

In the matter of the application of
BOARD OF TRUSTEES, City of Madera,
Madera County, California, for per-
mission to construct Sixth Street
at grade across the tracks of Central
Pacific Railway Company in said city.
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Application No. 401.

APPEARANCES

- R. E. Rhodes, for applicant;
- R. M. Drake, for Central Pacific Railway Company.

OPINION

GORDON, Commissioner.

On February 11, 1913, BOARD OF TRUSTEES, City of Madera, Madera County, California, filed with the Commission application for permission to construct Sixth Street at grade across the tracks of Central Pacific Railway Company in said city. The application was accompanied by an easement dated December 3, 1912, from the company granting the city permission to extend Sixth Street across its right-of-way which is about 250 feet wide at this point.

Although the Commission in the majority of applications for street and public highway crossings at grade across railroads which have come before it has granted same ex parte, without a hearing, when accompanied by agreements or easements showing that the railroad companies do not object thereto, in this case it appeared from the maps filed and from the Commission's knowledge of the situation that perhaps public convenience and necessity did not demand the opening up of said Sixth Street crossing, especially as the approaches thereto were obscured by buildings and warehouses on the tracks. Also there was already a crossing over said tracks at Yosemite Avenue one (1) block north of Sixth Street. It was apparent that a grade crossing at Sixth Street would be very dangerous to traffic.

Therefore, it was considered advisable to hold a public hearing on this application at which the necessity for the crossing and pertinent facts relating thereto would be ascertained. A hearing was held in the City of Madera on March 21 at which the interested parties were represented and testimony taken concerning the matters contained in the application.

It was shown that Yosemite Avenue, the principal business street of the city, was the main crossing over the tracks of Central Pacific Railway Company between the east and west portions of the city. This crossing, although protected by gates operated by a flagman, is very much congested, especially when the crossing is blocked as it frequently is by trains. The passenger depot is immediately north of Yosemite Avenue. It was contended that the opening of Sixth Street would relieve this congestion and permit traffic to flow more readily between the parts of the city on either side of the railroad. It was further stated that the crossing at Sixth Street could be protected by gates operated by the same flagman that now operates Yosemite Avenue gates and hence the protection of the former would not impose very much additional expense upon the company. Furthermore, the rapid growth of the city demanded this additional street crossing over said tracks.

The nearest crossing to Yosemite Avenue on the north is at Fourth Street, two (2) blocks distant and on the south at Ninth Street, four (4) blocks distant. There is a crossing, however, at Eighth Street, which is not much used, as it is cut off on the west by a slough one (1) block from the railroad and is in the nature of a cul-de-sac. The city agreed ^{that} this crossing should be closed in case Sixth Street was opened.

† The railway company, although recognizing the dangers of grade crossings, appreciates the necessity for an additional opening across its tracks in Madera and having already granted an easement, states that it will have no objection to the Sixth Street crossing.

It was the consensus of opinion of the witnesses for the city at the hearing that if Sixth Street were opened it should be protected by crossing gates which could be operated from the same tower as the gates at the Yosemite Avenue crossing are now operated.

Although the policy of the Commission, owing to the numerous serious accidents resulting in death and injury which are daily occurring at grade crossings in this state, is to avoid grade crossings of streets and public highways with railroads wherever it is practicable and possible to do so at reasonable expense, I am of the opinion that public convenience and necessity demand the granting of this application. The result of opening Sixth Street will be to divide the traffic which now passes over Yosemite Avenue crossing and avoid some of the congestion that now obtains there, due to the frequent unavoidable blocking of this crossing by trains. Also, I am of the opinion, that if the crossing at Sixth Street is authorized, the present grade crossing at Eighth Street should be abandoned and closed to public use. I, therefore, submit the following form of order.

O R D E R

BOARD OF TRUSTEES, City of Madera, Madera County, California, having on February 11, 1913, filed with the Commission an application for permission to open Sixth Street of said city at grade across the tracks of Central Pacific Railway Company, and a hearing having been held upon said application at the City of Madera on March 21, 1913, at which all interested parties were represented, and testimony having been taken concerning the necessity and public demand for said crossing, and it appearing that it is not reasonable nor practicable to avoid a grade crossing with tracks of said company, and that the application should be granted subject to the conditions hereinafter specified,

IT IS HEREBY ORDERED that permission be hereby granted Board of Trustees, City of Madera, Madera County, California, to construct Sixth Street at grade across the tracks of said company in said city, subject to the following conditions, viz.:

(1) The cost of constructing the crossings across the tracks and right-of-way of said company in a good and first-class condition for the safe and convenient use of the public shall be borne by applicant.

(2) The cost of maintaining hereafter the approaches to the crossings in a safe condition for the passage thereover of vehicles and road traffic shall be borne by applicant up to within two (2) feet of the rails of the present track on the east side of the main line of said company; and up to within two (2) feet of the rails of ^{the} industry track on the west side of the main line of said company. The cost of maintaining hereafter the crossings over and between the tracks and to a distance of two (2) feet outside the rails of said passing track on the east side and said industry track on the west side, shall be borne by said company.

(3) Said company shall construct and maintain at its own expense for the protection of said crossings, crossing gates of the same character and design as those now constructed and operated for the protection of the crossings at Yosemite Avenue. Said gates may be operated from the same tower and by the same watchman as now operates the gates at Yosemite Avenue.

(4) Said crossing at Sixth Street shall be constructed of a width (parallel with the track) of not less than forty-eight (48) feet, with grades of approach not exceeding six (6) percent and shall be ballasted with stone or gravel ballast to a depth of not less than six (6) inches across and between all tracks and for a distance of not less than twenty-four (24) feet on each side thereof, provided that the entire distance between the industry track and the sidetrack on the west side of the main line of said company before mentioned shall be ballasted as above specified.

(5) Said company shall provide and maintain at its own expense standard highway crossing signs for the protection of said crossings.

(6) As a condition precedent to the granting of this application, the present grade crossing at Eighth Street shall be

abandoned and closed to public use.

(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 1st day of April, 1913.

H. D. Loveland

Ben Gordon

Max Thelen

Erwin O. Edgerton

Commissioners.