

Decision No. _____.

ORIGINAL

Decision No. 3445

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of)
the County of Yuba, State of California,)
for permission to construct a road across) Application No. 2192.
the Western Pacific Railway Company's)
tracks in said County.)
.....

Roy Maxwell, for applicant.
R.W. Macdonald for Western Pacific Railway Co.

GORDON, Commissioner.

O P I N I O N.

This application was made on April 7, 1916, under Section 43 of the Public Utilities Act and a public hearing was held at Marysville on June 7, 1916.

The crossing covered by this application is located on an east and west road, partially graded, near the center of the subdivision known as the Olivehurst Tract in Section 5, T14N., R4E., M.D.B. & M. and about three miles south of Marysville. The roads shown on the subdivision map filed with the application were accepted unanimously as county roads by the Board of Supervisors May 5, 1915, according to the minutes of the meetings of the board.

The site of the crossing asked for is in an open country with unobstructed view in all directions. The top of the railroad rails are about five feet above the road at the right of way line. This crossing if opened will allow the above mentioned east and west road to connect the state highway on the east side of the subdivision with the old Marysville-Sacramento county road on the west side of the subdivision. The state highway runs northwest and southeast at this point and the old Sacramento road runs north and south. The junction point of these two roads is just about a mile and a quarter north of the proposed crossing and on the east side of the Western Pacific

Railway Company's tracks, the Western Pacific crossing the old Sacramento Road about three-quarters of a mile north of the crossing asked for.

This crossing of the railroad with the old Sacramento County Road is practically at the point of tangency of a one degree curve and is an exceedingly dangerous one, being on the extremely acute angle of $8^{\circ}46'$ and having long approaches of from two per cent to four per cent grade over the eight foot fill of the railroad. The acuteness of the angle of crossing places vehicles within striking distance of the train when almost thirty feet from the center of the crossing. The height of the fill and the curve in the track obstruct the view unless one stands up in his wagon according to the testimony of one of the witnesses. Witness also stated that when he sent his children to school over this crossing he was never sure that he would see them alive again. A man named Larabee was killed on this crossing about three years ago and the railroad company is now facing a seven thousand dollar damage suit in the Supreme Court.

The crossing applied for would allow all travelers on the old Sacramento county road to turn east over a relatively safe crossing to one of the roads in the Olivehurst Tract whereby they could reach the state highway either by continuing straight on to the east or by turning north over the road through the center of the tract thus doing away with the necessity of using the existing crossing above mentioned.

A county road is contemplated from the Spenceville road some miles to the east, west across the track of the Southern Pacific Company to the state highway practically in an east and west line with the road leading to this crossing. These two roads as contemplated would give a road clear across the county from

the foothills to the river.

The country surrounding this crossing, as well as the Olivehurst Tract itself, is as yet unsettled and it would appear that public convenience and necessity does not require more than one crossing in this vicinity.

The Western Pacific Railway in opposing the granting of this application, stated that it would be feasible to construct a road parallel with and along the east side of its right of way and by making a connection with the Sacramento road north of the existing crossing give to the Olivehurst tract access to both the old Sacramento road and the state highway without the necessity of an additional crossing. They also objected to the crossing as an additional hazard.

After due consideration of the evidence I recommend the following form of order:

O R D E R

Yuba County, California, having applied to the Commission for permission to construct a public road at grade across the track of the Western Pacific Railway Company in the Olivehurst Tract, Sec. 5, T14N., R.4E., M.D.B. & M., as shown on the map attached to the application, and a public hearing having been held, and it appearing that the application should be granted subject to certain conditions,

IT IS HEREBY ORDERED That permission be and the same is hereby granted Yuba County, California, to construct a public highway crossing at grade over the tracks of the Western Pacific Railway at the point and in the manner applied for, subject to the following conditions and not otherwise, viz.:

1. The entire expense of constructing the crossing shall be borne by the applicant.
2. The expense of maintaining the crossing up to a

line two (2) feet outside the rails of the Western Pacific Railway Company shall be borne by applicant. The expense of maintaining the crossing between the rails and to a line two feet outside thereof shall be borne by the Western Pacific Railway Company.

3. The crossing shall be constructed of a width not less than twenty-four (24) feet and with grades of approach not exceeding four (4) per cent, shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

4. The county road through the Olivehurst Tract from the old Sacramento Road to the State Highway on which this crossing is located shall be increased in width from forty (40) feet as shown on the map of the tract filed with the application, to sixty (60) feet in width in order to correspond with the other roads of the tract.

5. That the present crossing of the old Sacramento-Marysville county road with the Western Pacific Railway Company, known locally as the "Larrabee Crossing", about three-quarters of a mile to the north of the crossing applied for, shall be legally abandoned as a public road and fenced and closed to travel, contemporaneously with the opening of the crossing herein authorized.

6. That if the above conditions of this order are not fulfilled within six months from date the Commission will revoke the permission herein granted.

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 19th - day of June, 1916.

Max Thelen
H. H. Leland
Wm. G. Landon
Edwin W. Edgerton

Commissioners.