

Decision No. 12287

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the County of Tulare for permission to construct a crossing of a public highway over a railroad of The Atchison, Topeka & Santa Fe Railway Company on the North line of Section 5, in Township 18 South, Range 25 East, Mount Diablo Base and Meridian.

ORIGINAL

Application No. 12712.

W. C. Haight, Assistant District Attorney,
Frank Lamberson, Deputy District Attorney,
for the County of Tulare.
J. W. Walker, for The Atchison, Topeka and
Santa Fe Railway Company.

BY THE COMMISSION:

O P I N I O N

This is an application by the County of Tulare in which permission is sought to construct a county road at grade across the Fresno-Visalia line of The Atchison, Topeka and Santa Fe Railway Company on the north line of Section 5, in Township 18 South, Range 25 East, M. D. B. & M. A public hearing on this proceeding was held in Visalia on May 27th, 1926, before Examiner Austin, at which time the matter was submitted.

The crossing applied for has already been before the Commission in Applications Nos. 7414 and 9156 and in both proceedings the authority to construct the crossing was denied (Decisions Nos. 10491 and 12883).

The road on which this crossing is located was made a public road on the 3rd day of October, 1921. There is a private crossing at this location at the present time and the record shows

that the Railroad Company has experienced great difficulty in keeping the gates closed, as the crossing is used to some extent by the general public.

The County road extends west of the crossing one-half mile where it intersects with the paved north and south County Highway running to Visalia and Dinuba and extends east of the railroad some fifteen to eighteen miles, passing one mile north of the Town of Ivanhoe. It crosses the Fresno Branch of the Southern Pacific Company about three miles east of the crossing proposed herein. There are north and south dirt county roads extending along the easterly line of Section 5 and the easterly line of Section 4 which connect with east and west County roads, one of which crosses the railroad one mile south and the other two miles north of the crossing applied for.

There are no residents residing along this County Road east of the railroad for a distance of a mile and a half. Data obtained from the Assessor's Office by Assistant Engineer, L. R. Kessing of the Commission's staff, shows that there are only seven holdings of land along this County Road for this distance of one and one-half miles but that there are about forty holdings in four and one-half miles east of the railroad.

It was testified that some twenty to twenty-five families, residing over an area distant seven miles east of the proposed crossing, would be directly accommodated by it. Although the crossing does not appear necessary for the territory in its immediate vicinity, it does appear that through travel to Dinuba or to Visalia could use it to advantage as the nearest crossings north and south of the one proposed herein are three miles apart, which distance appears excessive for a country subdivided into small holdings. The length of open county road east of the railroad probably accounts for the use of the existing private crossing by the general public,

although the testimony shows that the crossing is not in good condition for general travel.

It appears to the Commission that this application of the County of Tulare should be granted and it will be so ordered.

O R D E R

County of Tulare, having made application to this Commission for permission to construct a crossing at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company on the north line of Section 5, in Township 18 South, Range 25 East, M. D. B. & M., 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 permission and authority be and it is hereby granted to the Board of Supervisors of 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 2543.9 feet East of the Northwest corner of Section 5, in Township 18 South, Range 25 East, Mount Diablo Base and Meridian, and running thence North 25 feet; thence North 89 degrees, 54 minutes East, 100 feet; thence South 50 feet; thence South 89 degrees, 54 minutes West, 100 feet, and thence North 25 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 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 The Atchison, Topeka and Santa Fe Railway 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 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 ninety (90) degrees to the railroad and with grades of approach not greater than four (4) per cent; shall be constructed substantially in accordance with Standard No. 2 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) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) 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.

(5) 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 27th day of August, 1926.

W. B. R. [Signature]
C. [Signature]
[Signature]
Thos. [Signature]

Commissioners.