

Decision No. 26028

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the)
 CITIZENS OF UPLAND and ONTARIO for an)
 order for the opening of Second Avenue)
 and the establishment and construction of) Application
 a grade crossing over and across the) No. 14657
 right-of-way, property and tracks of the)
 Atchison, Topeka & Santa Fe Railroad)
 Company.)

Ralph E. Swing, City Attorney, City of Upland, and
 Attorney,
 E. H. Jolliffe, City/ City of Ontario, for Applicants.

E. T. Lucey, for Atchison, Topeka & Santa Fe Railway
 Company, Protestants.

BY THE COMMISSION -

OPINION**ORIGINAL**

The City of Upland, a municipal corporation, and the City of Ontario, a municipal corporation, have petitioned the Railroad Commission for an order authorizing the construction of Second Avenue at grade across the right-of-way and tracks of the Atchison, Topeka & Santa Fe Railway Company in the cities of Upland and Ontario, in the County of San Bernardino.

A public hearing on this application was conducted by Examiner Handford at Upland, the matter was duly submitted and is now ready for decision.

Second Avenue extends in a north and south direction, terminating in the City of Upland at "A" Street which is parallel to and immediately north of the tracks of The Atchison, Topeka & Santa Fe Railway Company, while in the City of Ontario, said avenue terminates at Stowell Street which is parallel to and immediately south of said tracks. Second Avenue, to the north of the tracks, is the main thoroughfare through the business district of Upland, while south of the tracks, it passes through a sparsely settled residential district of the City of Ontario.

Applicants propose to open and extend Second Avenue from "A" Street in the City of Upland across the main line, team track, passing track, and spur track of The Atchison, Topeka & Santa Fe Railway Company, at grade within the Upland station grounds of said company, to Stowell Street in the City of Ontario, a distance of approximately 225 feet. This crossing, if constructed, would require the moving of the Upland station to a point east of its present location and would also necessitate the relocation of the railway company's team track. The proposed grade of highway approach from the north would be less than one percent and the proposed grade of approach from the south would be approximately seven percent. The view of approaching trains would be obstructed in all directions at this proposed crossing due to buildings located at each corner.

The record shows that there are about seventy families living in the area bounded by the tracks of The Atchison, Topeka & Santa Fe Railway Company, Seventh Avenue, Euclid Avenue and Campus Avenue, some of which would probably be served by the establishment of the proposed crossing.

Applicants stated that they proposed to establish an assessment district to defray the expense of the construction of the proposed crossing, although some of the witnesses for applicants, who were property owners in the proposed assessment district, testified that they would not favor such assessment.

At the present time, Euclid Avenue, a paved street, approximately 850 feet west of the proposed crossing, protected by crossing gates and an automatic flagman at the tracks of The Atchison, Topeka & Santa Fe Railway Company, and Campus Avenue, a paved street, protected by an automatic flagman, located approximately 2000 feet east of the proposed crossing, are available for traffic between Ontario and Upland. In addition to the two above mentioned crossings, Fourth Avenue (Sultana Avenue) crosses the tracks of

The Atchison, Topeka & Santa Fe Railway Company at a point approximately 500 feet east of the proposed crossing. This crossing is planked and is protected by an automatic flagman. The record shows some question as to whether the Fourth Avenue crossing had ever been dedicated to public use, however, it has for some time past and is at present being used by the public, and is being maintained by the railroad.

The proposed crossing, if established, apparently would require some form of special protection, as the corner views from all directions would be obstructed.

The record shows the railroad traffic over the proposed crossing to consist of fourteen scheduled passenger trains, ten of which do not stop at Upland, eight freight trains and numerous switching movements daily.

The chief engineer of The Atchison, Topeka & Santa Fe Railway Company testified it would cost approximately \$11,000 to move the station building from its present location and construct the proposed crossing with the necessary protection, such amount being exclusive of any paving of the street outside the tracks, or any expenditure necessary for the relocation of the company's team track.

He further testified that if crossing gates and two automatic flagmen were required for the protection of the crossing, the annual maintenance cost of such protection would approximate \$2000, which amount would be exclusive of any maintenance to the crossing itself.

After due consideration of all the evidence presented herein, we conclude that the establishment of the proposed crossing would serve a relatively small number of people; that the crossing would be a hazardous one; that there are now protected public crossings within reasonable distance of the proposed crossing; that the cost of installation and expense of annual maintenance would be comparatively high when considered in relation to the public convenience offered; and that public convenience and necessity do not justify the granting of this application.

O R D E R

A public hearing having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusions as set forth in the opinion which precedes this order,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity do not justify the granting of this application, and

IT IS HEREBY ORDERED that this application be and the same hereby is denied.

Dated at San Francisco, California, this 11th day of

July, 1928.

Leon A. Whaley

A. Seamy

Emmott

Thos. J. Lott

W. J. Am

COMMISSIONERS.