

Decision No. 10685

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of the application of the City of Sanger, a municipal corporation of the sixth class to obtain a right of way for a street across the Southern Pacific Railway's right of way in the City of Sanger at Sixth Street.

Application No. 7333.

G. R. Lovejoy, for Applicant.

J. E. Lyons, H. W. Hobbs and
E. T. Langdale, for Southern
Pacific Company.

BY THE COMMISSION:

O P I N I O N

In this application the City of Sanger in effect asks for an order authorizing a grade crossing for the full width of eighty feet over the tracks of Southern Pacific Company at Sixth Street.

Public hearings were held on this matter before Examiner Satterwhite in the City of Sanger on May 10, 1922 and June 9, 1922.

The Fresno Branch of the Southern Pacific extends through the City of Sanger in a northerly and southerly direction for a distance of about a mile, and within this distance there are six streets open to public travel at grade across the railroad.

The principal east and west street of the community is Seventh Street, located in about the center of the city and crossing the railroad immediately north of the station. There are three open crossings approximately evenly spaced between Seventh Street and the southerly city limits. In the northerly portion of the city, however,

there are only two streets open across the railroad, one of these being Pershing Street, at approximately the northerly city limits and the other Sixth Street, the street concerned in this proceeding, located approximately 400 feet northerly from Seventh Street. Although the Sixth Street crossing has been publicly used for many years, its width across the track is only about 30 feet and the purpose of this proceeding was to enable the city to secure the right to improve this street for the full width of 80 feet.

It was shown that public necessity and convenience required a crossing between Seventh Street and the northerly city limits, but the Southern Pacific contended that Sixth Street was not the logical location for this crossing and that a crossing at Fifth Street would better serve the public interest, it being more nearly equidistant between the Seventh Street crossing and Pershing Street crossing. The railroad further contended that the growth of the community would soon require additional team track and siding facilities and that the location of a crossing at Sixth Street would seriously interfere with any plan of adequate track development.

Under these conditions the city asked for a continuance in order that it might have opportunity to further negotiate with the railroad in this matter.

Prior to the adjourned hearing the city filed an amended application in which it asks, "that the rights vested in the City of Sanger at 6th Street in said City across the right of way of the Southern Pacific Company be transferred to 5th Street without impairment of any of said rights or provisions which may have been acquired by prescription or otherwise; that the Southern Pacific Company be required to furnish said City of Sanger with an easement for street purposes across said right of way opening 5th Street to the full width of eighty (80) feet across said right of way, and that the said Southern Pacific Company be required to bring the said 5th Street where it crosses said right of way to grade and to

place the same in as good condition for travel as the crossing at 6th Street now is, and for such other relief as may be meet and proper".

At the second hearing Southern Pacific Company stated that it would not oppose the granting of this amended application upon the condition that the 6th Street crossing be closed.

It thus appears that the railroad and the city are now in agreement upon a plan, which is in accord with the recommendations of the Engineering Department of the Commission, wherein the Southern Pacific agrees to reproduce at 5th Street the conditions now existing at 6th Street, providing the 6th Street crossing is closed. These existing conditions at 6th Street, thus to be reproduced at 5th Street, are essentially a reasonable level crossing with grades of approach not exceeding two (2) per cent, constructed at right angles to the railroad with a roadway width of approximately 30 feet and having a graveled roadway surface. The cost of further improvement of 5th Street for a width greater than 30 feet, or to a better roadway surface than now exists at 6th Street, should be borne by the City of Sanger. Under these circumstances the amended application should be granted.

O R D E R

City of Sanger having made application for permission to construct a grade crossing over the tracks of Southern Pacific Company for the full width of 6th Street and having subsequently amended said application requesting that a crossing be constructed at 5th Street instead of at 6th Street, public hearings having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

IT IS HEREBY FOUND AS A FACT, that public convenience and necessity require the establishment and construction of a public crossing at grade at the point hereinafter indicated subject to the conditions hereinafter specified; therefore

ornia, to construct and further improve at his sole cost and expense
5th Street at grade across the tracks of said Southern Pacific Com-
pany for a width not greater than 80 feet, subject to the following
conditions:

(1) The cost of constructing that portion of 5th Street for a width greater than 30 feet shall be borne by the City of Sanger. The cost of paving, planking or improving any portion of 5th Street to a condition better than the present condition of the 6th Street crossing shall be borne by the City of Sanger.

(2) The cost of maintaining that portion of said crossing up to lines two (2) feet outside of the outside rails shall be borne by City of Sanger. The cost of maintaining that portion between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.

IT IS HEREBY FURTHER ORDERED, that 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 abandon said crossing if, in its judgment, the public convenience and necessity, or safety, demand such action.

Dated at San Francisco, California, this 10th day of July, 1922.

H. B. Dandige
George Martin

J. F. Pennington
Commissioners.