

ORIGINAL

Decision No. 11319

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

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the  
CITY OF RED BLUFF for an order requiring  
the Southern Pacific Company, as lessee,  
and the Central Pacific Railroad Company,  
as owner, to construct, repair and put in  
condition for travel the crossing in said  
City where Cedar street crosses the tracks  
of said Railroad, and to install at the  
crossings of Walnut, Oak and Crittenden  
Streets suitable danger signals or watchmen  
as may be determined best.

Application No. 2800.

McCoy and Gans, for applicant

George D. Squires, for Southern Pacific Company

GORDON, Commissioner,

O P I N I O N.

In this application the City of Red Bluff asks permission to reopen Cedar Street over the Southern Pacific tracks, and requests the Commission to order suitable protection for three crossings now open: Walnut, Oak and Crittenden Streets. At the hearing held April 19, 1917, testimony was taken only on the first of these two matters and it was stipulated that for the second such orders as the Commission might make could be based on the report of its engineering department covering a grade crossing survey of the city which would be promptly undertaken in connection with the state-wide crossing survey now in progress.

Cedar Street, which the City seeks permission to reopen, is an east and west street, eighty feet in width, which was closed temporarily by the railroad company in accordance with permission obtained from the Board of Trustees of Red Bluff by a resolution dated May 13, 1902. The resolution reads in part as follows:

"It is therefore hereby ordered, that the said Cedar Street between Madison Street and Monroe Street, in the City of Red Bluff, be, and the same is hereby temporarily closed to public travel, and that the Southern Pacific Company be granted permission to complete and occupy the said boiler house and that

said Company be permitted also to occupy and use the said Cedar Street so closed as aforesaid for the purpose of carrying on its railroad business, and until the further order of this or some future Board of Trustees of the said Town of Red Bluff; provided, and this permission and use shall be and they are upon the express condition, that the title to the said street thus closed to public travel shall be and remain in the public as a street and highway and that no permanent rights therein are hereby granted to the said Southern Pacific Company, or its successors in interest, and that said Company, or its successors in interest shall not by use, or adverse possession acquire any title thereto as against the public or the Town of Red Bluff."

It is the contention of the City Attorney that the consent of the Commission is not required to reopen this crossing as the city had no right, and it was not the city's intention, to close it permanently. On October 2, 1916, the Board of Trustees instructed the City Attorney to advise the Southern Pacific Company that it desired to reopen Cedar Street, and notice was served on the railroad company to remove some buildings and other obstructions and place the street in condition to be used. A similar notice was served on the owner of a flour mill who had a building occupying part of the street.

The owner of the mill immediately took steps to remove the building, but the railroad company at that time, and at the hearing, took the ground that the consent of the Commission was necessary before the crossing could be legally reopened. The buildings, however, have been removed.

There is no crossing in existence on Cedar Street at the present time. The approaches to the rails were torn out when the crossing was temporarily abandoned and other tracks have since been constructed across the street. It has not been open for travel and there has been no crossing there since the passing of the Public Utilities Act; consequently the wording of Section 43, of this Act - "No public road, highway or street shall hereafter be constructed across the track of any railroad corporation at grade \* \* \* without first having secured the permission of the Commission," seems to me to apply with as much force here as it would if the proposed crossing

were entirely new. It is clear that the consent of the Commission must be secured before this street can be legally opened over the railroad.

To consider now the need of the people of Red Bluff for a crossing at Cedar Street. The blocks in the vicinity of Cedar Street are 300' x 300', with the streets parallel to the railroad and at right angles to it. Monroe and Madison are parallel streets and are connected by Union Street, one block north of Cedar, and Hickory Street, one block south. South of Hickory Street Walnut is open. Although Hickory Street appears to be very little used, if the Cedar Street crossing were opened there would undoubtedly be some traffic across it; but the testimony is not convincing that it would be great enough to offset the hazard which would be incurred by its construction. Even those who are located on Cedar Street, between Madison and Monroe, or in the vicinity of the corners of these latter streets with Cedar, appear to suffer very slight inconvenience, if any, by the lack of this Cedar Street crossing. It would, in my judgment, be a departure from the modern, approved tendency in handling the grade crossing problem- that is of concentrating travel at as few crossings as possible and protecting those crossings- to permit this crossing to be opened.

Since the hearing the Commission's engineering department has made its grade crossing survey in the City of Red Bluff, and has informed the Commission of the results in a report, a copy of which has been sent to the railroad and to the city. It will not be necessary to repeat here what is stated in the report, but a summary of its conclusion may be convenient: -

"No. 1- Oak Street-

A human flagman should be stationed at this crossing from one hour before until one hour after the school period. The brush on the south side of the street along the sidewalk should be trimmed.

"No. 2- Pine Street-

This street should be closed.

"No. 3- Walnut Street-

An automatic flagman should be installed.

"No. 4- Hickory Street-

This crossing should be closed.

"No. 5- Union Street-

Tool house should be moved so view will not be obscured.

"No. 6- Crittenden Street-

An automatic flagman should be installed.

"No. 7- Breckinridge Street-

Crossing should be widened. Automatic flagman should be installed."

From my knowledge of the crossing situation at Red Bluff, gathered from a personal inspection and through testimony at the hearing, I am convinced that these recommendations are reasonable and should be followed. Their tendency is to protect the crossings which are most convenient and to abandon the others; and I believe if the railroad and the city will cooperate to carry them out the crossing situation in Red Bluff will be satisfactorily settled for some time to come.

It was stipulated, as I said before, that the Commission's order covering the protection of the three streets complained of in the application- Walnut, Oak and Crittenden- should be based on this report rather than on testimony, so to that extent the recommendations in the report for these streets could be issued as formal orders of the Commission. No orders covering the other recommendations could be made without a hearing but I am in hopes that they will be carried out by both the city and railroad company.

As far as crossing protection is concerned I prefer to recommend no definite order at this time. The final order may be influenced by the action of the interested parties towards the recommendations made for streets other than those directly involved.

All crossings in the city were considered as a unit by our engineering department and a failure to carry out one recommendation may affect the others.

In the following order which I recommend, the right will be reserved to make such additional orders affecting Walnut, Oak and Crittenden Streets as may be necessary, after the railroad company and the city have advised the Commission of their attitude towards the recommendations of our engineering department in the report sent to them.

ORDER.

CITY OF RED BLUFF, having applied to the Commission for permission to reopen Cedar Street across the track of Southern Pacific Company and to order suitable protection for Oak, Walnut and Crittenden Streets, and a public hearing having been held, and it appearing that no public necessity exists for the reopening of Cedar Street at this time, and that a formal order covering the protection of Oak, Walnut and Crittenden Streets should be postponed, until both the City and the Railroad have had an opportunity to canvass the crossing report, to which reference has been made, and advise the Commission.

IT IS HEREBY ORDERED, That this application, insofar as it asks permission to reopen Cedar Street across the tracks of Southern Pacific Company, be and the same hereby is denied.

IT IS HEREBY FURTHER ORDERED, That the Commission reserves the right hereafter to make such further orders covering the protection of Oak, Walnut and Crittenden Streets as to it may seem right and proper.

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 17th day of May, 1917.

Manuel Heless

Alfred A. Ireland

Wesley Gordon

Edwin O. Edgerton

Frank R. Durlin

Commissioners.