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Decision No. \_\_\_\_\_

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE  
STATE OF CALIFORNIA.

Decision No. 4187

J. H. French,

Complainant,

v.

Case No. 1014.

Northwestern Pacific  
Railroad Company,

Defendant.

G. M. Pittman for Complainant.  
Stanley Moore and W. S. Palmer  
for Defendant.

BY THE COMMISSION.

O P I N I O N

This is a complaint brought by J. H. French under the provisions of Section 25, paragraph "b" of the Public Utilities Act, alleging that the Northwestern Pacific Railroad Company has refused to construct a spur track leading from its main line at a point in

the Northwest Quarter (NW1/4) of Section Eight (8), Township Two (2) South, Range Four (4) East, Humboldt Base and Meridian, to serve the complainant; that the construction of said spur track is reasonably practicable and can be installed and thereafter used without materially increasing the hazard of operation of the railroad; and that the business which may reasonably be expected to be received over said spur track is sufficient to justify the expense of the desired installation.

The Northwestern Pacific Railroad Company filed its answer denying the material allegations of the complaint and alleging that established station facilities at its station of Eel Rock were more accessible and convenient for the use of shippers than the proposed spur track would be, due to the fact that there are no wagon roads leading to or from the proposed location.

A public hearing was held at Eel Rock on January 24, 1917, before Examiner Encell, the matter was submitted and is now ready for decision.

The point at which the proposed spur track is desired is situated between the stations of Eel Rock and Sequoia, between Mile Posts 227 and 228, at approximately Engineer's Station 5250. No wagon road exists to either station and the expense of constructing suitable roads would be prohibitive, due to mountain ridges and deep gulches. The only means of ac-

cess from the complainant's property to Eel Rock station is via the tracks and right-of-way of the Northwestern Pacific Railroad but such access is not available for the teaming of shipments as two tunnels are located between these points. The land of the complainant is situated on the south bank of the Eel River. The right-of-way of the Northwestern Pacific Railroad is accessible to owners of land on the north side of the river by fording the Eel in the low water period and by boats in the season of high water and thence by passing over the land of complainant.

A number of witnesses residing on the north side of Eel River testified as to their desire for a spur track and shipping point adjacent to the complainant's property and as to the inconvenience and extra expense necessary to haul shipments to Eel Rock Station or to the station of Fort Seward. There is no road existing at the present time enabling shipments to be hauled to Eel Rock Station and access to the Fort Seward Station, which is a more distant point, is via the Blocksburg Road, a route which at present is impossible of use to the complainant and to others located in close proximity to him.

Some three years ago the residents of the section to be served by the proposed spur financed a survey for a proposed wagon road, the same commencing at a point on the county road known as the Larabee Creek Road and running in a general southwesterly di-

rection, following the contour of the country, to a point on the north bank of the Eel River opposite the land of the complainant in this case. Some work has been done by the residents on the construction of this road, about one mile being available for use through the property of George W. Curless. It appears that if a spur track is installed the entire road would be constructed to gain access to the proposed shipping point, the residents and landowners offering to undertake its construction, provided they had assurance that a shipping point would be available when the road was completed.

The proposed road would serve as an outlet for all tonnage from Larabee Creek to the site of the proposed spur, thereby providing an outlet for all shipments originating on the Larabee Creek slope and the north slope of the Eel River. This road would have a length of approximately seven miles. The distance to Fort Seward Station from the point of intersection of the proposed road with the county road is approximately thirteen miles. Considering the roughness of the country and the heavy grades on these mountain roads, the saving in mileage is a material factor which cannot be disregarded in this case.

The products available for shipment, provided the spur is installed and the road heretofore mentioned is constructed, are principally those of the forest such as hardwood logs, tan bark, ship and boat knees, cord

wood, stave bolts, fir piling, logs and tan oak. There is a small amount of grain raised and if facilities existed for convenient shipment without the necessity for an unreasonable wagon haul more acreage would be planted to grain. The following amounts of products were stated to be available for shipment.

	<u>Tan</u> <u>Bark</u> <u>(cords)</u>	<u>Stave</u> <u>Bolts</u> <u>(cords)</u>	<u>Fire</u> <u>Wood</u> <u>(cords)</u>	<u>Hardware</u> <u>logs</u> <u>(carloads)</u>	<u>Pil-</u> <u>ing</u>	<u>Pine</u> <u>timber</u> <u>(ft. B. M.)</u>
J. H. French (now ready)	175	1200	400	12 to 15	5000 to	
G. W. Curless	600				7000	
Tolbert Curless	700					
Charles Martin and mother	1130					3,000,000
H. A. Hansen	80 to 100					
E. J. Hunter	60 to 100					
H. L. Campbell	500					Several mil- lion feet.
H. M. Lutze	50					2,000,000 2,000,000

Mr. M. L. Gillogly, a witness for the defendant, testified as to other methods of access to Eel Rock Station, such requiring, however, the construction of roads to make same available. He also testified as to the possibility of constructing a road from the property of the complainant to a point on the defendant's line of railroad known as McKee's, where a spur track was formerly installed for the handling of timber products. The construction of such road to the defendant's line of railroad would, however, increase the expense of the road construction required of prospective shippers on the north side of Eel River. Other witnesses who testified in behalf of the defendant, Northwestern

Pacific Railroad Company, resided on the south side of Eel River and were adequately served by the station of Eel Rock and had no knowledge of the requirements of shippers on the northerly side of Eel River, one witness not having been in that locality for some twelve years. No material evidence was presented as to increased hazard of operation were a spur track to be installed at the location desired.

After careful consideration of all the evidence in this case, we are of the opinion and find as a fact that the complainant and other prospective shippers north of Eel River are entitled to a shipping point at the location requested, provided, however, that the construction of the proposed road from a connection with the county road known as the "Larabee Creek Road" to a point on the north bank of the Eel River opposite the property of the complainant shall first be completed by the prospective shippers and a right-of-way from the south bank of Eel River to the proposed spur be granted by the complainant.

#### O R D E R

Complaint having been made as to the refusal of the Northwestern Pacific Railroad Company to install a spur track for the accommodation of freight shippers at a point on its line between the stations of Eel Rock

and Sequoia (between mile posts 227 and 228, approximately at Engineer's Station 5250).

And a public hearing having been held and the matter duly submitted, and the Commission being fully advised in the premises and basing its order on the findings of fact in the foregoing opinion,

IT IS HEREBY ORDERED that the Northwestern Pacific Railroad Company install and hereafter maintain until the further order of this Commission a spur track for the accommodation of freight shippers at a point between mile posts 227 and 228 at approximately Engineer's Station 5250 and between the stations of Eel Rock and Sequoia, provided that prior to the installation of such spur track and within six months from the date of this order, a wagon road shall have been constructed from a point on the county road known as the "Larabee Creek Road" in a generally southwesterly direction, following the contour of the country, to a point on the north bank of the Eel River approximately opposite the land of J. E. French, in Section Eight (8), Township Two (2) South, Range Four (4) East Humboldt Base and Meridian, and that a right of way for a wagon road shall be granted and method of access provided through the property of J. E. French from the south bank of the Eel River to the site of the aforesaid spur track.

The Commission reserves the right to make such other and further orders with respect to this mat-

ter as in its judgment may appear meet and proper in  
the premises.

Dated at San Francisco, California, this 16th  
day of March, 1917.

Max Thelen

H. J. Loveland

Wm. Gordon

Wm. R. Dyer

Commissioners