

Decision No. 23174**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the)
 BOARD OF SUPERVISORS of KERN COUNTY)
 for an order authorizing the construction) Application
 of a crossing by the County of Kern over) No.16832
 the tracks of the Sunset Railroad Company)
 in the vicinity of Mile Post 42-27.5 .)

In the Matter of the Application of the)
 BOARD OF SUPERVISORS of KERN COUNTY for)
 an order authorizing the construction of a)
 crossing by the County of Kern over the) Application
 tracks of the Sunset Railroad in the) No.16833
 vicinity of Mile Post 42-28.75 .)

In the Matter of the Application of the)
 BOARD OF SUPERVISORS of KERN COUNTY for)
 an order authorizing the construction of)
 a crossing by the County of Kern over the) Application
 tracks of the Sunset Railroad in the) No.16836
 vicinity of Mile Post 42-B-2.0 .)

W. E. Mc Ginn, Deputy District Attorney, for
 Applicant.

H. W. Hobbs, for Sunset Railroad Company, Protestant.

BY THE COMMISSION -

O P I N I O N

The County of Kern, by its Board of Supervisors, has by the above mentioned three applications petitioned the Railroad Commission for an order granting authority for the construction of crossings at grade across the tracks of Sunset Railroad Company, the proposed locations being in the vicinity of Maricopa.

A public hearing was conducted by Examiner Handford at Bakersfield, at which time the applications were consolidated for the purpose of receiving evidence and for decision, the matter was duly submitted and is now ready for decision.

The crossings requested in Applications Nos. 16832 and 16836 are crossings with the main line track of Sunset Railroad Company, involving the construction of a new road lateral along the southerly side of Township 12 North, Section 36 in Range 24 West, S.B.B. & M. and Sections 31 and 32 in Range 23 West, and along the easterly side of Section 5 in Township 11 North, Range 23 West. This road leads through a producing oil field and is intended to divert heavy trucking from the main highway leading through the town of Maricopa. At the present time there is a traveled way along practically the same route that the proposed county road would follow which crosses the railroad tracks in the vicinity of the crossings proposed.

Sunset Railroad Company offered no material objection to the establishment of the new crossings, providing the old crossings were closed and the County assumed the cost of raising adjacent side tracks to the same elevation as the main line in order to prevent an uneven surface on the crossing. The County does not object to closing the existing crossings but has stated that it will not assume any expense in bringing the tracks to grade at the proposed crossings.

In the case of the crossing involved in Application No. 16832, it appears that the proposed road would cross the main line and two side tracks, one of which is at 18 foot centers from the main line, with top of rails .8 of a foot below the main line rails. The other track is at 13 foot centers from the first siding and .7 below the main line. An engineer representing the Railroad Company testified that the cost of raising these two tracks to the same elevation as the main line would be approximately \$1100. If the crossing is constructed with the side tracks at the present elevation, a grade of approximately 10% between the main line and the first side track would be required, which is somewhat too steep for safety. The Commission has, however, in other cases where a railroad company

has applied for permission to construct side tracks across existing road, permitted such tracks to be slightly below the main line, providing grades not exceeding 6% between the two tracks were installed. The importance and the nature of the travel using the highway must be taken into consideration in granting such permission, but in the present case we believe that if the side tracks are slightly raised to permit 6% grades of approach that a safe crossing can be installed. This should materially reduce the \$1,100.00 estimate of the railroad's engineer.

In the case of the crossing proposed in Application No.16836, the main line and the single siding are at practically the same elevation and the cost of installing satisfactory grades should not be excessive. There was some discussion of relocating the switch to this siding in order to avoid a crossing with the side track but, considering the present train movements on this line, we do not consider that such a change is justified.

Applications Nos.16832 and 16836 should be granted, providing for Standard No.2-A crossing, Standard No.1 crossing signs and grades of approach not exceeding 6%.

Application No.16833 proposes a crossing of a road into a new oil field along the westerly side of Sections 8 and 17 in Township 11 North, Range 23 West, to effect connection with an existing county road to Maricopa extending in an easterly and western direction through Sections 18 and 17. At the present time travel is crossing the branch line track of Sunset Railroad Company at makeshift crossings and the county desires to establish a permanent crossing on the section line.

Sunset Railroad Company protested the granting of a new crossing with this branch line track because of the close proximity of existing crossings. The County of Kern has, however, agreed to close Crossing No.42-26.9, which is located a few hundred feet west of the proposed crossing and, giving due consideration to the importance of the Railroad and the

public convenience that the new road would serve, we are of the opinion that this application should also be granted.

O R D E R

A public hearing having been held on the above entitled applications which were consolidated for the receiving of evidence and for decision, the matters having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that the Board of Supervisors of the County of Kern, State of California, is hereby authorized to construct county roads at grade across the tracks of Sunset Railroad Company at the locations more particularly described in the above entitled applications and shown by the maps attached thereto, subject to the following conditions and not otherwise:

1- The above crossings shall be identified as follows:

<u>Application No.</u>	<u>Location</u>	<u>Assigned Number</u>
16832	East side Sec.5 and 8 T.11N. R.23 W., S.B.B. and M.	Crossing No.42-27.5
16833	East side Sec.7, T.11N., R. 23 W., S.B.B. and M.	Crossing No.42-28.75
16836	In Sec. 31 T.12 N., R.23 W., S.F.B. and M.	Crossing No.42-B-2.0

2- The entire expense of constructing the crossing shall be borne by applicant. 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 Sunset Railroad Company.

3- The crossings shall be constructed of a width of not less than twenty-four (24) feet and at angles as shown on prints attached to the respective applications and with grades of approach not greater than six (6) percent; shall be constructed equal or superior to type shown as Standard No.2 in our General Order No.72; shall be protected by Standard No.1 crossing signs as specified in our General Order No.75, and shall in every way be made suitable for the passage thereon of vehicles and other road traffic.

4- Prior to the beginning of actual construction of each of the crossings herein authorized, the County of Kern shall file with this Commission a certified copy of an appropriate ordinance or resolution, duly and regularly passed, instituting all necessary steps to legally abandon and effectively close the existing public grade crossing in the vicinity of said crossing designated in the following table. Upon the completion of each of the crossings herein authorized and upon its being opened to public use and travel, said designated crossing shall be legally abandoned and effectively closed to public use and travel.

<u>Application No.</u>	<u>Crossing No. of New Crossing</u>	<u>Crossing No. of Crossing to be closed</u>
16832	42-27.5	42-27.5
16833	42-28.75	42-28.9
16836	42-E-2.0	42-E-2.1

5- Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings and of its compliance with the conditions hereof.

6- The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof 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, public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

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

C. C. Scherer
James L. Smith
Leon A. Whittell
John S. Curtis
M. A. Carr
 COMMISSIONERS.