

Decision No. 5994.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)	
the COUNTY OF FRESNO for authority)	
to construct and maintain a public)	
highway crossing over the right of)	Application No. 3578.
way and tracks of the Southern Paci-)	
fic Railroad Company, in the Town)	
of Mendota at Eighth Street.)	

Chris Jorgensen for applicant.
Frank B. Austin for Southern Pacific Company.

GORDON, Commissioner.

OPINION

This application was filed by Fresno County on March 7, 1918 and a hearing was held on December 2, 1918 at Fresno, at which both interested parties were represented.

The Town of Mendota as laid out lies on both sides of the Southern Pacific Railroad, although that portion on the east side has never been improved or developed. In fact, at the present time only two houses are built and occupied in this section and one of these houses is just outside of the southerly town limits.

At one time Mendota was a railway division point, which required many railway employees to stay there. The moving away of division headquarters was a blow from which the town has not fully recovered.

Owing to the fact that the portion of the town lying east of the railroad has never been developed, no streets or roadways have been laid out and there is no direct method by which people on

one side of the track can reach the other, except by walking or driving directly over the rails, which is obviously a very dangerous practice. The nearest public road crossings are situated about two and one-half miles southeast and three-quarters of a mile northwest of Eighth Street in Mendota, which is the point at which this crossing is applied for. There is, however, a private crossing about three thousand feet northwest of the crossing applied for and one in the southerly end of the yard below the roundhouse, which is three thousand feet distant. There is also an open private crossing, controlled by Miller and Lux, some distance further south (probably a half mile or more), but there are no roads on the east side leading to any of these crossings.

The Southern Pacific Station grounds at Mendota extend on the west to the easterly line of N Street, which is two hundred twenty feet distant from the main line. At the present time that portion of these grounds in the vicinity of the depot is well-graveled and raised above the surrounding land. No attempt, however, has been made by the railroad company to connect the improved portion around the depot with any of the streets of the town, except by a narrow footpath of earth leading from the passenger station. Most of the ground over which teaming is done is low and uneven, and, during heavy rains, is a sea of mud, which renders teaming exceedingly difficult. One of the objects of the County in asking for this crossing is to enable teams to reach the freight depot by a high and dry route.

The Southern Pacific objected to the granting of the crossing as applied for at Eighth Streets, as it crosses seven tracks in that location, but had no objection to the granting of a crossing at Ninth Street, which is one block further south and where only three tracks are crossed. The County expressed its willingness to amend

its application to read for a crossing at Ninth Street instead of at Eighth Street, and this opinion is based on that amendment.

It might appear and it is probably true that a private crossing in this vicinity would fill the needs of the people at present living on the east side of the track, but, inasmuch as there are no fences on the west side of the station grounds and as there will be no wing fences or cattle guards at the crossing, the same will be open to the public travel without hindrance and it therefore might as well be declared a public crossing in the first place. In addition, the two public crossings hereinbefore mentioned are now about three and one-quarter miles apart and are far out of town. In case a public crossing is granted, the County has agreed to grade a road parallel with the railroad and running south from Ninth Street. This road will be a part of M Street, as shown on the town map, and, in addition to giving access to the property of the two persons residing on the east side, it will probably induce others to build in the vicinity, as it will give access to several blocks of lots at present inaccessible.

Owing to the slow speed of trains within the station grounds, to the light travel which will use the proposed crossing and to the open view at this point, I do not believe that any protection but the usual crossing sign will be necessary.

I recommend the following form of order:

O R D E R

COUNTY OF FRESNO having, on March 7, 1918, applied to this Commission for permission to construct a public crossing at grade over the right of way and tracks of the Southern Pacific Railroad Company, at Eighth Street, in the Town of Mendota, County of Fresno, State of California; a public hearing having been held, at which,

in accordance with the desire of the railroad company, the County agreed to amend its application so as to apply for permission to construct a crossing at Ninth Street instead of Eighth Street, and it appearing that the application as amended should be granted subject to certain conditions hereinafter specified;

IT IS HEREBY ORDERED, That the COUNTY OF FRESNO be and the same is hereby granted permission to construct a crossing at grade over the tracks and right of way of the Southern Pacific Railroad Company, at Ninth Street, in the Town of Mendota, County of Fresno, State of California, subject to the following conditions, viz.:

(1) The entire expense of constructing the crossing shall be borne by applicant. The expense of its maintenance thereafter in good and first-class condition, for the safe and convenient use of the public, shall be borne by applicant, except for that portion between the rails and two (2) feet outside thereof, which shall be borne by the Southern Pacific Railroad Company.

(2) Said crossing shall be constructed of a type to conform to that portion of the street to be crossed now graded; shall be constructed twenty (20) feet in width, with grades of approach at two (2) percent; shall be protected by a suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) County of Fresno shall build a road along M Street, east of the track and south/^{east}of the crossing applied for, so as to give residents east of the track means of reaching the crossing.

(4) 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 Com-
mission of the State of California.

Dated at San Francisco, California, this 18th day of
December, 1918.

Erwin O. Egerton
H. S. Lusk
Wm. Gardner
Frank R. ...

Commissioners.