and practicable outlet for the territory served, and that therefore this application should be granted.

O R D E R

The Board of Supervisors of the County of Tulare having made application for permission to construct a public highway at grade across the track of Visalia Electric Railroad Company on the east line of the west half of the northwest quarter of Section 32, Township 17 South, Range 27 East Mt. Diablo Base & Meridian, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

IT IS HEREBY ORDERED, that permission be and it is hereby granted the Board of Supervisors of the County of Tulare, State of California, to construct a public road at grade across track of the Visalia Electric Railroad Company described as follows:

Beginning at a point 1317.4 feet east and 1075 feet north of center of Section 32, Township 17 South, Range 27 East, M.D.B. & M., thence 17.7 feet north $73^{\circ} 56'$ West to a point, thence 104.0 feet north to a point, thence 44.8 feet South $73^{\circ} 56'$ east to a point, thence 104.0 feet south to a point, thence 27.1 feet north $73^{\circ} 56'$ west to point of beginning.

All of the above as shown by the maps exhibits "A" and "B" attached to the application, said crossing to be constructed subject to the following conditions, viz:-

(1) The entire expense of constructing the crossing shall be borne by applicant. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Visalia Electric Railway Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of seventy three (73) degrees, fifty-six (56) minutes to the railroad and with grades of approach not greater than four per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing will lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

This order shall become effective ten (10) days from the making thereof.

Dated at San Francisco, California, this 22^d day of November, 1923.

C. L. Seavey
H. B. Bunnidge
Iwings Matress
Egerton Shore
J. F. Whittier
Commissioners.