

Decision No. 21865.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the COUNTY OF LOS ANGELES for order authorizing a grade crossing on Short Street over the Southern Pacific Company's right of way on Alameda Street.

Application No. 15797.

Fred M. Cross, Deputy County Counsel,
for the Applicant.
C. W. Cornell, for Southern Pacific
Company.

BY THE COMMISSION:

OPINION

In the above entitled application, the County of Los Angeles seeks permission to construct Short Street at grade across the San Pedro and Santa Ana Branches of Southern Pacific Company in the vicinity of Firestone Station.

A public hearing on this matter was held by Examiner Gannon at Los Angeles, the matter was submitted and is now ready for decision.

The San Pedro and Santa Ana Branches of Southern Pacific Company extend in a generally north and south direction and lie between Santa Fe Avenue and Alameda Street.

Short Street extends in an east and west direction, being approximately 600 feet in length from Santa Fe Avenue on the east to Alameda Street on the west. It is a dedicated public street from Santa Fe Avenue to the Railroad Company's east right-of-way line and is constructed ACROSS the railroad tracks by a somewhat circuitous route. The County of Los Angeles desires to extend

Short Street to Alameda Street on a direct line so as to correct its present irregular alignment and to provide safer automatically-protected crossings.

At the hearing the County contended that the present grade crossings of Short Street with the Railroad Company's tracks have been used uninterruptedly by the public for a period in excess of five years and hence have become public crossings by usage; that the proposed crossings would take the place of the existing crossings in so far as public travel is concerned, and that the cost of constructing and protecting the proposed crossings should be borne equally by the applicant and the railroad.

On the other hand, the railroad company maintained that the existing crossings along Short Street were private ones; that they were constructed to provide access to the station from Short Street and Alameda Street and that there was no effective means of prohibiting public travel between Santa Fe Avenue and Alameda Street; that the Political Code expressly provides that no highway can be acquired by prescription; that the proposed crossings should be considered as new crossings; and that the cost of constructing and protecting same should be apportioned in accordance with the terms of the usual agreement entered into by the railroad and applicant, a copy of which was attached to the application.

The Commission does not feel that it is necessary to make any pronouncement as to whether or not the existing crossings are legally public crossing. However, the record clearly shows that the crossings have been used by the public for a number of years and that the construction of the proposed crossings will eliminate such public travel over same.

The applicant is agreeable to the closing of the existing crossings, but Southern Pacific Company's witness testified that they would still be necessary to provide access to their

station after the completion of the proposed crossings. The station building, which is not very pretentious in character, could be moved south at a nominal expense so that the existing crossings would provide access to same, but such a plan apparently did not meet with the approval of the railroad.

From the record herein we are of the opinion that public convenience and necessity require the construction of the proposed automatically protected crossings which will replace, in so far as the public travel is concerned, the existing unprotected crossings of a street having irregular alignment, thereby affording the traveling public a safer and more convenient route; that the railroad is benefited by having the public travel removed from the existing crossings and that it would appear just and reasonable to require the railroad company to bear an equal part of the cost of constructing and protecting said new crossings.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been submitted, and being ready for decision,

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to the Board of Supervisors of the County of Los Angeles, State of California, to construct Short Street at grade across the tracks of Southern Pacific Company at the locations hereinafter particularly described and as shown by the map (Exhibit "A") attached to the application.

Description of Crossings

Beginning at the intersection of the easterly line of said right of way with the westerly prolongation of the northerly line of Short Street, as shown on map of Tract No. 9301, recorded in Book 151, pages 99 and 100 of Maps, Records of said county; thence southerly

along said easterly line a distance of 64.51 feet to the westerly prolongation of the southerly line of said Short Street; thence westerly along said last mentioned prolongation 171.84 feet to the westerly line of said right of way; thence northerly along said westerly line 60.90 feet to the westerly prolongation of the northerly line of said Short Street; thence easterly in a direct line to the point of beginning.

The above crossings shall be identified as follows:

San Pedro Branch - Crossing No. BG-489.08

Santa Ana Branch - Crossing No. BK-489.1

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

(1) The entire expense of constructing the crossings shall be borne 50% by applicant and 50% by Southern Pacific Company. The cost of maintenance of those portions of said crossings up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of those portions of the crossings between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company. The actual work of constructing the crossing between lines two (2) feet outside of the outside rails shall be performed by Southern Pacific Company.

(2) The crossings shall be constructed of a width not less than twenty-four (24) feet and at an angle as shown on the map attached to the application (Exhibit "A") and with grades of approach not greater than six (6) per cent; shall be constructed equal or superior to Standard No. 2 as specified in General Order No. 72 of this Commission; shall be protected by Standard No. 1 crossing signs 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) A Standard No. 3 wigwag as specified in General Order No. 75 of this Commission shall be installed and maintained

at each crossing for its protection. The cost of installing said wigwags shall be borne 50% by applicant and 50% by Southern Pacific Company. The cost of maintaining said wigwags shall be borne by Southern Pacific Company.

(4) The existing publicly used crossings, located approximately two hundred (200) feet south of the crossings authorized herein, shall be legally abandoned in so far as the County of Los Angeles has power so to do.

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

(6) If said crossings 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.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings 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 effect on the date hereof.

Dated at San Francisco, California, this 5th day of December, 1929.

[Signature]

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Commissioners.