

Decision No. 15822.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
SOUTHERN PACIFIC COMPANY for an order
authorizing the construction at grade
of a spur track across State Highway
in Vicinity of Atwater, County of
Merced, State of California.

Application No. 11,741.

Henry W. Hobbs, for applicant.
Paul F. Fratessa, for California Highway
Commission.
Wm. M. Tudor, California State Automobile
Association.

WEITSELL, COMMISSIONER:

O P I N I O N

In this application Southern Pacific Company requests authority to construct a drill track at grade across the State Highway at Atwater, Merced County, California. At the hearing which was held at Atwater November 27th, 1925, the California Highway Commission appeared and protested the granting of this authority.

The grade crossing requested is that of a spur track which the railroad company desires to build to develop for industrial purposes a tract of land some eleven acres in extent lying a short distance east of the built up section of the town and across the highway from the railroad tracks. It is proposed to divide this property into several industry sites, construct driveways, and build a lead track through the center of the tract with

spurs serving the several industries as required.

There is a considerable demand by the various packers and shippers of fruit and vegetable crops for sites having spur track facilities on which to erect packing sheds and, as these industries seldom care to go to the expense of acquiring property and making permanent investment, it is the custom of the railroad company to lease portions of its right of way for this purpose where available. Practically all space on its present right of way and station reservation at Atwater that is suitable for this business has now been utilized and Southern Pacific Company is compelled to seek additional area for locating packing houses on its rails.

It would appear that the logical manner of so expanding would be to acquire property adjacent to the present railroad right of way or at least so located that it would be unnecessary to cross a main trunk highway to reach it, but it is claimed that the price of land so situated is considerably higher than that of the tract it is proposed to acquire, which requires the construction of a crossing over the state highway.

This highway is the main valley route trunk connecting northern California and the Bay District with the southern part of the state as well as the important towns in the San Joaquin Valley. It carries a traffic in excess of 2,000 vehicles per day. At the point of the proposed spur crossing the vehicular traffic moves at fairly high speed, the distance from the built up portion of Atwater being approximately a quarter of a mile. The view of the track to the north of the crossing would be partially obscured by buildings and trees but in the event the crossing were installed these conditions could probably be improved.

Because of the nature of the track and the industries

which it is proposed to serve, frequent switching movements over the highway can be expected if the crossing is installed. The record shows a probability that twelve different industries will eventually be located on the tract reached by this crossing and that the minimum daily output during the peak of the season would require at least sixteen switching moves across the highway every twenty-four hours. The needs of the packing industry would require night switching and any restriction as to time or number of movements would cause hardship.

The construction of any grade crossing of a track over a trunk highway is objectionable and should be avoided if possible. Even an unimportant spur track crossing presents certain factors of hazard and inconvenience to the public and when the construction of a track of the character of that in the present application is proposed at grade over a highway as important as the one under consideration, such crossing should not be permitted until every possibility of avoiding it has been exhausted and then only upon a strong showing of public necessity.

In the present instance there is probably considerable public necessity for additional industrial sites that can be conveniently reached by spur tracks but by the statement of the railroad's own witness the demand is for industrial development only and not for this particular site.

There was considerable testimony introduced by citizens of Atwater for the purpose of showing the difficulty of obtaining a satisfactory location for this industrial development and the need of the community for such expansion. This testimony, however, must be weighed in connection with the fact that at least one of the persons so testifying is the owner of property which it is apparently impossible to secure. This testimony does, however,

convince me that the primary reason for selecting this particular site was the price of the land rather than its physical adaptability for the purpose. The price of other close in and suitable land is around \$2,000 per acre whereas, for some reason not apparent from the present record, the tract on which Southern Pacific Company has secured an option can be secured for about one-half the current price of other property. The question therefore resolves itself into simply a determination of whether or not the difference in cost to Southern Pacific Company should be saved by constructing a spur track crossing at grade over a trunk highway.

The property under consideration contains 11.24 acres and will provide space for twelve industries or roughly an acre to the industry, assuming them to occupy equal space. A difference in first cost of say \$1,000 per acre would increase the rental to each industry by the interest on that amount which in turn applied to the output of each industry which, according to the record, it would be reasonable to expect, would result in an increase of not over fifty cents a car in the cost of packing. Compared with the freight on that car the amount is hardly worthy of consideration and when weighed against the hazard, the inconvenience and the delay and slowing up of vehicular traffic that the establishment of a spur track crossing at grade would incur, I can find no justification for the crossing. I therefore recommend that the application be denied and the following form of order will so provide.

O R D E R

Southern Pacific Company having made application to this Commission for permission to construct a spur track at grade

across a State Highway at Atwater, Merced County, California, a public hearing having been held, the matter having been duly submitted and now ready for decision, for the reasons stated in the foregoing opinion;

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 13th day of January, 1926.

H. A. Brundage

C. S. ...

Leon ...

Commissioners.