

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application  
of the BOARD OF SUPERVISORS OF THE  
COUNTY OF LOS ANGELES, STATE OF  
CALIFORNIA, for permission to in-  
stall a Railroad crossing over  
Bandini Boulevard.

ORIGINAL

Application No. 10114.

BY THE COMMISSION:

O P I N I O N.

In this proceeding, the County of Los Angeles seeks permission to extend Bandini Boulevard across the track of the San Pedro Branch of the Los Angeles and Salt Lake Railroad Company.

A public hearing was held before Examiner Williams at Los Angeles on July 24, 1924.

The evidence indicates that this crossing affords direct access to and from industrial sections east and west of Downey Road, in which the west end of Bandini Boulevard terminates, and shortens the time of travel to and from Los Angeles. It does not appear that there is sufficient volume of traffic to and from Los Angeles, or between the two industrial sections, to warrant the hazard created by a grade crossing.

In view of the failure of the applicant to show that there is a present necessity, the application will be denied, without prejudice, to consideration anew if and when future conditions appear to warrant.

There is a feature of this application which justifies comment, and that is the admitted fact that this crossing was installed about seven months before the filing of the application.

Mr. O. F. Cooley, Assistant Road Commissioner of the County of Los Angeles, testified that he did not know when or by whom the crossing was put in, nor did he know who paid for the work; in fact,

no one at the hearing knew anything about this point. Mr. F. E. Pettit, Jr., Attorney for the Railroad Company, stated that the evidence disclosing that the crossing had been put in long before the filing of the application was an entire surprise to him and stated he would investigate the matter and submit the results of this investigation as evidence in this proceeding. The result of this investigation was contained in his letter to the Commission of date July 26, 1924, which may be summarized thus:

In the Spring of 1923, the Arcadia-Bandini-Baker Estate was advised by the Los Angeles and Salt Lake Railroad Company, in response to oral request, that this crossing would be agreeable to them. On November 22, 1923, a contract was executed between the Railroad Company and the County covering construction, maintenance and operation of the crossing. At some unascertained time the Arcadia-Bandini-Baker Estate put in the crossing, furnishing and paying for all labor and material. Railroad officials had no knowledge of this until June 5, 1924, when their Chief Engineer learned of it at a meeting of the Los Angeles County Grade Crossing Committee.

This occurrence subjects the Los Angeles and Salt Lake Railroad Company to criticism for, in Application 8944, Decision 12460, dated August 6, 1923, which was a case wherein this railroad filed an application to construct crossings at grade after their actual installation, that Company stated that it "also took steps within its own organization to assure itself that there would be no further violations of Section 43 of the Public Utilities Act" on its part. Yet, within a year after making this statement, it is placed in the present proceeding in the position of admitting that Section 43 has been violated by it; not, it is true, by any overt act on its part, but passively. Evidently "steps within its own organization" to prevent further violation of Section 43 have proved to be ineffective, because the Railroad Company disregarded the provisions of this Section in permitting the construction of a crossing at grade over its tracks without immediately taking steps either to forestall such an occurrence

or ascertain under what authority such work was being undertaken. It appears, therefore, that the Railroad Company is guilty of a certain laxity in its duty, and it should take further action to protect itself in a more effective manner from future criticism on this score.

We now are to consider the position of the County of Los Angeles. It is the Commission's desire to cooperate to the utmost with the various political subdivisions of the state in matters of public interest and welfare. Section 43 of the Public Utilities Act was designed to correct a rapidly growing dangerous situation arising out of the installation of unnecessary grade crossings. The plain intent of Section 43 is to keep grade crossings to the lowest possible number, consistent with the requirements of the traveling public. Now, if we have a case, as we have here, where the judgment of the Commission is that a crossing is unnecessary, because it will be a convenience to only a limited number, then there is nothing for the Commission to do but withhold its approval.

But we may go further, and point out that the County erred in its handling of this matter. Appearing as the applicant, and thus establishing the public nature of the installation, it bears a part of the responsibility for the active violation of Section 43. As we construe the law, the County should have seen to it that this crossing, prematurely installed by a private interest, was effectively closed to public travel before taking the responsibility of filing a formal application for its establishment.

#### O R D E R.

Board of Supervisors of County of Los Angeles, State of California, having applied for permission to extend Bandini Boulevard across the track of the San Pedro Branch of Los Angeles and Salt Lake Railroad Company, a public hearing having been held, the Commission being apprised of the facts, and the matter being under submission and ready for decision,

IT IS HEREBY ORDERED that the above entitled application be

and it is hereby denied without prejudice.

IT IS HEREBY FURTHER ORDERED that the Los Angeles and Salt Lake Railroad Company be, and it is hereby directed to effectively close forthwith, at its expense, the crossing heretofore unlawfully opened, to all traffic.

*September*  
~~August~~, 1924. Dated at San Francisco, California, this 18<sup>th</sup> day of

*C. L. Seaver*

*H. B. Brundage*

*Irving Martin*

*J. F. Whittsey*  
Commissioners.