

Decision No. 15074.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
the Board of Supervisors of TUOLUMNE  
COUNTY to construct a crossing at  
grade over the tracks of the Sierra  
Railway Company near Standard, in  
said County.

Application No. 10838.

**ORIGINAL**

Rowen Hardin, for the Applicant.  
Sanborn & Roehl, and DeLancey Smith, by  
E. E. Sanborn, for the Sierra Railway  
Co., Protestant.  
J. B. Curtin, for Standard Lumber Company,  
Protestant.

BY THE COMMISSION:

O P I N I O N

This is a petition of Tuolumne County to construct a crossing at grade over the tracks of the Sierra Railway Company near Standard, brought under the provisions of Section 2694 of the Political Code. A public hearing was held before Examiner Austin in the Board of Supervisors' room of the Tuolumne County Court House at Sonora, California, April 21, 1925.

Counsel for both Standard Lumber Company and for Sierra Railway Company of California objected to proceeding with the application by reason of a misstatement of fact in the petition for appointment of viewers. The petition alleges that the names of the persons, firms or corporations over whose land said proposed road is located are as follows: Sylvester Fitzpatrick; Sierra Railway Company of California, a railroad corporation; Standard Lumber Company, a corporation; all of whom were served

with a notice of hearing by this Commission. The report of the viewers received in evidence states that Sylvester Fitzpatrick is not now an owner of land over which the proposed road is located, he having granted his land to Salvatore Cavaliere and wife, who are now the owners. It therefore appears that the petition for appointment of viewers filed with this Commission is in error in that particular.

The townsite of Standard lies approximately five miles east of the County Seat, Sonora. To reach Standard from Sonora one travels the Mono Highway, a lateral of the State Highway System, easterly from Sonora to Sullivan's Creek. From this point two roads are available - one continuing on the Mono road to the old Fitzpatrick residence, thence by private road approximately three-quarters of a mile south to Standard; the other by taking the southerly (Tuolumne) road for about three miles, thence by way of a private road northerly about one mile to Standard. The land lying between the Mono Highway and the Tuolumne road in the vicinity of Standard is practically all owned by the Standard Lumber Company and is devoted to lumbering operations. The lumber company has erected at Standard a general store, meat market, hospital, rooming houses and a number of residences. Space in one of these buildings is rented to the Post Office Department for the Standard Post Office, which serves the town and surrounding farms. The Sierra Railway is located at the northerly edge of the town and has established a freight and passenger station for the community. The public school for the Curtis Creek School District, which includes territory outside of the Standard Lumber Company's holdings, is located at Standard on land donated to the School District by the lumber company.

There is no public road into Standard, the only means of

entrance and egress to the Post Office, school and store's being by the two private roads heretofore mentioned, which are maintained by the Standard Lumber Company. The viewers petition seeks to establish a public road into Standard from the Mono Road, the route being identical with the existing private road and crossing the Sierra Railway at a point just west of the Standard depot. There are no public crossings over the railway of roads which serve the same general territory served by this private crossing, the nearest crossing of any kind being a private farm crossing some 3000 feet to the east.

The testimony indicates that there are approximately twelve families living along the Mono Highway north of Standard who desire to have a public road from that highway to Standard in order to reach such public facilities as the Post Office, public school and railway station. It was shown that during the school season there are approximately thirty children in this vicinity who attend the Curtis School. This local traffic will constitute the bulk of the travel on the proposed road, although in the Summer time there is some through traffic.

Considerable evidence was introduced as to the probable future development of the road system within the County and it appears that this road would be more in the nature of a cross-county road carrying mainly rural traffic and is not expected to develop into a through traffic road.

It appears from testimony that public convenience and necessity justify the construction of a public crossing to serve this general territory at the present time.

The road is laid out across the Sierra Railway at a particularly undesirable point as regards railroad traffic. The Sierra Railway is used jointly by the Standard Lumber Company from

Standard to Ralph's Station (east of Standard) for the purpose of handling logging trains from the mountains above Ralph's Station to the Company's mill at Standard. These logging trains are brought into a siding at Standard east of the proposed crossing where they are cut into several sections which later are backed over the crossing to the log pond, the empty cars then being brought back to the siding. This necessitates approximately six movements over the crossing for each train. The round-house for the lumber company locomotives is located west of the crossing so that a number of light engine movements are also necessary. This traffic moves only during the Summer logging season, usually between April and November. The Sierra Railway Company operates daily two passenger trains and four freight trains, as well as the necessary switching movements for its station. It is estimated that there are fifty train movements a day over this crossing during the Summer months and twenty movements per day during the Winter months. As these movements are made in yard limits, they must, by Sierra Railway Company's rules, be made under control and therefore at low rates of speed.

The railway company's Chief Engineer testified that development of the lumber company's plant and the railroad company's traffic had reached a point where it would soon be necessary to install a second track at this point in order to facilitate switching movements. This double track, in conjunction with the back-up switching movements, presents a substantial hazard to vehicular traffic.

It was testified that the highway traffic is light and, as above mentioned, principally local. No estimate as to the volume of this traffic was made.

At the point of crossing the Sierra Railway is on a

three per cent grade descending toward the west. The road approach from the north is approximately six per cent uphill toward the track. On the south side of the track the road is approximately level. The views are good except at the northeast corner of the intersection where an embankment completely obstructs the view of a southbound autoist until within thirty feet of the crossing.

The report of the viewers contains these statements:

"The Standard Lumber Company also states that should they, for any reason, ever close the present road, then they would have another road constructed to take the place of the present road, in fact, a survey has been made for such a road, the location of which is shown on the accompanying map and marked 'Standard Proposed New Road'. This road would be a level railroad crossing road with a view both ways along the railroad of about 300 feet.

Estimated Cost of Standard Proposed Road:

Road.....	\$2,500.00
Concrete Bridge No. 1 .....	1,000.00
Concrete Bridge No. 2 .....	1,000.00
Right of way (5 ac. at \$100) .....	<u>500.00</u>

\$5,000.00 "

"The Standard Lumber Company propose to construct a new road, as shown on map, and maintain it at their own expense. This road would serve the same purpose as present road and would have a much better railroad crossing than the present one. There would be an improvement also in the grades of this road although in the present road they are not excessive."

This proposed road crosses the Sierra Railway at a point some 2500 feet east of the depot and approximately 300 feet west of the Standard yard limit. At this point the railroad traffic is very materially reduced, consisting of 18 movements during the Summer months and 6 movements during the Winter months. The approach views at this location are fairly good. There is a private farm crossing 600 feet east of this proposed crossing which is still better as far as physical characteristics are concerned and which has the same number of railroad movements over it. The hazard at either of these crossings is materially less than at the location applied for in this proceeding.

In their report the viewers express the opinion that the

present road should not be adopted as the County road without constructing an underground crossing. The cost of such a separation was estimated at \$16,750.00 by the County Engineer and at \$20,000.00 by the Railway Engineer. Testimony of the Commission's engineer was that the traffic over the proposed road would not be sufficient to justify the cost of a grade separation.

After careful consideration of all of the evidence, we conclude that public convenience and necessity require the construction of a public crossing over the Sierra Railway Company's tracks in the general vicinity of Standard, that the crossing as applied for is unduly hazardous, that the cost of a grade separation is such as to not warrant its construction and that other locations are available for the crossing where the hazard is much reduced and where no grade separation will be required. Furthermore, in view of the erroneous statements respecting the names of the land owners contained in the petition filed with the Board of Supervisors, it is apparent that any action which this Commission might now take in the matter would only invite protracted litigation. We are of the opinion, therefore, that this proceeding should be dismissed without prejudice to such other proceeding as may be brought to establish a crossing at a more suitable point.

#### O R D E R

The Board of Supervisors of Tuolumne County having filed with this Commission under the provisions of Section 2694 of the Political Code of California a certified copy of a petition of free-holders of said County for the construction of a certain road, together with a certified copy of the order of the Board of Supervisors appointing viewers to view said road, which road crosses the track and right of way of Sierra Railway Company near Standard, a public hearing having been held, the Commission being apprised

of the facts, the matter being under submission and ready for decision, therefore

IT IS HEREBY ORDERED that the above-entitled proceeding be and it is hereby dismissed without prejudice.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of

June, 1925.

H. F. B. ...

C. ...

Ernest ...

Commissioners.