

ORIGINAL

Decision No. 10442

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the matter of the application of The People of the State of California on relation of the Department of Public Works, for an order authorizing the construction of an overhead State highway crossing over the tracks of the Northwestern Pacific Railroad Company, a corporation, near Lytton, Sonoma County, California.

Application No. 7634.

C.C. Carleton, for the Applicant.

R.W. Palmer, for Northwestern Pacific Railroad Company.

MARTIN, Commissioner:

O P I N I O N

In this application the People of the State of California on relation of the Department of Public Works, hereinafter referred to as Highway Commission, ask for an order authorizing the construction of an overhead crossing, according to plans filed with the application and marked "Exhibit A", over the tracks of Northwestern Pacific Railroad Company, hereinafter referred to as railroad, and apportioning the cost thereof. The point of crossing is located about 2575 feet southerly from Lytton Station in Sonoma County between Healdsburg and Cloverdale.

A public hearing was held before Commissioner Martin in San Francisco, on March 30, 1922. The County of Sonoma, although notified of the hearing, was not represented.

At the hearing it developed that there was no opposition on the part of the railroad to the construction of the crossing but the railroad did object to being assessed any part of the cost.

The present main traveled county road between Healdsburg and Cloverdale runs on the east of the railroad north of Healdsburg, crossing to the west side at a grade crossing, hereinafter referred to as present crossing, located about 1526 feet northerly along the railroad from Lytton Station and then extends to Cloverdale on the westerly side of the railroad. The State highway is being constructed along this route except from the proposed overhead crossing to a point immediately west of the present crossing, where it is located on the westerly side of the railroad;-the opposite side as compared with the route of the present road. The evidence indicates that the County road at the present crossing has been used since 1866 and that the railroad was built across it about 1872.

The record shows that this State highway is one of the main arteries of the State highway system; that it is being paved with concrete 18 feet in width; that it is at present a heavily traveled road and that the travel may reasonably be expected to increase because of the pavement and because of the diversion from graveled roads. The increase in registration of automobiles is also reasonably certain to increase the travel on the highway.

Applicant stated that 99% of the traffic would be diverted to the proposed crossing from the present crossing and this was in general conceded by the railroad.

There was filed as Applicant's Exhibit 5, a partly executed agreement dated December 11, 1919, between the railroad, applicant and the County of Sonoma, in which the first named granted the State the right to construct and maintain an overhead crossing, at the location proposed therein, under certain conditions among which is the following:

"That as soon as said overhead crossing has been completed

and ready for use, third party by proper resolution of its Board of Supervisors will abandon and close the present county road where it crosses the right of way of first party approximately Fourteen Hundred Sixty (1460) feet immediately North of first party's present Lytton Station building, the said crossing to be abandoned being shown enclosed within the red lines on blue print map hereto attached."

This agreement was executed by the Board of Supervisors of Sonoma County but not by the other parties, and, as such, indicates willingness on the part of the county to close the present crossing. The railroad stated, the station at Lytton could just as well be abandoned as far as railroad traffic is concerned.

The cost of the concrete structure designed to carry the highway over the railroad, as shown on Exhibit A, is estimated at \$17,000.

At the present crossing the view is comparatively unobstructed unless cars stand on the side tracks, and the railroad takes the position that it should not be required to pay any part of the cost as, although generally desirable to eliminate grade crossings, it would be of no advantage to it in this case.

It was brought out that because of the topography, separation of railroad and highway grades was cheaper at the proposed crossing (where the railroad is in a cut) than at the present crossing (without consideration of acquisition by the State of right of way, probably not necessary at the present crossing). If similar proceedings had been brought involving a separation of grades at the present crossing, the Commission would have, almost without doubt, assessed one-half of the cost to the public and one-half to the railroad and this amount, it is admitted by the railroad, would have been greater than one-half the cost of the proposed crossing. Since the county is apparently willing to have the present crossing closed, the present

case may be properly termed grade separation rather than the establishment of a new crossing as it is regarded by the railroad, and thus considered, the railroad gains the advantage of grade crossing elimination and should bear part of the cost thereof. Although the proposed crossing is some distance from the present crossing, it is there because grade separation is thus made less expensive (and for certain probably less controlling features, such as the alignment of the State highway) and in this light the distance from the present crossing is not important.

At the close of the hearing applicant and the railroad were allowed thirty (30) days in which to come to some agreement, if possible, as to the division of cost. Both parties have notified the Commission that such agreement has not been possible.

Under these circumstances, I cannot escape consideration of this matter, provided the present crossing be closed, as grade crossing elimination and upon this basis believe that the railroad should bear one-half of the cost of the proposed crossing.

As the County of Sonoma is not a party to this proceeding, it should not be directly assessed with a part of the cost. Applicant has stated that the county has agreed to bear one-fourth of the cost and it appears reasonable and proper to leave with the applicant the responsibility for this statement, including the matter of collection of one-fourth of the cost. The order therefore will not run against the County of Sonoma.

The following order is recommended:

O R D E R

The People of the State of California on relation of the Department of Public Works, having applied for an order authorizing the construction of a State highway crossing over the tracks of Northwestern Pacific Railroad Company, a corporation, near Lytton, Sonoma County, as shown on Exhibit A attached to said application, and

dividing the cost thereof, a public hearing having been held, the matter being under submission and ready for decision.

IT IS HEREBY ORDERED, that the People of the State of California on relation of the Department of Public Works be and are hereby authorized to construct a State highway over the track of the Northwestern Pacific Railroad Company near Lytton, Sonoma County, California, at or near the point shown, and in the manner shown, on Exhibit "A" attached to the application herein, subject to the following conditions:

(1) That certain grade crossing mentioned and described in the foregoing opinion as the present crossing shall be effectively closed to public use and travel.

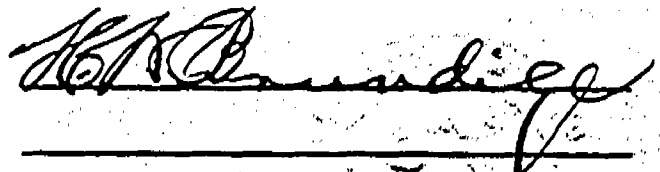
(2) Applicant shall within thirty (30) days after the completion of the installation of said crossing notify this Commission of that fact.

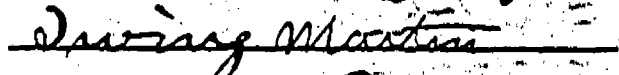
(3) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

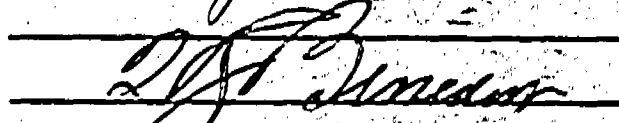
IT IS HEREBY FURTHER ORDERED, that applicant and Northwestern Pacific Railroad Company shall each bear one-half of the expense of constructing said overhead crossing.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2nd day of May, 1922.







Commissioners.