

ORIGINAL

In the matter of the application of  
BOARD OF SUPERVISORS of Tehama County,  
California, for permission to construct  
a road in Road Districts Nos. 2 and 5  
of Tehama County, at grade over the  
tracks of Southern Pacific Company.  
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Application No. 2126.

W. H. Samson, for applicant

Geo. D. Squires, for Southern Pacific Company

GORDON, Commissioner,

O P I N I O N.

This application was made, and the hearing was subsequently held, under section 2694 of the Political Code, as amended January 2, 1912, which requires that after viewers have been appointed to view a crossing which a county proposes to open, a certified copy of the petition requesting the opening of such crossing, and of the order appointing viewers, be submitted to the Commission, and a hearing thereafter held, at which hearing the Commission shall hear the evidence and "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 crossing sought in this application is in Township 26 North, Range 3 West, and is about 6 miles north of Red Bluff and 1-1/2 miles north of Proberta. This state highway is located to the west of the tracks of Southern Pacific Company and at this point it is parallel and adjacent to the railroad's right of way. The Sacramento River is east of the railroad some 3 miles and along the route of this proposed road between the river and the state highway there are several ranches which have no outlet to a public thoroughfare. It is to secure such an outlet that this application has been filed and the crossing herein applied for is desired.

At the hearing held in this application it was made clear that the only practicable way for the ranchers who are now obliged to

use private roads to secure access to a public road was by the route selected by the viewers. Four members of the Board of Supervisors were present at the hearing and were in favor of its construction, and I believe it is reasonable that the crossing should be permitted. Immediately to the north of the crossing the track is in a slight cut the dirt from which has been piled on top of the cut in such a manner that it will form an obstruction to the view of approaching trains. The excavated material can be removed without much expense and when this is done those approaching the crossing in either direction will have a clear view of trains coming from both north and south. Although the Supervisors agreed to install automatic flagman protection at the crossing if the Commission should so order, I am inclined to think that the removal of the dirt as suggested will make the crossing as safe as the installation of a flagman and that the money could, if the Supervisors desire, be spent to advantage in that way.

As at all crossing hearings the crossings adjacent to the proposed crossing were considered, as it is the policy of the Commission to keep the number of grade crossings in the State, as far as it consistently can, from being increased in number. It has often been found when a new crossing is needed that nearby crossings can be closed without undue public inconvenience; and by closing such crossings, when permission to construct a new one is granted, public convenience can be increased and the grade crossing situation in the vicinity materially improved at the same time. Less than a mile south of the crossing considered in this application there is a public crossing located north of the Proberta subdivision and south of the Mooney Ranch, which appears to be used comparatively little and the members of the Board of Supervisors were of the opinion that the crossing could be closed without affecting the interest of any but one or two property owners in the immediate neighborhood; and that such inconvenience as might be occasioned would be slight because there is still another public crossing about one-half mile farther south.

It was tentatively agreed by the Board that if the Commission granted the pending application this crossing would be closed and that it could be made a condition in the order. Since the hearing several protests have been received against the closing of this road but they have been in the form of petitions and the interest of the signers in having the road <sup>remain</sup> open was not made apparent. The Commission's decisions, of course, must be made on the evidence adduced at the hearings and if petitions, especially those in which the interest of the signers is not clear, are to have much weight given them it would be difficult for it to arrive at a decision. In this case it was proposed to make the opening of one crossing contingent upon the closing of another. The order was to be permissive only and one which the Board of Supervisors would either accept or reject as they saw fit and I see no reason why such an order should not be made.

I recommend the following form of order:-

O R D E R.

BOARD OF SUPERVISORS of Tehama County, California, having applied to the Commission for permission to construct a public road at grade across the tracks of Southern Pacific Company, in Road Districts 2 and 5, Tehama County, California, and a public hearing having been held, and it appearing that this application should be granted subject to certain conditions,

IT IS HEREBY ORDERED, That permission be and the same is

hereby granted Board of Supervisors of Tehama County to construct a public road at grade across the tracks of Southern Pacific Company at the point and in the manner more particularly described in the application and shown on the map accompanying same, and subject to the following conditions and not otherwise, viz.:-

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

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

outside thereof shall be borne by Southern Pacific Company.

(3) Said crossing shall be constructed of a width not less than twenty (20) feet, with grades of approach not exceeding five (5) per cent and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) Applicant shall at its own expense either remove the excavated material from the edge of the cut in such a manner as to give an unobstructed view of approaching trains or shall at its own expense install an automatic flagman of a type approved by the Commission.

(5) If an automatic flagman is installed the expense of maintaining same after its installation in a first-class operating condition shall be borne by Southern Pacific Company.

(6) The public highway crossing between the Subdivision of Proberta and the Mooney Ranch, referred to in the foregoing opinion, shall be legally closed and abandoned as a public highway crossing.

(7) 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 1st day  
of <sup>May</sup> ~~April~~, 1916.

Max Thelen  
H. D. Townsend  
Wm. G. Brown  
Edwin O. Edgerton  
Frank R. DeWitt

Commissioners.