

Decision No. 11244

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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ORIGINAL

In the matter of the application of)
Board of Supervisors of Siskiyou County)
for permission to construct a crossing)
at grade across the track of Southern)
Pacific Company in Section 18, Township)
44 North, Range 1 West, M.D.B. & M.)
Siskiyou County, State of California.)

Application No. 8201

- J. A. Ager, Chairman, Board of Supervisors of Siskiyou County representing the County of Siskiyou.
- H. J. Sarter, County Surveyor of Siskiyou County representing the County of Siskiyou.
- J. A. Given, Division Engineer, for Southern Pacific Company.

BY THE COMMISSION:

O P I N I O N

This is an application filed as a viewers petition under Section 2694 of the Political Code for authority to establish a public highway crossing at grade across the railroad of the Southern Pacific Company, hereinafter called Railroad, Klamath Falls Branch, in Section 18, Township 44 North, Range 1 West, M.D.B. & M., between engineer stations 712 and 713, between mile posts 382 and 383, of said Railroad.

A public hearing was held in Yreka October 10, 1922 before Examiner Geary.

The proposed crossing is located on a piece of new road, approximately one-half mile in length, proposed to be constructed

between two existing public roads and, according to the application, intended to replace two existing grade crossings alleged to be very dangerous located on either side of the proposed crossing. One of the existing crossings is located approximately 1000 feet westerly and one approximately 1400 feet easterly, from the proposed crossing.

Section 2694 of the Political Code provides that wherever the general route of a county road to be abandoned, altered or constructed be shown by the petition provided for by Section 2682 of this Code to cross the track or right-of-way of any railroad, the County Clerk shall immediately, upon the appointment of viewers by the Board of Supervisors, transmit to this Commission a certified copy of the petition and of the order appointing viewers. This Commission is then required to hold a hearing and at this hearing, and upon the evidence introduced, the Commission shall determine whether the proposed road shall be constructed across the railroad at grade or otherwise and shall determine and prescribe the manner, including the particular point of crossing and the terms of installation, operation and maintenance, use and protection of the crossing.

At the hearing the Chairman of the Board of Supervisors stated that the County wanted the Railroad to construct the crossing herein at its own expense. In explanation of this position the County stated that at the time the railroad was constructed there was a county road in existence which crossed the right-of-way at or about engineer station 709 and that to avoid making a crossing at this point, which would have entailed considerable expense, because of a high fill, the Railroad, without the authority from the County, moved the location of the crossing to or about engineer station 703 (the westerly existing crossing above mentioned). The Railroad was unable to state whether or not any arrangements had been made as to moving the old county road, but has later by letter advised

that it was unable to find any documents or correspondence regarding this matter.

Applicant contends that it still holds a right-of-way for public road approximately along the township line where the road extended prior to the construction of the railroad and that the roads leading to the two existing crossings are not public roads, never having been accepted as such. The evidence indicates, however, that these two roads have been publicly used for approximately twelve years.

All parties, including an engineer of the Commission, agreed that the two existing crossings are very dangerous and that the hazard of crossing would be very materially reduced at the proposed crossing.

Applicant's Exhibit No. 2 estimated the cost of the construction of the 2386 feet of new road consisting of cleaning brush and rock at \$100, with an addition of \$200 for grading the approaches on the proposed crossing. The Railroad estimates the cost of constructing the new road at \$225 and the cost of relocating the crossing, including crossing signs and guard rails at \$290, a total of \$515 which is within \$15 of the estimate of the Commission's engineer presented at the hearing. None of these figures include the cost of the right-of-way for the new road, which the County stated would be donated.

There appears to be no doubt ~~xxx~~ that the establishment of the new crossing, provided the old crossings were closed, would be in the interest of public safety and that the cost of changing the crossings is justified. With these conclusions there remains to be decided the division of cost.

As stated above the County believes the Railroad should bear the whole cost; the Railroad believes the cost should be

divided, but does not indicate any particular division. If this were a proceeding involving only the establishment of a new crossing, the Commission probably would, in conformity with its practice, assess all of the cost on the applicant. In this proceeding, however, we have one new crossing replacing two hazardous crossings. The Railroad is benefited by this change and it appears that the benefit is not inadequately measured by the cost of moving the crossing. To make the new crossing usable requires the construction of a new road about one-half mile long outside of the Railroad right-of-way, but it does not appear as though a decision by this Commission in this proceeding could extend to assessing to anyone the cost of this new road, which, according to the estimates, would cost between \$100 and \$200. Under these circumstances it appears equitable that if a new crossing is installed that the Railroad should pay all of the cost, including the cost of abandoning the two existing crossings. The County will have to bear the expense of the new roadway, except the new crossing and its approaches.

O R D E R

The Board of Supervisors of the County of Siskiyou having filed with the Commission an application to construct a public road across the track of Southern Pacific Company at grade as hereinafter indicated, a public hearing having been held, the matter having been submitted and it appearing to the Commission that the application should be granted subject to the conditions hereinafter specified,

IT IS HEREBY ORDERED, that permission be and it is hereby granted the Board of Supervisors of the County of Siskiyou, State of California to construct a public road at grade across the track of Southern Pacific Company in Section 18, Township 44 North,

Range 1 West, M.D.B. & M., the center line of said road being as shown on applicant's Exhibit No. 1 and the point of crossing being described as follows, to wit:

Beginning at the section corner common to Sections 13 and 24, Township 44 North, Range 2 West and Sections 18 and 19, Township 44 North, Range 1 West, thence North $83^{\circ} 57'$ West, 159 feet, thence North $22^{\circ} 18'$ East, 540 feet more or less, to the center line of said Railroad; at Engineer Station 712 plus 50 thereof.

said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing said crossing, including approach embankments, shall be borne by Southern Pacific Company. The maintenance of that portion of the crossing between the rails and two (2) feet outside thereof shall be borne by Southern Pacific Company. The cost of its maintenance up to a line two (2) feet outside the rails shall be borne by the applicant.

(2) The crossing shall be constructed of a width not less than 20 feet and at an angle of 90 degrees to the railroad and with grade of approach not greater than 6 per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) The crossings located approximately 1000 feet west and 1400 feet east (measured along the track of said railroad) from the crossing herein authorized shall be legally abandoned and effectively closed to public use and travel. The expense of the abandonment of said existing crossings shall be borne by Southern Pacific Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing will lapse and become void one year from the

date of this order unless further time is granted by subsequent order.

(6) 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 revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 18th day of November, 1922.

H. B. Rundige
James Martin
W. H. G. Smith
J. J. Mendall
Commissioners.