

Decision No. 22508.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of the City of Parlier for a  
permit to open a public highway  
crossing at grade over the right  
of way and tracks of the Atchison,  
Topeka and Santa Fe Railway at J  
Street in said City.

Application No. 16336.

**ORIGINAL**

James M. Thuesen, for Applicant.

William F. Brooks, for The Atchison,  
Topeka and Santa Fe Railway Company,  
Protestant.

BY THE COMMISSION:

O P I N I O N

City of Parlier, a city of the sixth class in Fresno County, has made application to open a public highway crossing at grade over the right-of-way and tracks of The Atchison, Topeka and Santa Fe Railway at "J" Street, in said city.

A public hearing herein was conducted by Examiner Williams at Parlier, at which time the matter was submitted, and the same is now ready for decision.

The City of Parlier made a similar request in Application No. 9658 and the request was granted by Decision No. 13497, dated May 1st, 1924. In the order attached to this decision, the cost of the construction of the roadway and a certain amount of expense incident to removal of a portion of the railroad station, together with the installation of a wigwag, was imposed upon applicant. The maintenance of the roadway between tracks and of the wigwag was imposed upon the railroad company. No steps were ever

taken by the city to carry out the authority granted by this decision.

In the instant proceeding, applicant seeks to do the same thing as proposed before, except that it requested that the cost thereof (except the building of approaches) be imposed upon the protestant, The Atchison, Topeka and Santa Fe Railway Company. Parlier is situated between two county roads in Fresno County, which are about 2000 feet distant, and mark the east and west boundaries of the city. The Santa Fe tracks run east and west between these highways and there is no public crossing between. There is, however, a private crossing at "I" Street, 400 feet east of "J" Street, which is used by the public for both vehicular and pedestrian traffic; it is substantially clear of obstruction and is reasonably free from switching movements and train operation, which would obstruct the tracks, especially in seasons of heavy shipments, at "J" Street, if constructed across the tracks. The theory of applicant is that the city is entitled to one crossing, approximately midway, and that "J" Street is the proper street for this crossing. If it should be constructed, the city is willing that the private crossing, long established at "I" Street, be closed.

In support of the application, applicant produced H. P. Higginbotham, a merchant at Parlier, who testified that in his opinion the crossing is necessary at the point selected for the convenience of local and through traffic. He explained that in late years there had been a development in residential properties north of the railroad tracks, although he admitted that the bulk of the population lived south. In addition, the school district has constructed a Union High School and there is a city park of approximately five acres on the north side of the tracks.

H. F. Smith, Principal of the Grammar School on the south side, at which from 325 to 350 pupils are in attendance, testified that there are ten children living on the north side of the tracks who attend Grammar School and who must necessarily cross the tracks on foot. C. P. Moffatt, Principal of the High School (north side) testified that there is an attendance of 118 pupils at the school and that approximately 26 attend school as pedestrians from the south side and must cross the tracks. G. E. Richardson, City Trustee, testified that the city could provide the money to construct the fills, either by assessment or otherwise. All of the witnesses testified that there is a general public demand for the construction of this crossing.

The objection to the "I" Street crossing is that it involves a turn on either side from streets parallel to the tracks to approach the tracks and that it would be preferable to have a straight street, protected by automatic signals and properly paved, than to continue the use of "I" Street, which, the witness said, is not properly cared for.

C. G. Fluhr, Superintendent of the Valley Division of the Santa Fe Railway Company, testified that there are three eastbound and two westbound passenger trains daily and two eastbound and one westbound freight trains daily. In the packing and shipping season the tracks are very active with the movement of fruit and farm products, Parlier being a very important shipping point on this division. Mr. Fluhr testified that the opening of "J" Street would require the moving of the station building a distance of 400 feet to the east, the removal of the switches from the street area and the reconstruction of tracks serving packing houses, involving what he believed to be a prohibitive cost on the railroad company. He also said that the railroad company was willing to make the "I" Street crossing better for vehicular traffic and so maintain it as either a private or a public crossing.

E. E. Ball, Division Engineer of protestant railroad company, testified that in order to carry out the scheme proposed by the city, the station would not only have to be moved 400 feet east, in order to give clear vision at the proposed crossing, but that the incidental reconstruction work on the tracks, the cost of paving and the installation of an automatic flagman would cost \$5,173.17, to which should be added the cost of filling a depression adjacent to "I" Street, which would cost from \$800. to \$1,000. additional. All this cost applicant asks to have imposed upon protestant railroad company. The work which the city proposes to do in constructing the approaches is not expected to cost more than \$1,000.

In addition, protestant, The Atchison, Topeka and Santa Fe Railway Company, introduced copies of an agreement between citizens of Parlier and division representatives of the Santa Fe Railway Company, executed in August, 1913. The agreement was in the form of a letter, signed by J. W. Walker, then Division Superintendent, and by ten citizens and shippers of Parlier. This agreement referred to a map showing the location of the station, (a copy of which map was filed as Exhibit No. 1 in the present proceeding), and which shows the plan and location of the station in substantial accord with the structure now erected. Applicant contends that only a small portion of this structure need be removed to permit the street opening. But if such a process were followed, it is apparent that the station, itself, which is a two-story structure and used for both freight and passenger purposes, would constitute a serious obstruction to view in the approach from the south.

The most important testimony in support of the application was on behalf of the school children who must go back and forth from the various schools. The testimony shows that these children now use the "J" Street crossing, when it is not blocked by trains, and that many times, when trains were standing across the route,

children crawled under or over the cars. It is also in the testimony that the Auditorium of the Union High School is the community center of the city, used very much at night, and that it is inconvenient to use the "I" Street crossing or the county roads on the east and west sides of the city.

It appears from the record that "I" Street is a far better point of crossing, in clarity of vision, than "J" Street, and would require only a nominal expenditure to make it a reasonably safe crossing. It has been used by the public for so many years that it appears to this Commission that the city should use this location for a crossing from the south to the north, rather than one which requires so much cost for physical change and which would still be impeded by a large amount of switching traffic in certain seasons, because of the packing houses and industries now served along said tracks, which could not be moved.

It is not the policy of this Commission to authorize grade crossings at locations where the hazards are greater than the minimum. From the record, it appears that the opening of "J" Street, even if all the changes were made, would not provide a less hazardous crossing than the one at "I" Street. Further, to require the railroad company to bear all the expense of these changes, except the mere grading of approaches, would, in our judgment, not be fair as between public and private interests. According to the record, the station was built at considerable expense in substantial conformity with the wishes of a mass meeting of citizens and shippers of Parlier, acting in good faith, and while the Commission is not bound by such agreements, we think they are entitled to respect when alterations, such as are proposed in this application, are contemplated. The testimony of applicant indicates that it is not proposed to assume any part of the cost, except the grading of approaches, and this, we believe, is much less than it should contribute to such alterations. It rather appears that if the city and

railroad company would agree upon the treatment of "I" Street, by which it would become a public crossing, public convenience, safety and economy would be much better served.

For the reasons stated, we Hereby Find as a Fact that public convenience and necessity do not require the construction of a crossing at "J" Street, as proposed by applicant, and the application will be denied.

O R D E R

The City of Parlier having made application for permission to construct "J" Street at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company, in said city, a public hearing having been held, the commission being apprised of the facts, the matter being under submission and ready for decision,

IT IS HEREBY ORDERED that the above entitled matter be and it is hereby denied.

Dated at San Francisco, California, this 5<sup>th</sup> day of June, 1930.

Clarence  
Yount

Thos S. Lunt

Commissioners.