

Decision No. 6839.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the)
COUNTY OF TULARE for permission to con-)
struct a crossing of a public highway)
over a railroad of The Atchison, Topeka) Application No. 4465.
& Santa Fe Railway Co. on the east line)
of Section 6, T. 21 S., R. 23 E., M.D.B.&M.,)
near Waukena.)

W. W. Middlecoff, Deputy District Attorney,
for Applicant.

E. E. Ball, J. W. Walker and F. J. Heid, Jr.,
for United States Railroad Administration-
Atchison, Topeka and Santa Fe Railroad-
Coast Lines.

MARTIN, Commissioner.

O P I N I O N

In this application Tulare County seeks permission to construct a crossing at grade over the tracks of the Atchison, Topeka and Santa Fe Railway Company, on the east line of Section 6, T. 21 S., R. 23 E., M. D. B. & M., about two-thirds of a mile south of Waukena, Tulare County.

A public hearing was held at Visalia on May 13, 1913. Testimony shows that this crossing was applied for in error and the application was thereupon held in suspense until the crossing actually desired at Waukena was applied for, after which they were both considered at a hearing held on October 17, 1919.

Although this crossing was not the crossing desired

by the supervisor of this district of Tulare County, it does not seem wise to dismiss the application without settling the legal status of the crossing. It appears that this crossing has been open to public travel for many years and that it is located about thirty feet out of line of the county road connecting with it. No objection was made on the part of the railroad company toward declaring this crossing a public crossing and placing it in the proper location.

The following form of order is recommended:

O R D E R

COUNTY OF TULARE, having on March 26, 1919, filed with the Commission an application for permission to construct a public road at grade over the right of way and tracks of the Atchison, Topeka and Santa Fe Railway on the east line of Section 6, T. 21 S., R. 23 E., M. D. B. & M., as shown by the map attached to the application; a public hearing having been held, and it appearing that the application should be granted;

IT IS HEREBY ORDERED, That the COUNTY OF TULARE be and the same is hereby granted permission to construct a public road crossing at grade across the right of way and tracks of the Atchison, Topeka and Santa Fe Railway Company, on the east line of Section 6, T. 21 S., R. 23 E., M. D. B. & M., as shown by the map attached to the application, in lieu of the existing crossing, which is located about thirty (30) feet off of the section line; said crossing to be constructed subject to the following conditions and not otherwise, viz.:

(1) The entire expense of constructing the crossing shall be borne by the 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 that portion between the rails and two (2) feet outside thereof, which shall be borne by the Atchison, Topeka and Santa Fe Railway Company.

(2) Said crossing shall be constructed twenty (20) feet in width, with grades of approach not exceeding four (4) per cent; 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) 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 18th day of November, 1919.

Edwin O. Edgerton
H. D. [unclear]
Grant [unclear]
H. A. [unclear]
George [unclear]
Commissioners.