

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
Southern Pacific Company for an order)
authorizing the construction and grade)
of three lead tracks, and the shifting)
of three existing lead tracks across)
roadway at Newcastle, Placer County.)

Application No. 8872.

H. H. Gogarty, for applicant.
Orin J. Lowell, for Board of Supervisors
of Placer County.

BY THE COMMISSION:

O P I N I O N .

This is an application wherein Southern Pacific Company seeks authority for the construction of three lead tracks and the relocation of three existing lead tracks across the roadway at Newcastle in the County of Placer. A public hearing was held in this application before Examiner Satterwhite at Auburn, May 15, 1923. Pending final decision by the Commission, temporary permission was granted in Decision No. 12086 dated May 16, 1923, to the applicant to construct but not to operate certain of the tracks desired.

Newcastle is an important fruit shipping point on the main line of the Southern Pacific in the foothills of the Sierra Nevada Mountains, and the crossings sought in this application are for the purpose of increasing the track facilities serving fruit packing houses.

The necessity and desirability of constructing the tracks across the road in question and in the manner proposed by applicant is not questioned. The crossings are adjacent to the crossing of the double track main line of applicant over the same roadway, which crossing is protected by a human flagman. It is proposed by the railroad that this flagman will also act as a flagman protecting operations over the new crossing.

Applicant did not file copy of any franchise or permit of the Board of Supervisors of the County of Placer indicating the consent of that body to the construction of these crossings.

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At the hearing, applicant stated that no application had been made by Southern Pacific Company to the Board of Supervisors for a franchise of these crossings for the reason that in the opinion of applicant, the Roadway over which the tracks were proposed to be constructed, was a private roadway through the Congressional grant right-of-way of Central Pacific Railroad Company, and that accordingly it was not necessary to apply to the County for a franchise.

The County of Placer does not concede that this roadway is a private roadway and the evidence in this proceeding shows that it has been used by the public for a period in excess of fifty years. The County, however, does not on this ground oppose the granting of the present application by this Commission, and in a brief filed subsequently, District Attorney of Placer County states:

"The Board of Supervisors of Placer County, in so far as they are informed of the proposed changes by the railroad company in Newcastle, do not oppose the same. On the contrary, according to their information the Board believes that such changes are proposed to be made in the manner most beneficial to the public generally, and particularly in its use of the road way crossing. We submit, however, in any order made in this matter, this Commission should recognize the status of the public road in Newcastle as an existing public highway, and having a valid and legal easement in its present location."

Since the County has thus expressed its consent, and since we are of the opinion that the construction and operation of these proposed tracks will be in the public interest, it appears proper that this application should be granted.

O R D E R.

Southern Pacific Company, having made application for permission to construct three lead tracks and to relocate three existing lead tracks at grade across public roadway at Newcastle in the County of Placer, State of California, 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 permission and authority be and it is hereby granted to Southern Pacific Company to construct three lead tracks and relocate three existing lead tracks across the public roadway in the Town of Newcastle, County of Placer, State of California, as follows:

TRACK 1. BEGINNING at a point opposite and at right angles 69 feet southerly from railroad's Engineer's station 699.98 in railroad's westbound main line; thence easterly across railroad's road a distance of 30 feet to a point 75 feet at right angles southerly from railroad's westbound main line.

TRACK 2. BEGINNING at a point opposite and at right angles 57 feet southerly from railroad's Engineer's Station 699.99 in railroad's westbound main line; thence easterly across railroad's road a distance of 30 feet to a point 62 feet southerly at right angles from railroad's westbound main line.

TRACK 3. BEGINNING at a point opposite and at right angles 46 feet southerly from railroad's Engineer's Station 700.00 in railroad's westbound main line; thence easterly across railroad's road, a distance of 30 feet to a point 50 feet southerly at right angles from railroad's westbound main line.

TRACK 4. BEGINNING at a point opposite and at right angles 36 feet southerly from Railroad's Engineer's Station 700.01 in railroad's westbound main line; thence across railroad's road a distance of 30 feet to a point 39 feet southerly at right angles from railroad's westbound main line.

TRACK 5. BEGINNING at a point opposite and at right angles 36 feet southerly from railroad's Engineer's Station 700.03 in railroad's westbound main line; thence across railroad's road a distance of 30 feet to a point 29 feet southerly at right angles from railroad's westbound main line.

TRACK 6. BEGINNING at a point opposite and at right angles 15 feet southerly from railroad's Engineer's Station 700.05 in railroad's westbound main line; thence across railroad's road a distance of 30 feet easterly to a point 18 feet southerly at right angles from railroad's westbound main line,

as shown by the map (Sacramento Div. Drawing S-312-a) attached to the application, subject, however, to the following conditions:

(1) The entire expense of constructing and relocating the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed and relocated of a width and type of construction to conform to that portion of said roadway now graded with the top of rails flush with the pavement and with grades of approach not exceeding ten (10) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) A human flagman shall be maintained for the protection of said crossings between the hours of 7:00 A.M. and 5:00 P.M. daily except that during the months of August, September and October, said human flagman shall be maintained for the protection of the crossings between the hours of 7:00 A.M. and 10:00 P.M. daily. The cost of maintaining said human flagman shall be borne by applicant.

(4) Applicant shall, within thirty(30) days thereafter, notify this Commission, in writing, of the completion of the installation and relocation of said crossings.

(5) If installation and relocation of said crossings shall not have been installed and relocated 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.

(6) 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 Commission's Decision No. 12086 dated May 16, 1923, being an order pending final decision entered in this proceeding, be and it is hereby rescinded.

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

Dated at San Francisco, California, this 23rd day of June, 1924.

C. Seavey

H. B. Boudier

J. W. Martin

Commissioners