

ORIGINAL

Decision No. 6162

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of the COUNTY OF SANTA BARBARA to)
construct and maintain highway)
crossings over the railroad right)
of way and tracks of the Pacific)
Coast Railway Company in the Coun-)
ty of Santa Barbara (petition for)
re-hearing and modification of)
order).)
.....)

Application No. 4081.

T. R. Finley, District Attorney, for the County
of Santa Barbara.

BRUNDIGE, Commissioner.

FIRST SUPPLEMENTAL OPINION

The County of Santa Barbara asks for a re-hearing in this proceeding in order to obtain a modification of the Commission's order in Decision No. 6002. That decision dealt with two crossings, designated "A" and "B", respectively, and a modification is sought for that part of the order relating to "B". The applicant had here abandoned an undergrade crossing without authority from the Commission and had installed in its stead, also without authority from the Commission, a grade crossing over the tracks of the Pacific Coast Railway Company.

The portion of the order in Decision No. 6002 rela-

ting to Crossing "B" reads as follows:

"It is further ordered that that portion of the application covering the abandonment of the undergrade crossing and the establishment of a grade crossing near Engineer Station 107 plus 00, at a point marked "B" on said map, be and the same is hereby denied.

"It is further ordered that the grade crossing constructed by the County of Santa Barbara at the above mentioned point "B" be removed within three (3) months from the date of this order, and that the original road through the trestle, modified in construction to conform to the remainder of the new highway, be rehabilitated along the lines suggested in the foregoing opinion, so as to form an undergrade crossing with two passages, one for eastbound and one for westbound traffic."

In the petition for a re-hearing, applicant asks that this part of the order be stricken out, that permission be given to maintain the grade crossing "B" as built by the County, and that the abandonment of the original undergrade crossing be allowed to be continued. Applicant states that the original order of the Commission is unjust for the following reasons:

"(1) That the conditions at that point are such that said undergrade crossing cannot be made safe without the expenditure of a large sum of money -- much larger than the said County can afford to spend on that road.

"(2) That said undergrade crossing, if rectorred, will be very dangerous, owing to the fact that the road makes a sharp turn at the crossing, and on account of a ravine or canon at that point such turn in the road cannot be avoided.

"(3) That there are only two trains a day over said railroad track, and the movement of such trains is very slow, being not more than fifteen or eighteen miles per hour, while the traffic on the county road

is heavy; especially from automobile traffic; and for this reason the danger from the grade crossing is negligible, but, owing to the turn that will be in the road, if the undergrade crossing is restored, the undergrade crossing will be dangerous to the traveling public."

The petition for a re-hearing was granted and a hearing was held in Santa Barbara on the 6th inst. Testimony was heard from witnesses for the applicant, and a telegram from the representative of the railroad company who was unable to be present, protesting against a modification of the Commission's original order, was read into the record.

From a review of the entire file in this case, as also of the testimony of the various witnesses, I am not satisfied that the first two points urged by applicant as justification for a modification of the Commission's order, are well taken. An estimate furnished by applicant's engineer of the cost of a change in the highway alignment, including a grade separation for east and west bound road, with division fences and the necessary short piece of retaining wall under the railroad trestle, amounts to less than \$1,200 -- in distinction to the estimate given by one of the witnesses at the hearing who insisted that the undergrade crossing could not be made safe and serviceable for less than \$5,000.

I do not believe, therefore, that the item of cost should be made the deciding feature in this proceeding, especially in view of the fact that had application been made by applicant in the first place, as provided by law, the expenditure for the grade crossing installed without the Commission's permission would not have been incurred, and the cost of making a

safe undercrossing would have been no greater than the expenditure for the alternative piece of re-located road as it exists today.

Neither am I convinced that the undercrossing would have resulted in a dangerous strip of highway by reason of the curve introduced easterly from the Pacific Coast Railway. It appears from the plan of the undercrossing filed by O. H. O'Neill, County Surveyor of Santa Barbara County and one of the witnesses in the case, that the old county road under the railroad trestle could readily be made safe with easy curvature and easy grades of approach on both sides of the undercrossing.

In spite of these facts, I am persuaded that the Commission should not compel the County to abandon the recently constructed highway, which crosses the railroad at grade, without urgent reasons on the ground of hazard to life and property. Failure on the part of applicant to make proper application and the illegal installation of a grade crossing did not, I am satisfied, occur because of extortion or wilful negligence on the part of the County of Santa Barbara. The County authorities, I have no doubt, relocated the improved highway to its present alignment because they were sincerely of the opinion that the new road was a betterment over the old one, including the substitution of a grade crossing for the former undergrade crossing at the point in question. They acted upon this belief chiefly because the railroad traffic over the Pacific Coast Railway, a narrow gauge line, is extremely light (only one train each way

over the line per day) and the movement of such trains at the point of this crossing, in the immediate neighborhood of a slow-speed trestle, is not at any time in excess of ten miles per hour.

A condition can also be brought about by which a clearer view can be had of both sides of the railroad track from either approach on the highway for a considerable distance. If railroad traffic were heavier on this line or if at any future time the traffic should increase, I would not hesitate to urge upon the Commission the necessity for a grade separation, but the danger to present automobile or other vehicular traffic from the railroad or vice versa seems to me to be almost negligible at the grade crossing in question. And the matter of safety, after all, must be the determining factor with the Commission in proceedings of this nature.

There is merit, in my opinion, in the third point raised by the applicant as quoted above. It is my recommendation to the Commission that applicant be permitted to continue the grade crossing at point "B" and allowed to abandon the undercrossing. The grade crossing can be improved by securing an unobstructed view of the railroad track in both directions as suggested above. The railroad runs through a deep cut on the east side of the crossing, preventing road traffic from the west from seeing west-bound trains until close to the crossing. I recommend that applicant be required to cut down, at its own expense, the shoulder of the cut on the southerly

corner of the crossing to a height not greater than four feet above the highway and as far back as the railroad right of way fence and ending in a point at the edge of the cut about seventy-five feet east of the southerly fence corner of the two rights of way.

I also believe that it is unfair in this case to put upon the railroad the burden of providing proper crossing signs, together with the necessary fences and cattle guards to prevent live stock from getting on to the railroad right of way. These protecting devices I recommend should be installed at the expense of the applicant. If, in the future, by reason of an increase in railroad traffic or by any other reason, a grade crossing at this point should become a greater hazard than it is at present, I believe the Commission should on its own initiative compel the abandonment of the grade crossing and order the immediate improvement of the undercrossing along the lines of the plan by County Surveyor O. E. O'Neill, which plan is on file with the Commission.

I recommend a modification of the order in the Commission's Decision No. 6002, heretofore referred to, and submit the following form of First Supplemental Order:

FIRST SUPPLEMENTAL ORDER

THE COUNTY OF SANTA BARBARA, California, having, on January 8, 1913, filed with the Commission an application for a re-hearing in this proceeding and a modification of the Commission's Decision No. 6002; a hearing having been held and

it appearing to the Commission that the application should be granted and that the modification of Decision No. 6002 prayed for should be made for reasons set forth in the foregoing First Supplemental Opinion;

IT IS HEREBY ORDERED, That the Commission's Order in Decision No. 6002, insofar as it pertains to the crossing designated "B" and as it is quoted in the foregoing First Supplemental Opinion, be, and the same is hereby modified and permission is hereby granted to abandon and close the undercrossing on the old county road and to establish a grade crossing over the right of way and tracks of the Pacific Coast Railway Company on the new county highway near Engineer Station 107 plus 00 at a point marked "B" on the map filed with the original application, the crossing to be constructed subject to the following conditions, viz.:

(1) The entire expense of constructing the new crossing and abandoning the present undercrossing shall be borne by applicant. The cost of maintaining the new crossing 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 feet outside thereof, which shall be borne by the Pacific Coast Railway Company.

(2) The crossing shall be constructed not less than twenty feet in width and of a type to conform to the highway now built, with grades of approach not greater than eight per cent; shall be protected by a suitable crossing sign to be installed at the expense of applicant and shall in every way be made safe for the passage thereover of vehicles and other road

traffic.

(3) Applicant shall install at its own expense the necessary fences and cattle guards to prevent livestock from getting on to the tracks and right of way of the Pacific Coast Railway Company.

(4) Applicant shall at its own expense cut down and remove the shoulder of the hill on the southerly corner of the crossing to a height not greater than four feet above the highway and as far back as the railroad right of way fence and ending in a point at the edge of the cut about seventy-five feet east of the southerly fence corner of the two rights of way.

(5) 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 as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of February, 1919.

Edwin C. Edgerton
H. J. Loveland
Wm. R. Miller
H. J. Bondage
Erving Martin
Commissioners.