

Decision No. 22262**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
THE PEOPLE OF THE STATE OF CALIFORNIA,  
on relation of the DEPARTMENT OF PUBLIC  
WORKS, DIVISION OF HIGHWAYS, for an  
order authorizing the construction of  
a State Highway Crossing at grade over  
the tracks of the Southern Pacific  
Company in the vicinity of Little Lake,  
Inyo County, California.

Application No. 16035.

J. R. Lazarus, for the Applicant.

H. W. Hobbs, for Southern Pacific  
Company, Protestant.

BY THE COMMISSION:

O P I N I O N

This is an application filed with the Commission by the People of the State of California, on relation of the Department of Public Works, Division of Highways, requesting permission to construct state highway, designated as Road IX-Iny-23-G, at grade across the tracks of Southern Pacific Company, in the vicinity of Little Lake, Inyo County.

A public hearing on this proceeding was held before Examiner Satterwhite at Independence, On February 28, 1930, at which time the matter was submitted and is now ready for decision.

The present state highway has an irregular alignment in this vicinity and now crosses the Southern Pacific Company's Owenyo Branch Line at a point approximately 1500 feet west of the substitute crossing proposed herein. The Division of Highways plans to relocate said highway adjacent to the track so as to reduce the curvature in the highway. The proposed change will involve

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crossing Southern Pacific Company's branch line track and siding whereas, at the present time, the highway crosses only the main line. It appears that the alignment for the new location in this district was controlled largely by the irregular lava outcropping.

Counsel for the applicant testified that, through inadvertence, the new highway has been graded on either side of the proposed crossing, at a cost of approximately \$4,000., without first determining the grade crossing question, which work would necessarily have to be discarded in the event the present grade crossing is to be utilized as a part of the new highway route thru this section.

The Southern Pacific Company protested the granting of the application on the ground that the present crossing could be utilized by changing the alignment of the proposed route on either side of the railroad and that the proposed crossing intersected a siding (Narka), as well as the branch line track, consequently reducing the usefulness of said siding. Protestant's witnesses stated that the railroad company would have no objection to the proposed crossing providing applicant would pay the cost of moving that portion of the siding north of the proposed crossing approximately 1500 feet to the southerly end of the existing siding, so as to provide the company with a siding equal in length to the present one, without being intersected by a grade crossing. The cost of moving this track has been estimated to be approximately \$3,500.

From the above figures, it is apparent that it would cost applicant less to move the siding than to abandon the work already done on the proposed route; however, applicant takes the

position that the present siding, void of grade crossings and of 53-car capacity, was not necessary at the present time or in the near future for protestant's business on this branch line. This opinion was based on the facts that the railroad company operates only two scheduled passenger trains and two scheduled freight trains per day over this branch line; that the average length of these trains is 30 cars; that the company maintains eight other sidings of 52 cars or more capacity within a distance of twelve miles on either side of the crossing; that there are no loading or warehouse facilities at this siding; and, that the business on this branch line will probably decrease as the City of Los Angeles is cancelling its leases to property holders in the Owens River Valley and the residents are moving out.

It appears from the record in this proceeding that the Nerka siding was constructed coincident with the building of this branch line, which was at a time when the City of Los Angeles was constructing its aqueduct and, during the past few years, the siding has been used only occasionally for the passing of trains or the loading and unloading of cars.

If this crossing is constructed, that portion of the siding south of the crossing will be capable of accommodating 32 cars in the clear.

If this siding were being used by the railroad company to its full extent, it would appear only just to require the Division of Highways to bear the expense of moving that portion of the siding north of the proposed crossing to the southerly end of the siding but, since the record shows quite conclusively that the siding, at the present time, is used only occasionally and then for only a part of its length, it would not, in our opinion, be

reasonable to require the Division of Highways to expend approximately \$3,500. for this work at this time. If, however, business increases on this line or conditions change so as to require the full use of this siding or its equivalent by the railroad company, it would be reasonable that the Division of Highways be required to pay the cost of changing the siding as proposed by the railroad company.

If and when this condition arises, it is the privilege of the railroad company to petition the Commission for a further order in this proceeding looking towards applicant bearing the expense of providing a siding of sufficient capacity to meet the railroad's needs up to the limit of the present siding.

The amount of vehicular traffic which would use the proposed crossing is estimated at 300 to 500 vehicles daily. The corner views of the crossing are clear in all directions.

It was the opinion of both applicant's and the railroad company's witnesses that standard crossing signs, which are now used at the present crossing, would afford adequate protection at the proposed crossing.

After carefully considering the record in this proceeding, we are of the opinion that the applicant should be granted permission to construct the proposed crossing upon the condition that the present crossing be closed and that the applicant be required by subsequent order to pay the cost of moving that portion of the siding described above whenever it is shown that same has become reasonably necessary.

#### O R D E R

The People of the State of California, on relation of the Department of Public Works, Division of Highways, having filed

the above entitled application with this Commission, a public hearing having been held, the matter having been duly submitted and the Commission being now fully advised,

IT IS HEREBY ORDERED that permission and authority be and it is hereby granted to the People of the State of California, on relation of the Department of Public Works, Division of Highways, to construct State Highway, designated as Road IX-Iny-23-C, at grade across the tracks of Southern Pacific Company in the vicinity of Little <sup>Lake</sup> ~~Rock~~, Inyo County, and as shown by the map (Exhibit "A") attached to the application.

The above crossing shall be identified as Crossing No. RAK-464.2.

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 applicant. 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 applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twenty (20) feet and at an angle of approximately thirty (30) degrees to the railroad and with grades of approach not greater than four (4) per cent; shall be constructed substantially in accordance with Standard No. 2, as specified in General Order No. 72 of this Commission; shall be protected by two 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) No cars, engines or trains shall be stored or allowed to stand on the side track within one hundred and fifty (150) feet on either side of the center line of the crossing authorized herein, unless the crossing is protected by a human flagman.

(4) The existing public crossing, designated as Crossing No. BAM-464.5, shall be legally abandoned and effectively closed to public use and travel upon the opening to public travel of the crossing authorized herein.

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

(6) 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.

(7) 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 29<sup>th</sup> day of March, 1930.

C. Carey

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W. D. Little

M. M. [unclear]