

Decision No. _____

ORIGINAL

Decision No. 3480

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of the Tidewater Southern Railway)
Company, a corporation, for an)
order permitting the crossing at)
grade by the tracks of the Tide-)
water Southern Railway Company)
over Sharp's Lane, a Public High-)
way of the County of San Joaquin,)
State of California.)

Application No. 2307

Byron Bearce for applicant.

GORDON, Commissioner.

O P I N I O N

In this application the Tidewater Southern Railway Company desires to construct a crossing of its main line track over a county road, known as Sharp's Lane. A protest was received against the granting of this application and the matter was placed on the calendar for formal hearing, which was held in Stockton on June 20, 1916.

It appears that this crossing is desired in connection with a new line applicant is building to connect with the tracks of the Western Pacific Railroad and that although the protest alleged that the applicant had not secured a right of way through the property adjacent to the crossing grading has actually been done over this right of way. It is, of course, obvious that the Commission has no jurisdiction over the matter of the acquisition of rights of way over private property, and that the protest, which is a protest against the construction of this line rather than against the crossing, should be made elsewhere and not to the Railroad Commission.

There seems to be no reason why this application should not be granted and since the country surrounding the crossing is open I believe no protection will be needed other than the usual crossing sign.

I submit the following form of order.

O R D E R

TIDEWATER SOUTHERN RAILWAY COMPANY having applied to the Commission for permission to construct a crossing at grade over Sharp's Lane 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 the Tidewater Southern Railway Company to construct its track at grade over Sharp's Lane at the point and in the manner shown by the map attached to the application, subject to the following conditions:

(1) The entire expense of constructing the crossing together with the cost of its maintenance thereafter in good and first-class condition shall be borne by applicant.

(2) The crossing shall conform in width and type of construction to those portions of Sharp's Lane to be crossed, with grades of approach not exceeding three (3) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(3) The Commission reserves the right to make such

farther 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 20th day of June, 1916.

Max Thelen
H. L. Loveland
W. Gordon
Edwin C. Edgerton

Commissioners.