

Decision No. 22531**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the)
 City of San Bernardino for an order)
 authorizing the construction of a grade) Application No. 16334
 crossing at Livingstone Street.)

Fred A. Wilson, City Attorney, J. R. Rensch, Deputy
 City Attorney, and A. H. Lowe, City Engineer,
 for Applicant.

M. W. Reed and Leo E. Sievert for The Atchison,
 Topeka & Santa Fe Railway Company, Protestant.

BY THE COMMISSION -

O P I N I O N

The City of San Bernardino, a municipal corporation,
 has petitioned the Railroad Commission for an order author-
 izing the construction of a public street, known as Livingstone
 Street, at grade across the main line and a spur track of The
 Atchison, Topeka & Santa Fe Railway Company in said City of
 San Bernardino.

Public hearings on this application were conducted by
 Examiner Handford at San Bernardino, the matter was duly sub-
 mitted, and is now ready for decision.

Livingstone Street is a north and south street, extending
 from Mill Street, on the south, a distance of five blocks to
 Rialto Avenue, on the north, and, except for the most southerly
 block, is an unpaved dirt street. The property owners have
 agreed to the paving of this street and the city proposes to
 proceed with the paving providing authority may be had for
 the opening of Livingstone Street across the tracks of the
 Santa Fe Railway.

The Atchison, Topeka & Santa Fe Railway Company operates two passenger trains, two local freight trains and from two to four switch movements daily over the tracks at the point of the proposed crossing. Speeds are restricted to not over ten miles per hour.

Livingstone Street is located approximately 350 feet east of "E" Street and 1,000 feet west of Arrowhead Avenue. Both of these streets cross the Santa Fe tracks. A creek, known as Warm Creek, lies between Livingstone Street and Arrowhead Avenue and is bridged at Mill Street and Valley Street but not at Pepper and White Streets, which latter streets are one and three blocks, respectively, south of the Santa Fe tracks.

Views at the proposed crossing are obstructed, due to warehouses located at the northeast and southwest corners of Livingstone Street and the railway right-of-way. Cars stored on the spur tracks west of Livingstone Street would also obstruct the view in this direction.

Witnesses for applicant allege that because of the fact that Livingstone Street is not constructed across the Santa Fe's track and because of the existence of Warm Creek east of Livingstone Street, which creek is not bridged at all intersecting streets, that the territory between "E" Street and Warm Creek south of the Santa Fe's tracks, particularly between Pepper Street and said tracks, is inaccessible and that traffic destined into and out of this territory is required to move by a round-about and inconvenient route.

Applicant's witnesses further testified that during the Orange Show, which is held each year during eleven days of February on property located at the southeast corner of Mill and "E" Streets, that traffic to and from the north is confined to "E" Street and Arrowhead Avenue, which results in a very congested traffic condition on these streets, and pointed out that the opening of the proposed crossing would permit of the

use of Livingstone Street for this traffic.

The Atchison, Topeka & Santa Fe Railway Company entered its appearance in protest to the opening of the proposed crossing and presented evidence as to the use of the railway tracks and as to physical characteristics of the proposed crossing.

Witnesses for applicant and railway were of the opinion that if the crossing were constructed, highway traffic should be protected by automatic signals.

It appears that the accessibility of the territory contiguous to Livingstone Street and south of the railway would be greatly improved by the construction of another bridge across Warm Creek, particularly at Pepper Street. If this bridge were constructed, the inconvenience, due to there being no crossing at the proposed location, would be confined to traffic between points on Livingstone Street on opposite sides of the railway and immediately adjacent thereto. The record indicates, however, that this traffic would be extremely light. There would probably be some use made of the crossing during the Orange Show. Such traffic using Livingstone Street and the proposed crossing would turn to the east or west at Rialto Avenue, one block north of the railway, and would then enter either Arrowhead Avenue or "E" Street. Thus very little relief, from the congested condition complained of on Arrowhead Avenue and "E" Street during this show, would be afforded by the construction of the proposed crossing.

It does not appear from the record that the opening of the crossing and the hazard that would result is justified. We, therefore, conclude and hereby find as a fact that public convenience and necessity do not require the construction of the grade crossing herein prayed for and that the application should be denied. The following order will so provide.

O R D E R

The City of San Bernardino, having made application for authority to construct a public street, known as Livingstone Street, at grade across a main line track and spur track of The Atchison, Topeka and Santa Fe Railway Company in said City of San Bernardino, County of San Bernardino, State of California, public hearings having been held, the matter having been duly submitted, the Commission being now fully advised and basing its order upon the conclusion and findings of fact as stated in the opinion which precedes this order,

IT IS HEREBY ORDERED that this application be and it is hereby denied.

Dated at San Francisco, California, this 13th day of June, 1930.

W. Scamper
Edward J. [unclear]
Leon [unclear]
Thos B. [unclear]

COMMISSIONERS.