

Decision No. 15152

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
the County of Tulare, a political sub-  
division of the State of California,  
and the City of Tulare, a municipal  
corporation, for permission to con-  
struct a crossing of a public highway  
over a railroad of the Atchison,  
Topeka & Santa Fe Railway Company on  
the East line of Section 2, in Town-  
ship 20 South, Range 24 East, Mt.  
Diablo Base and Meridian, at said City  
of Tulare.

Application No. 10856.

W. C. Eaight, Deputy District Attorney for  
the Applicants.

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

BY THE COMMISSION:

### O P I N I O N

This proceeding is a joint application by the County of Tulare and the City of Tulare for authority to construct a public highway lying one-half in the City and one-half in the County at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company on the East line of Section 2, Township 20 South, Range 24 East, M.D.B. & M.

A public hearing was held in this matter before Examiner Satterwhite at the City of Tulare on June 12th, 1925.

The road on which the crossing is desired is known as County Road No. 58 and is fifty feet in width. The westerly half of the road lies within the city limits of Tulare; the easterly half lies outside the city. This road extends north of Tulare about six miles and is one mile west of, and parallel to the concrete-paved Tulare-Visalia Highway. The road extends south of the

proposed crossing for about two miles; and thence in a southeasterly direction about ten miles to the vicinity of Woodville. That portion of the road between the railroad and the Tulare-Visalia Highway has not been declared a county road by the Supervisors, although deeded to the county. It is open to travel but is in poor condition. The proposed crossing is desired to connect the two portions of this road as a through route. The paved state and county highways can also be used to reach Woodville via Tipton, but this is a longer route by about four miles. The north and south road one mile east of this one under consideration also extends to Woodville.

The nearest public crossings are located one mile east at the paved Tulare-Visalia Highway and about three-eighths of a mile west where Cherry Avenue crosses the Santa Fe. Cherry Avenue is connected with Road No. 58 by a short east and west road near the north city limits and all north and south traffic now uses this route. Cherry Avenue stops at Tulare Street, a main east and west thoroughfare, where further right angle jogs are required for traffic to continue on south. It was testified that the proposed crossing would be of benefit in driving stock along Road No. 58, as city ordinance forbids stock being driven through the city, and the State Highway is too heavily traveled to take such traffic safely.

Most of the country north of the proposed crossing is divided into 20 and 40 acre tracts, although there are some ranches as large as 700 acres. The land north of the Santa Fe on both sides of the county road as far as the first east and west road is practically vacant. The land south of the railroad is also very sparsely settled for some distance.

The view of the railroad track from the highway across the

northeast, northwest and southwest corners of the crossing is unobstructed. The view across the southeast corner of the crossing is obstructed by the substation building of the Southern California Edison Company. This building is not now in operation. A spur track serves the substation property and such cars as are spotted on this track tend also to obstruct the view. It was testified that the installation of an automatic flagman, in case this crossing is opened, would be of benefit to northbound traffic.

The proposed crossing is on the Visalia Branch of the Santa Fe. Four regular freight and four regular passenger trains are operated over the branch daily. In the fruit season, as high as twenty trains a day are operated. Most of the eastbound regular trains will cross this road at moderate rates of speed as the station is about one half mile west of the crossing.

Representatives of the railroad company testified that they did not believe the opening of the crossing at this point was justified for the reason that the Cherry Avenue crossing will care for all local needs. However, after giving due consideration to all of the evidence, it appears to the Commission that the application should be granted, provided the crossing be protected by an automatic flagman to be installed at the expense of applicants.

### O R D E R

City of Tulare and County of Tulare, having made application for permission to construct a public highway at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company on the east line of Section 2, in Township 20 South, Range 24 East, M.D.B. & M., 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 FOUND AS A FACT, that public convenience and necessity require the establishment of a public crossing at grade at the point above indicated; therefore,

IT IS HEREBY ORDERED, that permission and authority be and it is hereby granted to the City of Tulare and to the County of Tulare, State of California, to construct a public road at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company, as follows:

Commencing at a point on the East line of Section 2, in Township 20 South, Range 24 East, Mt. Diablo Base and Meridian, 1104.6 feet North of the Southeast corner of said Section 2, and running thence North 79° 14' East 25.38 feet; thence North 101.48 feet; thence South 79° 14' West 50.76 feet; thence South 101.48 feet, and thence North 79° 14' East 25.38 feet to the point of beginning.

and as shown by the maps (Exhibits "A" and "B") 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 equally by applicants. The cost of its maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicants. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of approximately eighty (80) degrees to the railroad and with grades of approach not greater than five (5) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) An automatic flagman shall be installed for the protection of said crossing at the sole expense of applicants, said

automatic flagman to be of a type and installed in accordance with plans or data approved by the Commission. The maintenance of said flagman shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

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

(5) 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.

(6) 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.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 23 day of July, 1925.

H. B. Burdige  
C. C. Shaver  
George W. Squares  
Ernest Scott

Commissioners.