

Decision No. 21213 .

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the matter of the application of San Diego County, California, for permission to establish and construct grade crossing over The Atchison, Topeka and Santa Fe Railway Company's tracks on Grand Avenue at Carlsbad, California.

Application No. 14,803

In the matter of the application of The Atchison, Topeka and Santa Fe Railway Company, a corporation, for authority to close and eliminate grade crossing over its line of railroad on Grand Avenue, at Carlsbad, California.

Application No. 15,350

Thomas Hurley, Supervisor, and E.S. Lovett, Deputy District Attorney for County of San Diego, M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION:

O P I N I O N

The Board of Supervisors of the County of San Diego has petitioned the Railroad Commission (Application No. 14,803) for an order authorizing the construction of Grand Avenue across the right of way and tracks of The Atchison, Topeka and Santa Fe Railway Company in the Town of Carlsbad, County of San Diego.

A public hearing on Application No. 14,803 was conducted by Examiner Gannon at Oceanside on December 13, 1928, at which time the matter was duly submitted.

Subsequent to submission in Application No. 14,803, but prior to decision by the Commission, The Atchison, Topeka and Santa Fe Railway Company filed Application No. 15,350 requesting

that the Commission issue its order directing that the Grand Avenue crossing be closed. Upon receipt of this application the Commission issued its order setting aside submission in Application No. 14,803 and reopened the proceeding for further hearing.

At the public hearing held by Examiner Gannon at Carlsbad on March 20, 1929, by stipulation the two applications were consolidated for the purpose of hearing and decision; the entire matter was taken under submission and is now ready for decision. It was stipulated that the record formerly adduced at the hearing held December 13th, 1928, on Application No. 14,803, be considered in evidence in this continued proceeding.

Carlsbad is an unincorporated portion of San Diego County, located approximately three miles south of Oceanside. The record shows that Carlsbad is the trading center for a population of some twenty-five hundred people. The Atchison, Topeka and Santa Fe Railway Company's tracks through Carlsbad extend in a general north and south direction and are located approximately one-quarter mile to the east of the shore line of the Pacific Ocean. The State Highway is located between the railroad and the ocean in the vicinity of Grand Avenue.

Grand Avenue, extending in a generally east and west direction, has recently been graded, to a width of seventy feet between curbs, between Lincoln Street (State Highway) which is parallel to and approximately one block west of the tracks, and Fourth Street, which is parallel to and approximately fourteen hundred (1400) feet east of said tracks. At the present time Grand Avenue is constructed across the railroad to a width of approximately eighteen (18) feet. The County of San Diego desires to widen and improve the crossing to conform with the present width of the street adjacent to the railroad.

Elm Avenue, a paved highway, parallel to and approximately four hundred (400) feet south of Grand Avenue is now constructed across the tracks of the Santa Fe Railway and is protected by an automatic wigwag. The Railway Company took the position that one grade crossing at Carlsbad was sufficient to meet the present public need to accommodate vehicular traffic over the railroad and was agreeable to the plan of improving the Grand Avenue crossing if the Elm Avenue crossing were closed; on the other hand, if the Elm Avenue crossing is to remain, there is no need for a crossing at Grand Avenue. The County of San Diego was opposed to the closing of Elm Street as a condition to the widening and improving of the Grand Avenue crossing, consequently the Railway Company filed its application requesting that the Grand Avenue crossing be closed.

The business district of Carlsbad fronts on First Street and extends between Elm and Grand Avenues, First Street being located parallel to and approximately two hundred (200) feet east of the tracks. The principal residence section of the town is also east of the tracks.

The record discloses that Grand Avenue is one of the principal streets of Carlsbad and has for more than forty (40) years past been constructed across the Railway Company's tracks for the use of the public. Grand Avenue is the only through artery from the residential and business section of Carlsbad to the beach. Grand Avenue is the first important east and west street intersecting Fourth Street which is the main artery serving the back country of Carlsbad.

The record further discloses that considerable development is to take place at the intersection of Grand Avenue and the State Highway thereby increasing the importance of Grand Avenue as a through street.

In support of its application, the Railway Company,

through its Division Engineer, urged that the crossing be closed on the ground that there was little public convenience and necessity for its existence; that trains are operated over the crossing at high rates of speed; that the views at three corners of the crossing were obscured by fixed objects and that in view of the fact that the Company and the political subdivisions had expended large sums of money for grade separations on this line, all unnecessary grade crossings should be eliminated.

It is apparent that the conditions prevailing at this crossing constitute a rather hazardous situation and if the crossing is to remain, the travelling public should be afforded automatic flagmen protection.

After due consideration of all the evidence presented herein, it is our conclusion that a crossing has existed at Grand Avenue for many years; that the showing made by the Railway Company looking toward the closing of the crossing is not ample to justify an order directing that it be closed and that public convenience and necessity justify the granting of the County's application and the denial of The Atchison, Topeka & Santa Fe Railway Company's application.

O R D E R

Public hearings having been held on the above entitled applications, 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, 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 Diego, State of California, to construct Grand Avenue at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company at the location particularly as shown

by the map attached to Application No. 14,803.

The above crossing shall be identified as Crossing No. 2-229.2.

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 the County of San Diego. 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 the County of San Diego. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by The Atchison, Topeka and Santa Fe 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 The Atchison, Topeka and Santa Fe Railway Company.

(2) The crossing shall be constructed of a width not less than seventy (70) feet and at an angle of approximately ninety (90) 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. 3 as specified in General Order No. 72 of this Commission; shall be protected by a Standard No. 1 crossing sign as specified in General Order No. 75 of this Commission and shall in every way be made suitable for the passage thereon of vehicles and other road traffic.

(3) Two Standard No. 3 wigwags or one Standard No. 4 wigwag as specified in General Order No. 75 of this Commission shall be installed and maintained for the protection of said crossing. The cost of installation shall be borne by the County of San Diego. The cost of maintenance shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(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.

IT IS HEREBY FURTHER ORDERED that Application No. 15,350 be and the same is hereby denied.

The authority herein granted shall become effective twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 10th day of

June, 1929.

Thomas B. Lott
C. C. Seamy
Ernest Lott
John Whittell
Commissioners.

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IT IS HEREBY FURTHER ORDERED that Application No. 15,350 be and the same is hereby denied.

The authority herein granted shall become effective twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 10th day of

June, 1929.

Thomas D. Lott
W. L. Jennings
Ernest Lott
John A. Whelan
Commissioners.