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Decision No. 8382

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
Central California Traction Company
for authority to construct spur track
across Cherokee Lane in the City of
Lodi, San Joaquin County, State of
California.

ORIGINAL
Application No. 6133

Arthur L. Levinsky for Central California Traction Company,
Mc Noble and Berry for protestants,
G. M. Steel for City of Lodi.

Martin, Commissioner.

O P I N I O N

This application was filed with the Commission on September 20, 1920, and a hearing was held in Stockton on October 22, 1920.

The applicant desires to construct and operate a spur track across Cherokee Lane at its intersection with Lodi Avenue in the City of Lodi for the purpose of serving a fruit packing house recently erected on the northwest corner of Cherokee Lane and Lodi Avenue by one R. Kresnow, a fruit packer and shipper of Fresno County. This fruit packing shed is approximately 60 feet by 70 feet in size and is built on a lot 110 feet by 110 feet which was acquired by Mr. Kresnow sometime about June, 1920. In order to serve the packing house it is necessary that a spur track be built either across Cherokee Lane, or else from the west along Lodi Avenue in front of adjoining residence property, across the sidewalk, and then parallel to the packing house. The proposed track across Cherokee Lane is preferable in regard to position with respect to

adjoining residence property.

Previous to the filing of the application by the railroad company, a petition signed by about forty persons objecting to the construction of the spur track was forwarded to this Commission by the California Highway Commission. A similar petition of about fifty names was filed by protestants at the hearing. Objection was made to the building of the spur track on the following grounds:

1. That the spur track serves but one industry.
2. Additional hazard created, especially to school children.
3. Dangerous alignment of spur. (Oblique across roadway.)
4. Residence section in this vicinity.
5. Depreciation in value of residence property.

The fact that one industry is to be served cannot be given very much weight in deciding this matter as there are many such spur tracks built under similar conditions throughout the State. In fact the spur track serving the packing house on the southeast corner of this road intersection serves but one industry which is owned by Mr. Mickie, one of the protestants. The cases are similar, except that the Mickie spur does not cross the highway. Consideration must be given to the fact that a building permit for a packing house was granted Mr. Kresnow by the Trustees of Lodi, who must have been acquainted with the physical conditions at this point and who must have realized that the packing house could not be economically operated without service by spur track.

The additional hazard created by the construction of this spur track is, as has been brought out many times in previous proceedings, the only matter actually before the Commission for decision. Testimony by assistant engineer Kessing of the engineering department shows that the view of this spur track and main line from

the highway is unobstructed at the present time, except at the northwest corner of the street intersection where the view is shut off by the newly erected packing shed. That portion of the spur track along the side of the packing shed is 110 feet long and will accommodate two forty-foot cars. If a third car or freight locomotive is on the spur ready to pull these two cars out it will project at least ten feet beyond the packing house and will always be in plain view of travelers on Cherokee Lane. Likewise, the motorman will have a good view of the highway. The switch points of this spur are only about one hundred and thirty feet (130') east of Cherokee Lane and in plain view from the highway. When cars are being switched toward the packing house or are being removed therefrom, the speed of the train over the crossing will not be above six miles per hour. The automatic flagman on this crossing will also be given warning during such time as the motor car is on this spur. Testimony shows that switching will generally be done at night when children are not on the streets and that switching cannot be done on the spur track at the same time that main line cars are crossing Cherokee Lane. With conditions as outlined, the presiding commissioner does not feel that the addition of the spur track on this crossing will greatly increase the hazard already caused by the main line track.

Protestants claim that the alignment of the spur track is dangerous due to the fact that it swings about forty-one (41) feet to the right in crossing Cherokee Lane. Although this alignment would swing trains toward oncoming traffic, the automobilist should be able to see the location of the track in the highway from his car, especially if attention is paid to the advance warning signs on the highway.

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~~SECRET~~

Altho the section along Lodi Avenue beyond the packing house is a residence section such fact is offset by reason that two industries have been built on Cherokee Lane immediately north of this house and one diagonally across the street intersection. Three industrial building permits were granted by the City of Lodi for these industries during 1920. The Commission cannot pass upon this matter from a point of view of property damage, if such exists, but can only take into account public safety as regards the crossing. Previous acts of the railroad company or the necessity of certain other improvements to their property in the City of Lodi are not before us in this proceeding. After having given careful consideration to the testimony and to the fact that Cherokee Lane is a well traveled unit of the state highway system, the presiding commissioner is of the opinion that no great additional hazard to life or limb will be created by the installation of this spur track and therefore the granting of the application is hereby recommended.

O R D E R

Central California Traction Company having on September 20, 1920 filed with the Commission an application for permission to construct, maintain and operate a spur track at grade across Cherokee Lane at its intersection with Lodi Avenue in the City of Lodi, a public hearing having been held thereon, and it appearing to the Commission that the application should be granted subject to the conditions hereinafter specified,

IT IS HEREBY ORDERED, That permission be hereby granted the Central California Traction Company to construct a spur track at grade across Cherokee Lane at its intersection with Lodi Avenue in the City of Lodi, as shown by the map attached to the application; said

crossing to be constructed subject to the following conditions, viz:

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

(2) Said crossing shall be constructed of a width and type of construction to conform to that portion of Cherokee Lane to be crossed as same is now graded, and to the satisfaction of the State Highway Commission, with grades of approach not exceeding one (1) per cent; shall be protected by a suitable crossing sign to be placed on the northwest corner of the crossing and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) All clearances shall conform to the Commission's General Order No. 26.

(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,

Dated at San Francisco, California, this 26th day of November, 1920.

Elin O. Ely
A. J. Loveland
Frank P. White
H. R. ...
Dwight Martin
Commissioners.