

Decision No. 14 116.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the CITY OF DELANO, a municipal corporation, for permission to construct a crossing upon a public street over and across the right of way and the main line of the Southern Pacific Railroad Company, a corporation, and the Southern Pacific Company, a corporation, within the incorporated limits of the City of Delano, County of Kern, State of California.

ORIGINAL

Application No. 10272.

Mrs. C. O. Bettys, City Attorney, for applicant.

Mr. C. F. Donnatin, for Southern Pacific Company.

BY THE COMMISSION:

O P I N I O N

In the above entitled application the City of Delano ask permission to construct Fourth Avenue, which to the east of the track is known as the Porterville Highway, at grade across Southern Pacific Company's tracks.

A public hearing was held in this matter, before Examiner Williams in Delano, September 8, 1924. It was stipulated by all interested parties that the records in Application No. 5896 and Application No. 7407, in so far as relevant, be considered in evidence in the present proceeding. Applicant herein sought the same authority in both Application No. 5896 and Application No. 7407 as applied for in this proceeding now pending before the Commission. In Decision No. 8276 dated October 25, 1920, in Application No. 5896, applicant herein was granted permission to construct Fourth Avenue at grade across Southern Pacific Company's tracks, contingent upon the closing of the existing public grade crossing at Fresno Street

in the City of Delano. Applicant, however, never exercised this option. Application No. 7407 was denied by the Commission in its Decision No. 11448 dated December 29, 1922.

The City of Delano is situated in the north central portion of Kern County, having a population of approximately 2000. The district in and around Delano is practically level with fertile land, although naturally rather dry and produces good agricultural crops with the application of water. The principal crops raised in this vicinity are mellons, grapes, cotton, lettuce and forage crops. This city has shown a marked growth during the past few years.

Southern Pacific Company's tracks run through the City of Delano in a northerly and southerly direction, dividing the town in about equal parts with respect to area, the railroad being located between 8th Street on the east, which is the paved State highway and 7th Street on the west. The business center and the greater portion of the developed agricultural land in and adjacent to Delano lies east of the Southern Pacific tracks.

The present public crossings in Delano are situated in the northern portion of the town; named in the order of their location beginning with the most northerly one, are as follows: Cecil Street, 13th, 12th and 11th Avenues. The distance between Cecil Street, which is near the north boundary of the City and 13th Avenue, is about 1200 feet. The other crossings are 480 feet apart. In addition, to these crossings the State Highway crosses Southern Pacific Company's tracks immediately south of the City limits, which is approximately 7000 feet south of the Cecil Street crossing. The crossing applied for herein is located approximately 3200 feet south of 11th Avenue and 1300 feet north of the State Highway crossing to the south. The principal north and south street of

Delano is 9th Street, while the principal east and west highway is 11th Avenue. The proposed crossing will offer a connecting link between the Porterville Highway, which is a paved road extending easterly to Porterville and the unpaved county road extending westerly to Kernell.

Southern Pacific Company entered an appearance in this proceeding as a protestant, but later during the hearing, withdrew its objections to the granting of this application.

It would seem that four public crossings in a town the size of Delano with an additional crossing just outside the City limits, should provide adequate passage ways over the railroad. The existing crossings, however, are not consistently located so as to serve the greatest convenience to the general public. It would appear more reasonable to open a crossing in the southern part of the City and close one of the three existing crossings located 480 feet apart in the northern portion. The closing of one of these crossings, however, is not justified by the evidence now before the Commission in this proceeding.

It is evident that the crossing applied for herein will serve a certain public convenience in that it will permit vehicular traffic to pass from the Porterville highway to the county road toward Kernell, without traveling south to the State Highway crossing or north to the public crossing at 11th Avenue. It will also afford a crossing over the tracks for vehicular traffic, from the district to the east, which is tributary to the Porterville Highway and to the south, desiring to reach packing houses and other industries west of the tracks and south of 11th Avenue. The record shows that a cotton gin has recently been built on the west side of the track near 5th Avenue. The proposed crossing would be of considerable convenience to this

industry as the greater portion of the cotton is raised east of the railroad. A representative of the State Highway Commission testified that the Commission had recently established a material yard on the west side of the tracks near 5th Avenue, and that the proposed crossing, if installed, would offer easy access to this yard. The proposed crossing would also be of considerable convenience to the stockmen of Delano and vicinity, as the leading corrals are on the east side of the track, while a great many of the cattle shipped are brought from the district to the west.

Fourth Avenue, if opened across the railroad, will involve crossing four tracks. Southern Pacific Company normally operate eight regular passenger trains and two regular freight trains per day over these tracks in addition to extra trains. Many of these trains pass through Delano at high rates of speed, the speed limit for passenger trains being fifty miles per hour.

From the evidence it appears that public convenience and necessity warrant the granting of this application. While the proposed crossing will create a somewhat hazardous condition due to the fact the view may be obscured by standing cars with trains passing at high rates of speed, automatic protection does not appear practical here. This crossing is within the yard limits, where, if a wigwag were installed, it should protect only the main line, otherwise it would be in operation for excessive periods of time when cars are stored or standing on the sidings. With this arrangement the movements on the sidings would be left unprotected. Under the present conditions, it does not appear that the expense of human flagman protection is justified at this time. Therefore, the only protection that will be prescribed in the following order is the ordinary crossing signs.

O R D E R

The City of Delano having filed the above entitled application with the Commission for permission to construct Fourth Avenue located on the section line between sections 11 and 14, T. 25 S., R. 25 E. M. D. B. & M. as hereinafter indicated, 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 and authority be and it is hereby granted to the Board of Trustees of the City of Delano, County of Kern, State of California, to construct Fourth Avenue, which to the east of the railroad is known as Porterville Highway located on the section line between sections 11 and 14, T. 25 S., R. 25 E., M. D. B. & M., at grade across the tracks of Southern Pacific Company, as shown by the map attached to the application, said crossing to be constructed subject to the following conditions, namely:

(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 the 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 eighty (80) degrees to the railroad and with grade of approach not greater than two (2) 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 crossing.

(4) If said crossing 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 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 three (3) days from the making thereof.

October Dated at San Francisco, California, this 1st day of ~~September~~, 1924.

H. N. Brundage
Dwight Martin

J. F. Whittelsey
Commissioners.