

ORIGINAL

Decision No. 18112.

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, oper-
ate 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 Rucker, 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:

OPINION ON REHEARING.

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 in the vicinity of 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 taken under submission. The Commission issued its Decision No. 17484 on this proceeding October 16, 1926, denying the application. Petitions for rehearing were filed, the matter was reopened and set for further hearing before Examiner Satterwhite on January 20, 1927, at which time further evidence was introduced and the matter was again taken under submission.

After a full examination of the record, upon rehearing in this proceeding, the Commission is convinced that nothing further has been brought to its attention which should cause a change in its decision of October 16th in this matter, with the exception of the testimony relating to the importance of the highway involved.

There was introduced as applicant's Exhibit No. 2 a resolution of the Board of Supervisors, stating as follows:

"That Kearney Street, in Contra Costa County, and running from the City of Richmond to Giant was laid out and constructed for the purpose of inducing industries to locate thereon, and that it is the sense of this Board that said Kearney Street was not and is not intended as a main connecting link with the principal County highway system, nor as a portion of an intended highway paralleling the present County highway, to care for increased vehicular traffic over the public highways of this County, whether said increase shall be caused by the completion of the construction of the Carquinez Bridge, or otherwise, and that said Kearney Street was constructed and is being maintained with the view of giving access to the Giant Powder Company at the Town of Giant and its allied industries and such other industries as may hereafter locate on or near said street."

There was also introduced, as applicant's Exhibit No. 4, a map prepared by the County Surveyor showing location of a proposed county road connecting with the main state highway in the vicinity of the crossing herein sought, which proposed road would not utilize Kearney Street at the point where the spur track crossing was sought, but would branch off a short distance south of this point.

The testimony shows that at the time of the previous hearing no definite location of the proposed road had been made, and that there existed the possibility of using Kearney Street at the point of crossing as a portion of a through road. Since that time, however, definite plans for the proposed road have been made, which definitely exclude the use of the portion of

Kearney Street at the proposed crossing.

It is concluded, therefore, that the highway involved in the application will not become a part of a through highway, as mentioned in the Commission's previous decision in this matter, but will remain only as a local road to Giant. From a consideration of all the evidence in the proceeding, it is concluded that the crossing, as applied for, should be granted.

O R D E R

Application for rehearing in this proceeding having been filed, the application having been reopened and further public hearing having been held, the matter being again under submission and ready for decision; therefore

IT IS HEREBY ORDERED that the Decision No. 17486, dated October 16, 1926, be and the same is hereby revoked and set aside.

IT IS HEREBY FURTHER ORDERED that permission and authority be and it is hereby granted to The Atchison, Topeka and Santa Fe Railway Company to construct a spur track at grade across County Road in the vicinity of Rheem, County of Contra Costa, State of California, at the location hereinafter particularly described and as shown by the map (Div. Engr's Drwg. #V-6-116) attached to the application.

Commencing at a point in the west line of the County Road said point being 379.38 feet south measured along the westerly line of said County Road from the south line of Broadway Street produced westerly, thence northeasterly 6.55 feet, thence on a 10 degree curve concave to the northwest 138.6 feet to a point in the east line of said County Road, said point being 246.81 feet south, measured along the east line of said County Road from the south line of said Broadway Street produced westerly.

The above crossing shall be identified as Crossing
No. 2-1186-C.

Said crossing to be constructed subject to the following conditions, namely:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossing shall be constructed equal or superior to type shown as Standard No. 3, in General Order No. 72 of this Commission and shall be constructed without superelevation and of a width to conform to that portion of said road now graded, with the tops of rails flush with the pavement, and with grades of approach not exceeding one (1) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) No train, engine, motor or car shall be operated over said crossing unless said train, engine, motor or car shall be under full control, and in the event of cars being pushed over the crossing traffic on the highway be protected by a member of the train crew or other competent employee acting as flagman on the ground.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) 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.

(6) 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 28th day of March, 1927.

Emmerts
H. B. Brundige
C. Cleary
Leon Whittell
Thos. S. Rutter
Commissioners.