

Decision No. 21033

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOINT HIGHWAY DISTRICT NO.8, composed)
 of the Counties of Marin and Solano,)
 State of California, for authority and)
 permission to construct and maintain)
 a public highway and road as a part of)
 the highway of applicant across the)
 track at grade of San Francisco, Napa)
 and Calistoga Railway, a corporation,)
 at a point near the City of Vallejo,)
 County of Solano.)

Application
 No.15417

ORIGINAL

Joseph M. Raines, for Applicant.
 Frank L. and Nathan F. Coombs, by Nathan F. Coombs,
 for San Francisco, Napa and Calistoga Railway and
 Napa Valley Bus Company.

Harry A. Gee, for Johnson Contracting Company,
 interested party.

BY THE COMMISSION -

O P I N I O N

Joint Highway District No.8, composed of the Counties of Marin and Solano, State of California, filed the above entitled application with this Commission on the 19th day of February, 1929, asking for authority to construct and maintain a public highway at grade across the track of San Francisco, Napa and Calistoga Railway, at a point near the City of Vallejo, Solano County, California. Attached to the application is a copy of an agreement entered into between applicant and San Francisco, Napa and Calistoga Railway, which indicates that the railway is not opposed to the construction of the crossing, provided certain expenses attached thereto are borne by applicant.

On the 2nd day of March, 1929, the Commission issued its exparte order, Decision No.20829, granting applicant permission and authority to construct a public road at grade across the track of San Francisco, Napa and Calistoga Railway at the approximate location as shown by the map attached to the application,

subject to the usual conditions which the Commission imposes in granting such an application, although the conditions imposed by the order with respect to the maintenance of the protective device and the crossing proper, were at variance with the terms of the agreement.

On March 22, 1929, the San Francisco, Napa and Calistoga Railway filed its petition for a modification of the order, with respect to the maintenance of the wig-wag. On April 4, 1929, the San Francisco, Napa and Calistoga Railway filed a supplemental petition, asking for further modifications of the Commission's order or a public hearing; whereupon, the Commission, on April 11, 1929, issued its order reopening the proceeding for public hearing.

A public hearing was conducted before Examiner Handford on April 11, 1929, at Vallejo, the matter was duly submitted and is now ready for decision.

The record shows that there is no opposition to the construction of the proposed crossing; the railway, however, takes the position that the cost of constructing and maintaining the crossing and automatic protective device should be borne in accordance with the agreement entered into by the parties referred to above, which provides that the maintenance of both the wig-wag and that portion of the crossing lying between lines two (2) feet outside of the outside rails be borne jointly by applicant and the railway. To this contention the Commission cannot subscribe, as it appears that the proper party to maintain the protective device (Stand, No.3 wig-wag, G.O. 75) and the crossing proper is the railway, which allocation of expense is in conformity with the long established practice of the Commission.

We are of the opinion that the agreement herein referred to, covering these items, does not justify the Commission in deviating from its past policies in such cases, as it does not appear in the interest of public safety to assess the maintenance of the crossing

to any party other than the railway.

There seems to be some disagreement between the applicant and the railway as to the particular type of crossing to be constructed between lines two (2) feet outside of the outside rails. In the Commission's order (Decision No.20829) a No.2 crossing was prescribed of the type as indicated in our General Order No.72. This type of crossing is considered appropriate for macadamized highways, as is the case here. The railway takes the position that the present rails across the proposed highway should be replaced with heavier rails and that the crossing proper should be paved with concrete. It is contended that such a crossing will reduce future maintenance. On the other hand, applicant agrees to construct the type of crossing as specified in the Commission's order but does not consider it proper to pave and re-rail the crossing as requested by the railway. The type of crossing as specified in the Commission's order appears to be appropriate for this construction and there is no evidence in the record justifying any change with respect to this feature of the order.

Mention was made in this record relative to providing automatic flashing lights along County Road No.85 on either side of the proposed crossing. The expense of providing such protection would naturally fall upon the County of Solano and the Commission would respectfully urge that such protective devices be provided by the County.

With respect to relocating a certain pole, located on the east side of the railroad track and the north side of the proposed highway, the record shows that this pole, in its present location, will not interfere with the construction of the proposed crossing. We suggest, however, that the base of the pole be painted so as to make it more visible to the drivers of vehicles.

After full consideration of the record in this proceeding, we conclude that nothing has been presented which justifies the Commission in amending or modifying its former Decision No.20829, as decided March 2, 1929. Such decision, as set forth above, is in keeping with the Commission's policy in such matters and this proceeding presents no different situation than in many other matters involving a grade crossing of a new highway over a railroad. The Commission's order as contained in its Decision No.20829 will, therefore, be affirmed.

O R D E R

Joint Highway District No.8 of the Counties of Marin and Solano, State of California, having applied to the Railroad Commission for authority to construct a public road at grade across the track of San Francisco, Napa and Calistoga Railway, at a location as shown by the map attached to the application, the matter having been reopened, a public hearing having been held, the Commission being now fully apprised of the facts, the matter being under submission and now ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity justify the establishment of a public crossing at grade at the point above indicated, therefore,

IT IS HEREBY ORDERED that this Commission's Decision No.20829, dated the 2nd day of March, 1929, be and it is hereby affirmed.

Dated at San Francisco, California, this 30th day of April, 1929.

Thomas B. Lewis
Secretary
Leon O. White
Commissioners.