

Decision No. 15779.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
the Board of Supervisors of San Joaquin
County for a road crossing over tracks
of the Southern Pacific Company at
Castle, San Joaquin County, California.

Application No. 11,018.

R. C. Pardoe, for County of San Joaquin
Arthur L. Levinsky for Southern Pacific Company
Nuttler, Hancock and Rutherford) for various interested
Geo. E. Frioux) property owners.

BY THE COMMISSION:

OPINION ON REHEARING

This proceeding was initiated by the County of San Joaquin filing with this Commission, in accordance with Section 2694 of the Political Code, a copy of a petition to its Board of Supervisors to appoint viewers and the order of that Board appointing same to view and report on a proposed road, the route of which crosses the tracks of Southern Pacific Company.

At a former hearing, the County failed to show sufficient public necessity to warrant the opening of an additional grade crossing over Southern Pacific Company tracks in this vicinity and the Commission in its Decision 15248, dated August 3rd, 1925, denied the application. On September 3rd, 1925, the County filed a petition for rehearing and in this petition the County alleged that the full facts in the matter were not

presented before the Commission and that persons described as being the "only persons able to testify of their own knowledge of the necessities for the road" were not produced for the reason that it was assumed that there being no opposition to their petition it would be granted as a matter of course. It should be unnecessary to point out to the County of San Joaquin that public necessity for grade crossings is determined neither by lack of opposition; nor by the mere number of witnesses at a public hearing. In order that the Commission could, however, have every opportunity to ascertain all the facts, a further hearing in the matter was held on October 28, 1925, before Examiner Austin.

As set forth in the prior decision, the proposed road would be two miles in length, connecting the main north and south highway, Cherokee Lane, with West Lane, another north and south road, at a point about six miles north of Stockton. The main line track of Southern Pacific Company lies approximately half way between these two roads and the proposed road would cross the track at siding known as Castle. One mile south of the proposed crossing is Hammer Lane, connecting the same two roads and a mile and a half north of Castle the Eight Mile road connects the northerly terminus of West Lane with Cherokee Lane. Each of these roads is parallel to the proposed road and each crosses the track at grade. One mile west of West Lane and accessible by means of Hammer Lane is the Lincoln Highway, or Lower Sacramento Road. The land lying between the two Highways is, in general, grain land and much of it has been held in large tracts for many years.

At the second hearing, as at the first, the claim of public necessity for this crossing is based on the three conten-

tions that:

(1st) The road is necessary to facilitate the subdivision of these large tracts of land;

(2nd) It will be a convenience to growers and the public in reaching Castle station; and

(3rd) It will be an accomodation to school children in reaching the Davis School.

In addition to this, it was claimed that at times of highwater in the Calaveras River and the Stockton Diverting Canal, the State Highway was sometimes flooded and the State Highway traffic could use this proposed road to reach the Lincoln Highway, although it was admitted that Hammer Lane would serve the same purpose.

It was also claimed that there was public necessity that the county acquire a right of way for this connecting road before the price of land became prohibitive. In the opinion of the county surveyor, this is the proper geographical location for a through road connecting the State and Lincoln Highways and that if not constructed at this time it may eventually become necessary for the county to condemn a right of way.

As stated in the former decision, the Commission is of the opinion that this land can be subdivided and opened for settlement without this grade crossing and no further evidence is presented to warrant any change in this opinion. Contention No. 1, cited above, will, therefore, be given no further consideration in this proceeding.

Taking up the second point then, that the road would prove a convenience to the public in reaching Castle station: There does appear to be a small amount of passenger traffic to and from this

flag stop and the road, no doubt, would be necessary in hauling produce for shipment from Castle, if Castle were a shipping point. At present, however, a passing track only is maintained here, although it was stated, by one of the land owners, that there have been some negotiations looking toward the establishment of a team track. The appearance of Southern Pacific Company is shown in the record and, as no evidence to the contrary occurs, they apparently do not regard the establishment of such a team track with disfavor.

As stated in the prior opinion and order, there is some merit in the contention that the proposed road would benefit several school children, as it is claimed that some children residing in the Davis School District, west of the railroad track, have been forced in the past, because of poor roads, to attend other schools.

In view of these facts, there may be necessity for a public crossing at this point especially if Castle is to become a station for receipt and delivery of freight. If a team track is established, we believe the grade crossing should be permitted.

There is considerable testimony regarding the type of soil in this vicinity and its effect on roads. Certain of the existing roads are impassable in the winter and also, at times, in the summer. The road connecting with one of the adjacent crossings has been open a great many years and being still unpaved is impassable during the winter months. In view of this, it appears to the Commission that if the proposed road remained unpaved it would defeat one of the chief purposes of the crossing, that of providing an open thoroughfare when other roads are incapable of being used. Counsel for the property owners agreed with the Commission's Engineer in this respect and the county entering no

objection, the paving of this road should be a condition to the opening of this grade crossing.

It also appears that the crossing would occur near the middle of a long passing track and that this track is used by freight trains in effecting meets and also while waiting to get into Stockton yard during periods of congestion. As these trains lie on the siding sometimes for considerable lengths of time, it would be necessary to cut the train at the crossing, with the result that the sections of the train standing on each side of the crossing obscure the view of the main line track. The hazard to vehicular traffic so affected is especially serious for the reason that the presence of a train on the passing track is usually caused by the near approach of another train on the main line. The view thus is often most obscured at the times of greatest danger. The railroad operates twenty regular trains a day through Castle and during seasons of heavy business there are many extra freight trains.

There is also a dismounted car body which is used as a telegraph station which will, to a certain extent, obscure the view of drivers approaching the crossing from the west. In view of these conditions, coupled with the fact that there appears the possibility that the traffic on the Sacramento-Stockton State Highway may, at times, be diverted over this crossing, it is the opinion of the Commission that some special protection should be provided at this crossing when opened. An automatic flagman is, therefore, recommended.

The above recommendations are embodied in the following

form of order:

O R D E R

The Board of Supervisors of the County of San Joaquin, having filed a petition for a rehearing in the above entitled proceeding, said petition having been granted, and a rehearing having been held, the Commission being apprised of the facts, the matter having been duly submitted and now ready for decision,

It is hereby found as a fact, upon the record herein, that the establishment of a crossing, as herein applied for, is not justified by the present existing conditions, but that if and when Southern Pacific Company establishes a public team track at or in the vicinity of the telegraph station now designated in its time table as "Castle" and a road paved with gravel or other equally suitable material is constructed connecting West Lane and Cherokee Lane, as hereinafter described, then and not otherwise public convenience and necessity will require the establishment of a public crossing at the point above indicated, therefore,

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to the Board of Supervisors of the County of San Joaquin, State of California, to construct a public highway at grade across the tracks of Southern Pacific Company, said crossing being that required to construct a road sixty (60) feet in width, the center line of which is described as follows:

Beginning at the point where the east and west center line of Section 11, Township 2 North, Range 6 East, M.D.B. & M., intersect, the westerly line of the right of way of Southern Pacific Company, thence at right angles to said right of way along the east

and west center line of said section to the easterly line of said right of way;
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 maintenance of said crossing up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company. No portion of the cost herein assessed to applicant for the construction or maintenance of said crossing shall be assessed by applicant, in any manner whatsoever, to the operative property of Southern Pacific Company.

2. The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad and with grades of approach not greater than two (2) per cent; shall be constructed substantially in accordance with Standard No. 3 as specified in General Order No. 72 of this Commission; 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 applicant, 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 Southern Pacific Company.

4. Said crossing shall not be opened until a public team track for the receipt and delivery of freight shipments by Southern Pacific Company shall have been established at or near the proposed point of crossing.

5. Said crossing shall not be opened until the connecting road west, as far as West Lane, and east, as far as Cherokee Lane, shall have been paved with gravel or an equally suitable material, said pavement to be at least sixteen feet in width.

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

7. 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.

8. 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 21st day
of December, 1925.

H. R. Bondage

C. Seaver

George D. Squire

Leon Whitell

Commissioners.