

Decision No. 17608

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of the application of the County of Tulare for the alteration of a crossing of a public highway over a railroad of the Southern Pacific Company and the Southern Pacific Railroad Company, on the West line of the Southeast quarter of Section 26, in Township 16 South, Range 22 East, Mount Diablo Base and Meridian, near the station of Kingsburg.

Application No. 12682.

W. C. Haight, Assistant District Attorney, and Frank Lamberson, Deputy District Attorney, for the County of Tulare.

H. W. Hobbs, for Southern Pacific Company.

BY THE COMMISSION:

O P I N I O N

In this proceeding the County of Tulare desires to alter and widen an existing county road across the main line tracks of the Southern Pacific Company near the southerly city limits of the City of Kingsburg and to close an existing open (but not dedicated) crossing about 800 feet southeast of the crossing to be altered.

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 to be altered is located on the west line of the SE $\frac{1}{4}$ of Section 26, T. 16 S., R. 22 E., M.D.B. & M. It is the main southerly exit and entrance of the Town of Kingsburg and connects with the state highway, which parallels the railroad on its

southwesterly side. The County has recently constructed a forty foot road parallel and adjacent to the easterly right-of-way line of the Railroad Company from an east and west road on the south line of Section 26 northwesterly to a connection with the north and south road connecting with the crossing which the County now desires to alter. The construction of this road does away with the necessity of the crossing which the County desires to abandon.

The railroad and the two parallel roads on each side thereof intersect this north and south road at an angle of approximately 41 degrees. This acute angle requires vehicles moving southerly on the state highway, which desire to turn north into the City of Kingsburg, to turn through an angle of approximately 140 degrees. A similar condition exists for northbound traffic on the county road east of the railroad in turning south across the railroad over the crossing of the north and south road. The crossing of this north and south road across the railroad is but 30 feet in width and the County desires to widen it transversely for its full length to 40 feet and to cut off the sharp angles by obtaining easements from the Railroad Company for two triangular pieces of land, one 50 x 55.6 on the westerly side of the railroad and one 50 x 75.6 on the easterly side of the railroad. The Railroad Company objected to the alteration of this crossing as proposed by the County for the reason that the different routes of traffic over the various roads would have their points of intersection on the railroad tracks. The Company considers this a hazardous condition. At the hearing it was suggested that a right-angled crossing be constructed easterly of the existing crossing and the County, therefore, on June 9th, 1926, filed with the Commission an amended Exhibit A for such a right-angled crossing which crosses the tracks approximately 80 feet southeast of the existing crossing. This location appears to meet the objection raised by the railroad and is satisfactory to the Commission and the relocation of the crossing will be authorized in accordance there-

with, providing the existing crossing is removed and the private crossing 800 feet south thereof closed to travel.

The County desires, in addition to the above, an easement for a triangular piece of land on the easterly corner of the intersection of the new County Road parallel to the easterly side of the railroad with the north and south road entering Kingsburg. This property does not appear to be an actual necessity to the proper construction of the crossing but purely a matter of minor convenience. The Commission will therefore not include it in the order in this proceeding. If the County and the Railroad Company agree that it should be included in the easement granted by the railroad company to the county, the Commission will have no objection to it being so included.

The record shows that the County Road recently opened on the easterly side of the railroad was opened with the cooperation of the Southern Pacific Company in order to serve the industrial property of the Company on the easterly side thereof. The remodeling of the existing crossing and the abandonment of the crossing 800 feet south thereof appear to be closely connected with the construction of this piece of road. In this case, the Southern Pacific Company is obtaining a right-angled crossing in lieu of a longer angled crossing and is getting rid of an additional hazard in the closing of another existing crossing. Both the County and the Railroad will receive benefits from this crossing alteration and it therefore appears reasonable that the cost of making this change should be assessed fifty (50) per cent to the applicant and fifty (50) per cent to the Railroad Company.

O R D E R

County of Tulare, having filed the above-entitled application with this Commission, asking for authority to alter an existing crossing on the west line of the SE $\frac{1}{4}$ of Section 26, T. 16 S., R. 22 E., M. D. B. & M., and for further authority to abandon an existing

crossing about 800 feet southeasterly thereof, and having, on June 9th, 1926, filed an amended Exhibit A for a new crossing at right angles with the railroad, to be constructed in lieu of the existing crossing which the County desires to alter, a public hearing having been held and the Commission being apprised of the facts, the matter being under submission and ready for decision, therefore

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to the County of Tulare to move a public crossing at grade across the tracks of the Southern Pacific Company now located on the west line of the SE $\frac{1}{4}$ of Section 26, T. 16 S., R. 22 E., M. D. B. & M., to a location described as follows:

Commencing at a point 831.0 feet south and S. 41° 28' E. 122.11 feet of the N.W. corner of the S.E. 1/4 of Section 26, T. 16 S., R. 22 E., M.D.B. & M., thence S. 41° 28' E. 50 feet, thence S. 48° 32' W., 100 feet, thence N. 41° 28' W. 50 feet, thence N. 48° 32' E. 100 feet to the point of commencement;

and as shown on Amended Exhibit "A", filed June 9th, 1926, said crossing to be known as Crossing B-226.1 and to be moved subject to the following conditions, namely:

(1) The expense of moving the crossing as authorized and of abandoning the open crossing about 800 feet south thereof, shall be borne fifty (50) per cent by applicant and fifty (50) percent by Southern Pacific Company. The cost of maintenance of the new 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 thirty (30) feet and at an angle of ninety (90) degrees to the railroad and with grades of approach not greater than six per cent;

shall be constructed equal or superior to type shown as Standard No. 3 in General Order No. 72 of this Commission; shall be protected by suitable crossing signs 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 existing publicly used crossing, about 800 feet south of the crossing herein granted, shall be legally abandoned insofar as the County of Tulare has power so to do and shall be effectively closed to public use and travel.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings 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 12th day of November, 1926.

H. P. Anderson

C. L. Seaver

Ernest J. ...

Thos. ...

Commissioners.