

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 1964

In the matter of the application of BOARD OF SUPERVISORS of Santa Clara County, California, for permission to open a public road in Road District Number One of said County; proposed road to cross the right-of-way and tracks of Southern Pacific Company at Tennant, Santa Clara County, California.

ORIGINAL

Application No. 1377.

J. G. McMillan, for applicant.

W. H. Phelps, for Southern Pacific Company.

GORDON, Commissioner,

OPINION

This application was filed, and the hearing was subsequently held, in accordance with Section 2694, of the Political Code, as revised January 2, 1912, which reads in part as follows:-

"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."

It is the intention of the County to open Tennant Avenue, in a general easterly and westerly direction, across the tracks of the Southern Pacific Company at a station site known as Tennant, where the Southern Pacific has provided station grounds about one hundred and sixty feet wide, a house track and a loading platform. This reservation is now reached from the west by an undedicated road a short distance north of the proposed Tennant Avenue and from the east by Tennant Avenue which is now laid out and graded up to the right-of-way of the Southern Pacific Company. A crossing has been previously installed on this road about seven hundred feet south of the proposed crossing. If this application is granted this latter crossing will be abolished and Tennant Avenue will be made a through and straight road from the Monterey Road, which is a state highway on the west, to Foothill Avenue on the east.

Southern Pacific Company made no objection to the granting of this application, and inasmuch as the nearest open road to the north is three-quarters of a mile distant; the nearest open road to the south is a mile and a quarter distant, and except for the undedicated road previously mentioned there is no means of reaching the reservation of Southern Pacific Company except by the opening of Tennant Avenue, I am of the opinion that this application should be granted. The officials of Santa Clara County and Southern Pacific Company have expressed themselves as being satisfied to accept the usual division of cost and this will be recommended in the order.

The view of the tracks, in both directions from the crossing, is good and no protection is needed other than the usual crossing sign.

I recommend the following form of order.

O R D E R

BOARD OF SUPERVISORS of Santa Clara County, California,
having on October 16, 1914, filed with the Commission an application

for permission to construct a crossing at grade over the tracks of Southern Pacific Company at Tennant Avenue, at a point more particularly described in the application and shown on the map accompanying same; and said application being accompanied by a certified copy of the petition asking for the opening of the crossing, and of the order appointing viewers; and a public hearing having been held at San Jose on November 24, 1914, and the Commission being fully apprised in the premises as outlined in the opinion:

IT IS HEREBY ORDERED, That this application be and the same is hereby granted, subject to the following conditions, viz.:-

(1) The entire expense of constructing the crossing at grade shall be borne by applicant.

(2) The expense of maintaining the crossing thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by applicant up to within two (2) feet of the outside of the rails of Southern Pacific Company.

(3) Southern Pacific Company shall maintain said crossing across and between its tracks and to within two (2) feet outside thereof.

(4) Said crossing shall be constructed of a width to conform to the width of the proposed Tennant Avenue, with grades of approach not exceeding six (6) per cent, and shall be ballasted with first-class stone or gravel ballast to a depth of not less than six (6) inches, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(5) The present crossing of the tracks on the station reservation at Tennant shall be closed and abandoned as a public highway crossing.

(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.

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 25th day of November, 1914.

A. S. Ireland
Wm. G. ...
Max ...

Commissioners.