Decision No. ✓.

ORIGINAL

Decision No. 11677

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the BOARD OF SUPERVISORS of Siskiyou County, California, for the opening of a public road in the Butte Road District, the same to cross at grade the tracks of Southern Pacific Company in the Town of Weed, Siskiyou County, California.

Application No. 1127.

F. W. Hooper, District Attorney of Siskiyou County, representing Board of Supervisors.

OPINION

LOVELAND, Commissioner.

This proceeding was instituted under Section 1, Section 2694 of the Political Code of the State of California, which reads as follows: -

> 2694. Whenever the general route of the road to be abandoned, altered, laid out or constructed is shown by the petition provided for by section 2682 of this code to cross the track or right of way of any railroad or street railroad, the county clerk of the county wherein said petition is filed shall immediately upon the appointment of viewers by the board of supervisors transmit to the railroad commission a certified copy of the petition and of the order appointing viewers. Said commission shall thereupon fix a day for the hearing of said petition, and shall give notice thereof to said viewers, to the district attorney and clerk of the board of supervisors of the county wherein said petition is filed, and to the resident owner or agent of the owner of the land over which the proposed road is to run and said hearing shall be held at the rooms of the board of supervisors of said county. At said hearing the said commission shall hear the evidence offered as to the crossing of said track or right of way by said proposed road, and shall thereupon determine whether said proposed road shall, if constructed, be constructed across said track 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 said crossing.

> The said conclusions of said commission shall thereupon be reported to the board of supervisors, and in its order fixing a day for hearing the viewers' report, the said board shall include therein an order fixing a day for hearing said conclusions which shall be the same day fixed for hearing the said viewers' report. Notice of said hearing shall be given in the manner and for the time prescribed by section 2688 of this code, and, in addition to said notice, the county clerk shall notify said commission of the time and place of said hearing, and at said hearing the board of supervisors shall first proceed to the consideration of said conclusions of said commission, and if the same be rejected, no further proceeding shall be had in said matter. If the same be approved, said board shall proceed in the manner provided by law to act upon said viewers' report. The board shall have no power to change or modify said conclusions except by and with the consent of said commission.

It is an application by the Board of Supervisors of the County of Siskiyou, California, for the opening of a certain public road in Butte District, Siskiyou County, California, across the tracks and right of way of Southern Pacific Company at Weed, Siskiyou County, California, and being particularly described as follows:

> Commencing at a point on the public highway at or near Weed Hospital and thence running in a northerly and easterly direction following the now traveled road to Summit Union School House, its terminus.

The petition for this road was made by certain residents and land owners of the Butte Road District in said County and viewers were appointed by the Board of Supervisors of Siskiyou County to view out said proposed road and report thereon to that Board. The road is intended to cross the tracks and right of way of Southern Pacific Company at Weed, and also the tracks of the Weed Lumber Company, which companies object to this crossing and refuse easements over their right of way and property.

A hearing was held inYreka on June 12, 1914, at which these three interested parties were represented. It developed that the Railroad Company based its objections solely upon the

added hazzard of the oporation of its trains and the danger that would be created by the installation of this proposed crossing.

An investigation into the physical conditions at the point of the proposed crossing shows that there now exists a road and a crossing which, however, are not public. It is the desire of the petitioners to legalize this crossing and to have the County assume the burden for the maintenance of the road and the Railroad for the maintenance of the crossing. This proposed public highway, if established, will cross six tracks, one of which is the Southern Pacific main line track running between San Francisco and Portland, the second one the main line track of the California Northeastern Railway running between Weed and Klamath Falls, and the remaining four being side tracks and spurs. These tracks are in close proximity to each other, with a distance between the two extreme outside tracks of not more than 60 feet. The testimony introduced at the hearing was unanimous that this crossing as it exists today, and as it would continue if granted as a grade crossing, is an extremely dangerous one. Not only are the railroad tracks used by main line trains but a great deal of switching is going on on the spur tracks and sidings almost continually day and night and especially during the lumber cutting season. It appears that the crossing would be used largely by children going to and from school, and that children are now, and will continue to be, crawling under and through trains which obstruct this crossing during a considerable portion of the day. Accidents in fact have occurred at that point. An undergrade crossing is out of the question owing to the physical conditions at the point of the proposed crossing. The railroad there runs along the edge of a steep side hill and the approaches to the subway could be built only at a prohibitive cost. A foot bridge for pedestrians only would be a possibility. This crossing, however,

is intended to be used also by teams and an overhead structure for vehicle traffic is impracticable. To construct an overhead foot bridge for pedestrains and a grade crossing for teams would be futile and eliminate the danger for neither teams nor pedestrains, since the latter in nine cases out of ten would prefer the more convenient grade crossing for the inconvenient overhead bridge. The protection of a grade crossing by gates is also impracticable since those gates would be down and blocking the crossing during a very large portion of the day owing to the continuous switching movements in that neighborhood. Watchmen, who would have to be stationed there day and night, would find it impossible to keep in view continuously all of the six tracks and a standing or switching train at any time might block their vision of the obstructed portion of the crossing.

I am in sympathy with the people of Weed in their desire to establish a county road between the east side and the west side of the railroad in that territory, but I am convinced that the hazzard and danger existing at that particular point far outweighs any possible benefit that would be derived from the granting of a public grade crossing.

I recommend, therefore, that the application be denied and submit the following form of order.

O R D E R

Application having been made by the Board of Supervisors of Siskiyou County, California, for the opening of a certain public road in Butte Road District, near Weed, Siskiyou County, California, as hereinbefore described, said road to cross at grade the tracks and the right of way of Southern Pacific Company and the tracks of the Weed Lumber Company; and a hearing having been duly held, and it appearing to the Commission that this crossing

if granted would be an extremely dangerous one; that it is impracticable by effective safeguards to protect this crossing, and that a separation of grades at this point, owing to physical conditions, is impracticable,

IT IS HEREBY ORDERED, That said application be and the same is hereby denied.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of California.

Dated at San Francisco, California, this 27th day of June, 1914.

H B Loveland

Max Thelen

Edwin O. Edgerton

Commissioners.