

Decision No. 15739.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Board of Supervisors of the County of Stanislaus for a crossing over The Atchison, Topeka & Santa Fe Railway Company's right of way about three-fourths of a mile southeast of Empire, California.

Application No. 10870.

E. H. Zion, for the County of Stanislaus.

J. W. Walker, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION:

O P I N I O N

In this application the County of Stanislaus requests authority to open for public use a road crossing at grade over the track of The Atchison, Topeka and Santa Fe Railway Company at a point about three-fourths of a mile southeast of the town of Empire in that County.

A public hearing was held at Modesto on May 11, 1925, before Examiner Austin.

In the vicinity of Empire the main line track of The Atchison, Topeka and Santa Fe Railway Company extends in a general northerly and southerly direction passing through the town and crossing the Tuolumne River on a steel bridge about one mile south of the railroad station. At Empire the track is crossed by an important east and west county road known as the Waterford Highway connecting Modesto, the County Seat, with the

town of Waterford, several miles east of the railroad. This road is paved and the crossing at Empire is protected by an automatic flagman. Connecting with this road at Empire and extending southward parallel to and on the westerly side of the railroad is an unpaved county road leading to Hughson, a small town on the Santa Fe Railroad approximately four miles southeast of Empire.

Turning eastward from this county road at a point three-quarters of a mile south of Empire and the Waterford Highway crossing, and crossing the Santa Fe track over the farm crossing which it is desired to open for public use, there is at present a private road serving a tract of land approximately 160 acres in extent lying east of the railroad and north of the Tuolumne River. After proceeding eastward from the crossing a distance slightly less than one-half mile this road turns at right angles and continues northward to a connection with the paved Waterford Highway. It is the desire of the property owners that this private road be made a public thoroughfare and to this end deeds for the right of way have been prepared but not yet accepted by the County, it being stated that such acceptance is pending on the decision of the Commission in this proceeding.

The record shows that there are now two dwellings along the route of the proposed public road and a third under construction. For the occupants of these houses the distance to Hughson and points south is shortened by use of the private crossing which it is desired to make public but it does not appear that there is any considerable travel to and from Hughson. The map introduced by the applicant shows that the route of the proposed public road traverses the land of seven owners and that two of these parcels now front on public highway. Travel to and from Empire, which is the nearest town and the nearest railroad station, or to and from the County Seat and the State Highway at Modesto could use the

paved Waterford road and for most of the property the distance would be the same or less than by the unpaved route over the proposed grade crossing.

The grade crossing of the road with the track of the Atchison, Topeka and Santa Fe Railway Company is a particularly dangerous one. The grade of approach on each side is 5.462% and the view of track to the north is badly obscured by the banks and concrete headwalls of a syphon of the Modesto Irrigation District's Lateral No. I which crosses the right of way of the railroad about 250 feet north of the road crossing. The walls of this syphon extend about five feet above the rails and are but fifteen feet apart, measured across the track. The banks of the ditch extend back at the same elevation to the right of way line and beyond. The hazard is further increased by the fact that the railroad is in cut from one to five feet in depth for a distance of twelve hundred feet north of the crossing.

The railroad company introduced in evidence a chart (Atchison, Topeka and Santa Fe Exhibit No. I) showing the lengths of view along track obtainable from the road at certain distances on each side of the crossing. An inspection of this chart discloses that at no time during the last 270 feet of a driver's approach to the crossing from the west does his view of the track to the north extend beyond 300 feet until he has reached a point but twenty feet from the center line of the railroad or but fifteen feet from the actual danger point.

A condition even more hazardous would present itself to the driver of a vehicle traveling in the opposite direction. From the east side a driver could approach to a point where his front wheels would be actually within the sweep of a passing train before his view of the track to the north could extend beyond 700 feet, a distance which a train traveling sixty miles an

hour would take but eight seconds to cover.

The track descends from the north, the direction in which the view is obscured, on a 0.33% grade. It is tangent for a distance of two miles north of the crossing and a quarter mile south and there are no restrictions on speed. An average of sixteen trains per day pass over this track, half of which are passenger trains that normally travel at high rates of speed.

It was contended by the County that the distances shown on the railroad's exhibit referred to the rails and that an approaching train would be visible above the walls and ditch banks. It appears, however, that the road descends in each direction from the crossing and that the eyes of a driver approaching the crossing are therefore considerably below the top of the obstruction. The projection of the syphon walls and ditch banks would accordingly entirely obscure the view of a train a short distance north of the syphon.

Approximately twelve hundred feet south of the proposed crossing the railroad crosses the Tuolumne River on a steel bridge and under the north approach to this bridge there is another private road crossing. It was shown that by the acquisition of right of way and the construction of twelve hundred feet of additional road this undergrade crossing could be utilized and since the bulk of the traffic which could advantageously use the new crossing would be south bound the driving of twelve hundred feet further south before crossing the track would offer no serious inconvenience to the public.

It was claimed by the county that the outlet of the under grade road into the main county road would be more dangerous than the outlet of the road proposed on account of the view being obscured but the railroad company offered to grant sufficient right of way to permit suitable curves in each direction and reduce the grades of approach.

A bulkhead to prevent the edge of road from sliding into the river bottom would probably be required and it would also be necessary to move a windmill and some other improvements on the property immediately east of the railroad right of way, making the cost of utilizing the undergrade crossing slightly more costly than the grade crossing. If an automatic flagman were installed at the grade crossing the cost of the two routes would be about the same.

Summarizing the facts brought out then it appears that the proposed public crossing could be used by some four or five families now having no public road reaching their property but the road which it would be necessary to dedicate in order to utilize the crossing would also give them an outlet into a paved county road without the necessity of crossing the track. It also appears that conditions at the site of the proposed grade crossing are such that this crossing would be unusually hazardous. It is the opinion of the Commission, therefore, that a public grade crossing should not be opened at this point, particularly since it is doubtful if public necessity requires any outlet to the south at the present time and when such necessity does arise it will be possible to utilize the under pass route and avoid constructing this hazardous grade crossing. The present application will therefore be denied.

#### O R D E R

Board of Supervisors of the County of Stanislaus having made application to construct a public highway across the track of The Atchison, Topeka and Santa Fe Railway Company at a point about three-fourths of a mile southeast of Empire, 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 the application of the County of Stanislaus for permission to construct a public highway over the right of way of The Atchison, Topeka and Santa Fe Railway Company at a point about three-fourths of a mile southeast of Empire, be and it is hereby denied.

Dated at San Francisco, California, this 3<sup>rd</sup> day of July 1925.

H. B. ...

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George W. Squires

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Commissioners.