

ORIGINAL

Decision No. 17484.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, a corporation, for
authority to construct, operate and
maintain a spur track in and across
a county road near Rheem, in the
County of Contra Costa, State of
California.

Application No. 12953.

Platt Kent,	for Applicant.
Zeb. Knott,	for County of Contra Costa.
W. S. Downing,	for Standard Sanitary Mfg. Company.
H. A. Johnson,	for Richmond Chamber of Commerce.
George Rooker,	for Richmond Industrial Commission.
Fred B. LaMoine,	for Richmond Merchants Assn.
R. H. Stratton,	for Giant Powder Company.
A. L. Paulson,	for Contra Costa Board of Realtors.
J. H. Plate,	for City of Richmond.

BY THE COMMISSION:

O P I N I O N

This is an application on the part of The Atchison, Topeka and Santa Fe Railway Company for permission to construct a spur track at grade across a County Highway near Rheem in the County of Contra Costa. A public hearing was held on August 28, 1926, before Examiner Austin at Richmond, at which time the matter was submitted.

In the vicinity of the proposed crossing, a paved County Highway, sometimes known as Kearney Street, is constructed parallel and adjacent to the easterly side of the right-of-way of

The Atchison, Topeka and Santa Fe Railway Company's Main Line. The territory east of the highway is suited for residential and industrial purposes, and at the present time the Standard Sanitary Manufacturing Company has a plant in operation at this location.

The highway serves the Town of Giant and a growing industrial and farming district to the north of Richmond. Applicant's Exhibits Nos. 2 and 3 show 12-hour traffic counts on three typical week days, ranging from 218 vehicles to 249 vehicles during the twelve hours. The evidence indicates that there is need at present of a through highway connecting with the State Highway on the northeast and the City of Richmond on the southwest, and traversing the area now served by the highway involved in this proceeding. Further, that traffic on the present State Highway has nearly tripled in volume since 1920 and that the opening of Carquinez Bridge, now in course of construction, will increase such highway traffic to a greater extent, thus adding to the necessity for a through bi-pass highway paralleling the State Highway. There is a possibility of using the existing paved highway as a portion of such a route.

The plant of the Standard Sanitary Manufacturing Company is already served by an existing spur track connecting with the Santa Fe main line and crossing the highway at a point approximately 1000 feet south of the crossing in question, as shown on Applicant's Exhibit "A". The Manufacturing Company proposes to enlarge its present plant, as shown on Exhibit 1, at a cost estimated at \$900,000.

The property upon which the plant is located has a

width of approximately 450 feet. The present plant is located upon the westerly portion of the property and is served by a spur track laid along the easterly edge of the plant and near the center of the property. The proposed addition to the plant will occupy an additional 180 feet of the property, leaving 150 feet at the easterly side for future expansion. The proposed addition will also extend northerly approximately 300 feet beyond the existing plant, beyond which additional property is also available for future expansion.

The particular design of the new plant contemplates that outbound carloading will take place at the northwest corner of the plant, an additional spur track crossing the highway from the Santa Fe main line being provided for this purpose. Witness for Applicant stated that this location for loading had been selected because it represented, in his judgment, the most economical point to load as far as internal economy of manufacture was concerned. He stated that in developing this economy, no consideration was given the detrimental effect to the public due to the hazard and delay which would be caused by constructing the additional grade crossing as proposed.

It appears that the plant can be served in either of two ways without necessitating the creation of the additional grade crossing; either by a re-design of the proposed layout utilizing branch spur loading facilities on the easterly side of the property, or by using the proposed design and continuing a branch spur from the existing spur track westerly and northerly to the proposed outbound loading platform. The latter method would require the use of additional land now

owned, the purchase of additional land and rearrangement of certain facilities. Applicant stated that they would be required to purchase a larger parcel of land than necessary, due to its ownership, at a cost of about \$10,000. to carry out the latter alternative. No estimate was made of the value of the land which would be salvaged. As to the land now owned and which would be used for the spur, evidence shows that same is not to be used in the proposed plant except for driveways, for which purpose it still could be used if the spur were built. No estimate of the cost of rearrangement of facilities necessary was given but it appears that it would be comparatively small.

The first method of serving the industry, namely, by a redesign of the plant, utilizing a branch spur track service on the east side, appears to be now out of the question, as the record shows that construction of the new plant was started on July 22, 1926.

It is estimated that approximately 4 cars of inbound and 2 of outbound freight will be handled daily. Under these circumstances, probably only one delivery daily will be required from the railroad, resulting in four movements over the present spur and four over the proposed spur, or a total of eight movements over the highway per delivery. With service from the existing spur by means of a branch spur, as previously mentioned, the number of movements over the highway in some cases may be reduced to as low as 2 instead of 8 per delivery.

Mr. J. W. Walker, Superintendent of the Valley Division of the Santa Fe, stated that his company, in general, was opposed to the creation of additional grade crossings, except where such crossings were on spurs serving to connect industries

with the line of the railroad. In the latter case, he stated, the hazard to the travelling public was small, due to the lower speed of train operation.

Witnesses appeared on behalf of the Richmond Chamber of Commerce, Richmond Industrial Commission, Richmond Merchants Association, Contra Costa Board of Realtors and the City of Richmond, practically all of whom stated that it was their desire that railroad service be not denied to property located east of the highway at this point. They were generally of the opinion that such service should be given to create the least additional public hazard.

The Legislature of the State of California, under Section 43 of the Public Utilities Act, have vested with this Commission the power and duty of regulating the construction of railroad grade crossings for the purpose of reducing the public hazard in this regard. The tremendous growth in the use of the highway by the automobile has necessitated the strictest care, on the part of the Commission, in passing upon applications for construction of additional grade crossings at a time when every effort is being made and large sums expended for the elimination of such crossings.

It appears to the Commission that there is a hazard present at the proposed crossing, although it is by no means as serious as a main line crossing. The objectionable feature, however, is not so much the public hazard incident to the construction of the single crossing itself but the general effect that would result therefrom. If the Commission is to grant this application, it could not in fairness reasonably deny future applications that will undoubtedly be filed with similar physical conditions in new and growing industrial districts. Unquestionably

a multiplicity of spur tracks over the highway presents a serious obstacle to the convenient use of such a highway by the public.

On the other hand, reasonable provision for the construction of railroad facilities which are essential to industrial development is also a consideration of prime importance, and when these two important public interests conflict, very careful study should be given to their relative weight.

The application now before the Commission, however, does not involve the question of providing industrial property with reasonable access to railroad facilities, for the industry concerned already has such service. It becomes merely a matter of whether grade crossings shall be authorized by this Commission where the only benefit derived is a matter of some economy to a private industry.

It appears that the studies as to economy of manufacture, made by the industry in designing their new plant, entirely overlook the hazard and inconvenience to the travelling public of an additional grade crossing. We are satisfied that this industry could have designed its plant in such a manner that it could enjoy all the advantages of economy and facility of manufacture that its present plan contemplates and yet require only a single grade crossing to give the industry adequate industrial track service. However, it did not do so, but started construction work on its new plant prior to the Commission's action in the matter. In this connection the Commission, in its Decision No. 10994, (22 C.R.C. 302) clearly stated its attitude:

"We draw particular attention to this circumstance for in many applications filed with us our reports of inspection on the ground reveal the fact that a large amount of money is expended on buildings which are located to fit in with a particular location of the track in which there is a grade crossing of a public highway involved, and this expenditure is used as an argument toward granting the application. It would be better for the carriers to see that proposed industries fully understand the situation and refuse to do any construction work until the proper application has been filed and granted, and we wish to announce that expenditures so made will not be considered in connection with applications asking for an order authorizing the construction of crossings at grade."

Further, it appears applicant has access to the railroad at the present time through an existing spur and that fairly adequate service to the proposed addition may reasonably be given from an extension or branch from this spur. It is concluded therefore from a consideration of the entire record in this proceeding that the grade crossing herein sought should not be permitted and that this application should be denied.

O R D E R

The Atchison, Topeka and Santa Fe Railway Company, a corporation, having on June 17, 1926, filed an application with this Commission for permission to construct a spur track across a County Road near Rheem, in the County of Contra Costa, State of California; a public hearing having been held, the matter being under submission and ready for decision; therefore

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

The effective date of this order shall be twenty
(20) days from the date hereof.

Dated at San Francisco, California, this 16th
day of October 1926.

H. K. Brundage
O. J. Seavey

Thos. S. Latta

Commissioners.

