

ORIGINAL

Decision No. 5212

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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of (SOUTHERN PACIFIC COMPANY for an order) authorizing the construction of an industry track at grade across Stanislaus and Merced Streets, in the Town of Newman, Stanislaus County, California.)

Application No. 3440.

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George D. Squires for Southern Pacific Company.
Nat Schmulowitz for The Central California Creameries.

GORDON, Commissioner.

O P I N I O N .

This application was filed with the Commission on January 9, 1918. In it the Southern Pacific Company asks permission to construct a spur track in and along M Street and across Stanislaus and Merced Streets, in the Town of Newman. It was accompanied by a permit from the Town of Newman, and on January 11 the Commission issued an ex parte/^{order} granting it. Shortly afterward The California Central Creameries filed a protest against the proposed construction. The Commission notified the Railroad Company of the complaint, advising it to do no construction work, and the matter was set for a formal hearing. This hearing was held at Newman on March 19th.

The track applicant proposes to construct under this application is the usual type of a spur track to serve an industry, but it is located so close to the eastern side of M Street that The Central California Creameries, which operates a creamery between Merced and Stanislaus Street fronting

on M Street, feels that its business will be interfered with because the teams of the farmers delivering milk and cream at its plant will be frightened by the steam locomotives.

It seems that if the spur track were located in the center of the street the objection of the Creamery Company would be largely removed. The Railroad Company is willing to put the track in this location, and several members of the City Council of Newman who were present at the hearing expressed their belief that this location would be better than the one previously decided upon.

In view of this development I shall recommend in the following form of order that applicant be permitted to construct its spur track along the center line of M Street, and across Stanislaus and Merced Streets.

O R D E R.

SOUTHERN PACIFIC COMPANY having applied to the Commission for permission to construct an industry spur track at grade in and along M Street and across Stanislaus and Merced Streets, in the Town of Newman; and a public hearing having been held, and it appearing to the Commission that permission should be granted applicant to construct these crossings provided the spur track is located in the center of M Street, rather than on the easterly side thereof, and that the order previously made in this matter should be annulled;

IT IS HEREBY ORDERED, THAT the order (Decision No. 5029) heretofore made in this application be and the same hereby is annulled.

IT IS HEREBY FURTHER ORDERED, That permission be and the same hereby is granted Southern Pacific Company to construct its spur track along M Street and across Stanislaus and Merced Streets, in the Town of Newman, subject to the following conditions, viz.:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type to conform to that portion of the streets to be crossed now graded, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings 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 2d day of April, 1918.

Max Heiler

Alex Gordon

Edwin C. Edgerton

Frank Weston

Commissioners.