Decision No. ✓.

ORIGINAL

Decision No. 2221

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of BOARD OF SUPERVISORS, Fresno County, California, for permission to construct a public highway, known as Phillip Hergensroder Road, at grade, across the track of Southern Pacific Company, between Sections 11 and 14, Township 14 South, Range 21 East, M.D.M., Fresno County, California.	Application No. 1002.

W. A. Collins and M. F. McCormack, for applicant.

F. M. Worthington and W. M. Jackle, for Southern Pacific Company.

GORDON, Commissioner,

OPINION

This application was filed by the Board of Supervisors of Fresno County, February 19, 1914. The Commission attempted for some time to adjust the matter informally and, failing in that, a public hearing was held in Fresno on March 10, 1915, at which all interested parties were represented.

The application looks to the opening of Phillip Hergensroder Road, a public highway, across the Southern Pacific Company's track, between the stations of Locans and Ivesta, in the locality more particularly described in the application.

In the opinion of the Commission's engineer, representatives of the Southern Pacific Company, and the County of Fresno, this crossing is needed by the County, and it is the further opinion of the representatives of the Commission, the County, and Southern Pacific Company that it should be protected by an automatic safety device, for the reason that the right-of-way at this point is narrow; that an orchard at one corner obstructs the view; and it is very probable that the other three corners of the crossing will be so obstructed in the near future.

The matter of the division of expense for constructing the crossing, and the terms upon which the automatic protection device shall be installed and maintained, therefore, remain the only matters to be considered. The Commission's usual method of dividing the expense of automatic flagmen has been to require the applicant to pay for the cost of purchasing and installing the flagman, and for the railroad company thereafter to maintain and keep this flagman in working order, and I see no reason why this usual method of dividing the expense should not be followed in this case. As a matter of fact it was decided by Representatives of the County and Southern Pacific Company that the division of expense as outlined above was satisfactory to them, and this division of expense will be recommended.

The railroad in this territory is not now fenced, and it was further agreed between the County and Southern Pacific Company, that at such time as it becomes necessary for the Southern Pacific Company to fence its right-of-way, the County will stand the expense of installing cattle guards and wing fences at the crossing.

I recommend the following form of order:

O R D E R

BOARD OF SUPERVISORS, Fresno County, California, having applied to the Commission for permission to construct Phillip Hergensroder Road, a public highway, at grade, across the track of Southern Pacific Company, between Sections 11 and 14, Township 14 South, Range 21 East, M.B.M., Fresno County, California, and a public hearing having been held, and the Commission being fully apprized in the premises,

IT IS HEREBY ORDERED, That permission be and same hereby is granted Board of Supervisors of Fresno County, California, to construct Phillip Hergensroder Road, a public highway, at grade, across the track of Southern Pacific Company, between Sections 11 and 14, Township 14 South, Range 21 East, M.B.M., Fresno County, California,

subject to the following conditions, and not otherwise, viz.:-

(1) This crossing shall be constructed of a width not less than twenty-four (24) feet, with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The expense of constructing and maintaining the crossing between the rails, and to a point two (2) feet outside thereof, shall be borne by Southern Pacific Company. The expense of constructing and maintaining the crossing up to within two (2) feet of the rails of Southern Pacific Company shall be borne by applicant.

(3) At such time as it becomes necessary for Southern Pacific Company to fence its right-of-way in the vicinity of this crossing, applicant shall stand the expense of furnishing and installing cattle guards and wing fences.

(4) For the protection of this crossing Southern Pacific Company shall install a first-class, standard, automatic flagman, of a type to be approved by the Commission. The expense of this installation to an amount not to exceed five hundred and fifty (550) dollars, shall be borne by applicant. The cost of maintaining this automatic flagman thereafter in good and first-class condition shall be borne by Southern Pacific Company.

(5) 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 13th day of March, 1915.

Max Thelen

H D Loveland

Alex Gordon

Frank R Devlin

Commissioners.