

Decision No. _____.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

Decision No. 3113

In the matter of the application of)
the COUNTY OF MERCED for authorization)
permitting the construction of a high-)
way crossing at grade over the tracks) Application No. 1428.
of The Atchison, Topeka and Santa Fe)
Railway Company on El Capitan Avenue)
at Ballico (now Alladin).)
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C. H. McCrey, District Attorney for Applicant.

M. W. Reed, for The Atchison, Topeka and Santa
Fe Railway Company.

GORDON, Commissioner,

O P I N I O N

This application was filed with the Commission on November 25, 1914, and looks to the opening of a county road known as El Capitan Avenue over the tracks of The Atchison, Topeka and Santa Fe Railway Company at the Town of Alladin, formerly called Ballico. The Town of Alladin has been recently laid out and several thousand acres of the Alladin Ranch, of which it was formerly a part, have been divided into small acreage tracts and placed upon the market. The Santa Fe Company's main line traverses the northerly end of this tract in a northwesterly and southeasterly direction and divides the townsite of Alladin so about 2/3 of its area is north and 1/3 is south of the track. The roads and streets of the subdivision have been accepted by Merced County as public highways.

Mr. Edgar M. Wilson, a member of the firm which made this subdivision, represented the firm in negotiations with the County and the Railway Company and before the Commission at the hearing which was held on this matter.

El Capitan Avenue has been laid out as 120 ft. boulevard. It extends from Delhi on the Southern Pacific east on

a section line to a point near the section line between sections 1 and 6 in the subdivision and there turns north and runs parallel with the north and south section lines to the northerly limit of the subdivision, and beyond, and connects with several east and west county roads. At the site of the proposed crossing it intersects the right of way of the Santa Fe with an angle of 38 degrees at a point a short distance northwest of the center of that Company's reservation for station grounds and at a place where there are three tracks; the main line of the Valley Division, a passing track and a team track.

on the Santa Fe
The nearest open public highway crossings from this proposed crossing of El Capitan Avenue are about 4 miles in a northwesterly direction and about 3 miles southeasterly. This long distance from the next adjacent open crossing on either side and the fact that close to the proposed crossing is a private crossing which takes care of such traffic as now uses El Capitan Avenue, led the Santa Fe Company to concede the necessity for a crossing in this vicinity. The Company objected, however, to the crossing as proposed for three reasons, first because it would divide its station reservation in two parts, making it impossible to properly locate the depot and other facilities there in the future; second, because it would intersect the present passing track approximately in the center so it would be necessary to "cut the crossing" for all freight trains which used the passing track, and third because the sharp angle of the crossing would create a dangerous situation in the future; much more so than would a right angle crossing.

I am satisfied that the distance between open crossing, in this part of the county is so great that the county should be permitted to open a crossing in this vicinity to amply care for its road traffic and, as a matter of fact, the open-

ing of a crossing at El Capitan Avenue will, in effect, be the substitution of a crossing on a county road for a private crossing now extensively used. I do not believe that the crossing should be opened as it has been projected and I agree with the Santa Fe that the sharp angle at which it crosses the track would make it exceedingly undesirable.

Fortunately the lots in the Town of Alladin are now in the possession of the Land Company and this objection to the crossing, as projected, can be remedied without great expense or difficulty and a right angled crossing secured by slightly changing the location of El Capitan Avenue and moving it a short distance to the northwest. Mr. Wilson, on behalf of the Land Company, and the representatives of the County agreed to make this change in the location of the road and it will be made a condition upon which this application is granted.

By a similar re-adjustment of the roads and by granting the railway company some additional right-of-way on the southeast end of its present reservation it will be possible for the Santa Fe to relocate its passing track and preserve its station grounds in the same shape to enable it to conveniently locate its depot and other facilities in the future. Mr. Wilson agreed to deed to the Railroad Company an acreage in this location substantially of the same in area and of the same shape as that section north of the proposed road which will be covered by the construction of the crossing. The Santa Fe on its part, agreed to remove the passing track from across the street as soon as this additional right of way is secured and it has agreed to park the reservation north of El Capitan Avenue when the growth of the town makes it reasonable and desirable that this should be done. The removal of

the passing track from the crossing will considerably reduce the hazard of accidents at this point and it will be made a condition in the order. Since this track removal depends upon securing additional right of way that provision will also be made in the order.

The Santa Fe Company desires an automatic flagman installed when the road is opened across its track and the representatives of the Company stated that they would be entirely willing to pay for its maintenance after it was once installed. Representatives of the County expressed their willingness to pay for the installation of such a protective device in a year from the date on which the crossing is opened. Since it will probably be some time before El Capitan Avenue is improved enough to invite extensive road traffic, a delay of a year in the installation of the protective device is not unreasonable and I shall recommend that the matter of protecting the crossing be disposed of in accordance with the plan agreed upon by the interested parties.

I recommend the following form of order:-

O R D E R

Merced County, California, having applied to the Commission for permission to construct El Capitan Avenue across the tracks of The Atchison, Topeka and Santa Fe Railway Company at Alladin, formerly known as Ballico, Merced County, California, and a public hearing having been held, and it appearing to the Commission that this application should be granted subject to certain conditions hereinafter specified,

IT IS HEREBY ORDERED, That permission be and the same is hereby granted the County of Merced to construct El Capitan Avenue at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company, subject to the following conditions, viz.:-

- (1) The crossing shall be constructed at right angles to

the tracks of The Atchison, Topeka and Santa Fe Railway Company in the center of El Capitan Avenue and that street shall be laid out with a center line described approximately as follows: Beginning at a point in the center line of El Capitan Avenue, as now located, west of the south line of Block 52 or north from that point, thence southwesterly across the tracks of the Santa Fe Company and at right angles to the same, to the center line of the road between blocks "B" and 61, thence southeasterly to the center of El Capitan Ave. as now located.

(2) This crossing shall be constructed of a width of not less than twenty (20) feet, with grades of approach not exceeding four (4) per cent and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The entire expense of constructing this crossing shall be borne by applicant.

(4) The expense of maintaining this crossing between the rails and to a distance of two (2) feet outside thereof shall be borne by the Railway Company. The expense of maintaining the crossing to a point within two (2) feet of the rails of the Railway Company shall be borne by applicant.

(5) Applicant shall deed or cause to be deeded to the Railway Company a strip of land approximately of the same shape and containing the same acreage as that portion of the Railway Company's reservation lying northerly from the proposed crossing.

(6) The Railway Company shall remove its passing track from the site of this proposed crossing.

(7) One year from the date of this order, for the protection of this crossing, there shall be installed an automatic flagman of a type approved by the Commission. The expense of installing this flagman shall be borne by applicant, and the expense of its maintenance thereafter in good

and first-class condition shall be borne by the Railway Company.

(8) 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 21st day of February, 1916.

Max Thelen
Edwin C. Edgerton
Franz R. Dehner

Commissioners.