

Decision No. 13569

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the matter of the application of)
the Board of Supervisors of Merced)
County for permission to construct) Application No. 9721.
a public road in Road District No.)
2 of said County.)

In the matter of the application of)
the County of Merced for authoriza-)
tion permitting the construction of) Application No. 9786.
the highway crossing over the Southern)
Pacific Railroad on the proposed)
Richman Road Extension.)

C. E. McCray, District Attorney, for Applicant.

F. W. Mielke, for Southern Pacific Company.

BY THE COMMISSION:

O P I N I O N

Application No. 9721 is filed under Section 2694 of the Political Code of the State of California, wherein a Board of Viewers appointed by the Board of Supervisors of the County of Merced petition to construct two roads which would cross at grade over Southern Pacific Company's track at points between Athlone and Chowchilla, Merced County, California.

In Application No. 9786 the Board of Supervisors of Merced County ask permission to construct a grade crossing over Southern Pacific Company's track at a point within a half mile to the northwest of the more northerly of the two crossings requested in Application No. 9721 referred to above.

A public hearing was held on these applications in Merced April 7, 1924 before Examiner Satterwhite, at which time

it was stipulated that the two applications should be consolidated for hearing and decision.

All three of the crossings applied for would be over the main line of the Southern Pacific extending down the east side of the San Joaquin Valley from Lathrop to Fresno and would be on proposed county roads to serve a rather large agricultural district southwest of the railroad and north of the Chowchilla River. The ranchers in this district who desire to reach the State Highway which runs parallel to Southern Pacific Company's track and on the northeast side thereof pass over the railroad property on a private farm crossing. To meet the need of the development now going on, the Board of Supervisors have been petitioned to open the roads leading to the crossings applied for herein and to thus provide an outlet to the paved State Highway.

The first crossing applied for in Application No. 9721 is located at the intersection of the east and west center line of Section 11, Township 9 South, Range 15 East, M.D.B. & M. with Southern Pacific's track, which for convenience will be designated hereinafter as Crossing No. 1. The other crossing applied for in Application No. 9721 is located at the intersection of the south line of Section 11, Township 9 South, Range 15 East, M.D. B. & M. with the railroad which will be designated hereinafter as Crossing No. 2. The crossing applied for in Application No. 9786 is located at the intersection of the west line of Section 11, Township 9 South, Range 15 East, M.D.B. & M. with the railroad, which will be designated hereinafter as Crossing No. 3.

The proposed crossing No. 2 is located approximately 3750 feet southeast of Crossing No. 1 and Crossing No. 3 is located approximately 2450 feet northwest of Crossing No. 1.

The testimony shows that at the time Application No. 9721 was filed with the Commission it was not planned to ask the Commission's consent to construct Crossing No. 3 referred to

above. Applicant now considers that if it is given authority to construct Crossings No. 2 and No. 3 referred to above, the public's needs will be met for the present without the granting of Crossing No. 1. Southern Pacific Company is not opposed to the granting of Crossings No. 2 and No. 3 providing permission to construct Crossing No. 1 referred to above is denied.

The nearest public grade crossings over Southern Pacific Company's track to the northwest of Crossing No. 3 referred to above is at the intersection of the north line of Section 4, Township 9 South, Range 15 East, M.D.B. & M. with said Southern Pacific track, a distance of approximately one and one-half miles. This crossing was authorized by the Commission's Decision No. 12668 dated October 1, 1923 in Application No. 9201. The nearest public grade crossing over Southern Pacific track to the southeast of Crossing No. 2 referred to above is in the Town of Chowchilla a distance of some three and one-half miles, although there are a number of private crossings between Crossings No. 2 and No. 3.

The district to be benefitted by the proposed crossings is now being subdivided into tracts of from ten to twenty acres and as a result there is considerable development now taking place in this area which is practically level and given to the growth of grain, hay and stock raising. The people to be benefitted by the proposed crossings trade principally at Merced or Chowchilla. Crossing No. 2 will accommodate traffic toward Chowchilla while Crossing No. 3 will provide a more or less direct route to Merced. Crossing No. 1 would serve only a very small area to the southeast of the railroad and adjacent to the track. There does not appear to be a necessity for Crossing No. 1 if the other two crossings are granted.

The Southern Pacific track involved herein is as a high speed line over which there are some fourteen passenger trains

and many freight trains operated per day. While the view conditions are normally good at each of the proposed crossings, there should be a real public necessity existing before any additional grade crossings are constructed over this important high speed railroad. It appears that such a public necessity exists for the granting of Crossings No. 2 and No. 3, but that with these two crossings constructed public convenience and necessity will not require the granting of crossing No. 1. There are some private crossings adjacent to Crossings No. 2 and No. 3 that should be closed when these public crossings are constructed and the order will so provide.

Although the railroad involved herein is a high speed line, the view at the proposed crossings No. 2 and No. 3 is unobstructed and the vehicular traffic over these crossings undoubtedly will not be heavy in the near future, it appears that no other protections than the usual cross arm sign is necessary at this time.

O R D E R

The above entitled applications having been filed, asking permission to construct three grade crossings over Southern Pacific Company's San Joaquin Valley Line located at points between Athlone and Chowchilla, two of which are requested in Application No. 9721 and the other in Application No. 9786, 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 Merced, State of California, to construct a grade crossing over Southern

Pacific Company's track at a point where the south line of Section 11, Township 9 South, Range 15 East, M.D.B. & M. intersects said Southern Pacific track, as applied for in Application No. 9721 and shown on the map attached to the application, provided the granting of this public crossing is contingent on the closing of the existing private crossing located one hundred and thirty-four (134) feet to the southeast of the crossing applied for herein.

IT IS HEREBY FURTHER ORDERED, that permission be and it is hereby granted to Board of Supervisors of the County of Merced, State of California, to construct a grade crossing over Southern Pacific Company's track at a point where the west line of Section 11, Township 9 South, Range 15 East, M.D.B. & M. intersects said track, as applied for in Application No. 9786 and shown on the map attached to the application, provided, the granting of this public crossing is contingent on the closing of the private crossing located three hundred and two (302) feet to the southeast of the crossing applied for herein.

IT IS HEREBY FURTHER ORDERED, that the authority herein granted is subject to the following conditions:

(1) The entire expense of constructing the crossings shall be borne by applicant. The cost of their maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossings between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad and with grades of approach not greater than four per cent; shall be protected by suitable crossing signs 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 crossings.

(4) If said crossings shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, 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 crossings 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.

IT IS HEREBY FURTHER ORDERED, that the grade crossing applied for in Application No. 9721 proposed to be located at the intersection of the center line of Section 11, Township 9 South, Range 15 East, M.D.B. & M. with the railroad as shown on the map attached to the application be and it is hereby denied.

This order shall become effective three (3) days from the making thereof.

Dated at San Francisco, California, this 17th day of May, 1924.

C. L. Seavey
Irving Martin
Ernest Shore
Commissioners.