

Decision No. 17745

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
the County of San Joaquin, State of  
California, for a permit to construct  
and maintain public highway crossings  
at grade over the rights-of-way and  
tracks of the Tidewater Southern and  
Western Pacific Railroad Companies  
over a public road between Sections  
24 and 25 of the Weber Grant, Rancho del  
Campo de los Franceses.

ORIGINAL

Application No. 12810.

Edward Van Vranken, by R. C. Pardoe, for  
Applicant.

James S. Moore, for The Western Pacific  
Railroad Company and Tidewater  
Southern Railway Company.

Stanley N. Arndt, for Associated Kadota Fig  
Growers Ass'n., et al, Protestants.

BY THE COMMISSION:

O P I N I O N

This is an application of the County of San Joaquin for permission to construct a public road between Sections 24 and 25 of the Weber Grant, Rancho del Campo de los Franceses, across the tracks of the Tidewater Southern Railway Company and The Western Pacific Railroad Company at grade. A public hearing was heard before Examiner Austin at Stockton on August 27th, 1926, at which time evidence with regard to the proposed crossings was adduced. Submission was withheld by stipulation for a period of thirty days, during which time the parties might ask for a reopening for dismissal of the proceeding. This time having expired, however, without any such application being filed with the Commission, the

matter is now under submission and ready for a decision.

Applicant proposes to improve a dedicated County Road lying along the line between Sections 24 and 25 of the Weber Grant between Sharp's Lane on the east and McKinley Avenue on the west. This road is laid out across the single track main line of the Western Pacific and the single track main line of the Tidewater Southern, and is located south of the corporate limits of the City of Stockton.

Applicant introduced considerable testimony to show that this road is needed not only as an east and west lateral for vehicular traffic in this vicinity, but also as a stock or cattle road leading from territory north and east of Stockton to the stockyards just west of McKinley Avenue.

On the Tidewater Southern, the first crossing to the north of the proposed crossing is at Eighth Street, a distance of 2.2 miles and the first crossing to the south is at Sharp's Lane Road, a distance of 1.43 miles. On the Western Pacific line, the first crossing to the north is at South Street, a distance of 3.04 miles, and to the south at French Camp, a distance of 1.13 miles.

None of the interested parties opposed the opening of a crossing in the general vicinity of the crossing covered by the application, and it appears to the Commission that the public convenience and necessity justify the opening of a public crossing in this general vicinity.

Applicant's Exhibit B (attached to the application) shows the crossing as applied for by the county, being a part of the road located along the line between Sections 24 and 25 of the Weber Grant. Applicant's Exhibit 1 shows the crossing as applied for by the County in red, and an alternative proposal of the Western Pacific in yellow. Protestants' Exhibit 1 shows a third location in red at Central Avenue, erroneously shown on the Exhibit as Belding Avenue.

It remains for the Commission to decide which of these three proposed locations for the crossing will best serve the public with the least amount of hazard.

It is desirable to locate the crossing so that it will divide the spacings between the existing crossings in more or less equal portions. A crossing to be equidistant between the existing crossings would have to be located considerably to the north of the crossing proposed by the Western Pacific, as shown in yellow on Applicant's Exhibit No. 1. However, the record shows that by reason of railroad yard development, it would not be desirable to install a crossing of that location. Under either the applicant's proposal or the Western Pacific's proposal it would be possible to use, under private agreement, existing trestles on each of the railroads during most of the year, as an underpass for stock. As such use of these trestles would be impracticable under Protestants' plan, either of the former plans would provide a much safer type of crossing for stock. The proposals of the County and the Protestants in other regards appear to be quite similar as regards public hazard for vehicular traffic. Of the three proposals, the Western Pacific plan appears to be the safer at the Western Pacific crossing, by reason of lower approach grades, while at the Tidewater Southern crossing the sixty (60) degree turn in the east approach would appear to add somewhat to the hazard as compared to the crossing proposed by the County.

With regard to the testimony offered by Protestants, relative to the location of the road as such, and without reference to the grade crossing itself, we are of the opinion that this phase of the matter is a proper one for the Board of Supervisors of San Joaquin County to pass upon rather than this Commission. Inasmuch as no request for a reopening of the proceedings was filed by the County during the thirty-day period before submission, we can only conclude that their attitude in this matter remains unchanged and that they favor the road as laid out in the original application filed herein.

Following a consideration of all the evidence in this proceeding, it is concluded that the crossing, as applied for, should be granted.

### O R D E R

Board of Supervisors of San Joaquin County, having applied to this Commission for permission to construct grade crossings over the Tidewater Southern Railway Company and The Western Pacific Railroad Company, between Sections 24 and 25 of the Weber Grant, a public hearing having been held, the matter being under submission and ready for the decision, 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 road at grade across the track of The Western Pacific Railroad Company at the location hereinafter particularly described and as shown by the map (Exhibit B) attached to the application.

#### Description of Crossing

Said crossing is located at the intersection of the main track of The Western Pacific Railroad Company with the north line of Section 25 of the C. M. Weber Grant, Rancho del Campo de los Franceses.

The above crossing shall be identified as Crossing No. 4-89.7.

Said crossing shall be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the crossing shall be borne by applicant. The cost of maintenance of that portion of said crossing outside of 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 Western Pacific Railroad 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 Western Pacific Railroad Company.

(2) The crossing shall be constructed of a width not less than twenty (20) feet and at an angle of eighty (80) degrees to the railroad and with grades of approach not greater than seven (7) 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.

IT IS HEREBY FURTHER 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 road at grade across the track of Tidewater Southern Railway Company at the location hereinafter particularly described and as shown by the map (Exhibit B) attached to the application.

Description of Crossing

Said crossing is located at the intersection of the main track of the Tidewater Southern Railway Company with the north line of Section 25 of the C. M. Weber Grant, Rancho del Campo de los Franceses.

The above crossing shall be identified as Crossing No.

75-3.5.

Said crossing shall be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the crossing shall be borne by applicant. The cost of maintenance of that portion of said crossing outside of 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 Tidewater Southern 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 Tidewater Southern Railway Company.

(2) The crossing shall be constructed of a width not less than twenty (20) feet and at an angle of sixty (60) 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. 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 effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 11<sup>th</sup> day of December, 1926.

H. B. ...  
O. J. Seavey  
Edward ...  
Leon ...  
Paul ...

Commissioners.