

Decision No. 8584

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA
 ex rel, TOWN OF TEHACHAPI, a Municipal
 Corporation,

Complainant,

Vs.

Case No. 1482.

SOUTHERN PACIFIC COMPANY, a corpora-
 tion,

Defendant.

Phil Marx and Ferd Snyder, Jr., for
 Complainant.

Frank B. Austin for Southern Pacific
 Company.

BY THE COMMISSION.

O P I N I O N

The Town complains of existing Y tracks of defendant crossing the County Highway at the summit of Tehachapi Mountains about two miles south of the town of Tehachapi, and prays that it be removed to the opposite side of the main line. It is alleged that the Y as located, maintained and operated is dangerous to the traveling public, and the cause of numerous accidents to persons and property. The answer puts these allegations in issue.

A public hearing in the case was held by Examiner Westover at Tehachapi.

The highway in question is one of two main routes of travel between Bakersfield and Los Angeles. At the point in

question the railroad and highway are adjoining and extend east and west. The Y consists of two tracks, each leaving the main line on a curve southerly crossing the highway diagonally and meeting in a single track extending a short distance north and south, at right angles to the main line. It is used for turning helper locomotives so that they may return to Bakersfield after helping trains up the heavy mountain grade. Those used in helping trains up the grade from Mojave northbound do not use the Y in question, but turn at a Y at a point about eight miles farther south.

At the point where the Y tracks complained of cross the highway the latter is not paved. Travel wears the soil away from the rails, leaving a depression on each side of each rail a foot or two wide and a few inches lower than the top of the rails. The result is that wagons particularly, and some automobile trucks, skid or slide laterally when crossing the tracks, which extend diagonally across the highway.

A great deal of confusion and danger to travel at night along the highway is caused by the glare of headlights on locomotives upon or near the Y and by shadows caused by standing trains or cars, as many as seven such headlights being in operation in that location at one time. The glare of headlights on locomotives standing on the main or passing tracks, or moving onto either leg of the Y temporarily blind motorists approaching on the highway, sometimes obscuring other locomotives crossing the highway.

As a result of complaints and accidents on or near the Y, defendant has ordered locomotives to stop before passing onto the Y, and has lately required such locomotives to carry lights on the rear of tenders. All movements of locomotives over the Y are very slow.

Defendant owns the land on which the highway is located at this point. The county offers to provide sufficient land for the Y on the opposite side of the track if defendant will deed to it an equal amount of land on which the highway and the present Y is located, but it and the town object to paying any portion of the cost of removal of the present Y or its rebuilding. The cost of the work, which is practically prohibitive, is estimated by defendant's engineers to be about \$17,500., without providing for the purchase of the land. An automatic warning bell is not adapted to a situation of this kind for the reason that it would continue ringing at times when trains were stationary in the vicinity of the crossing, but not actually approaching the intersection.

The testimony shows, however, that the danger caused by the depression near the rails can be obviated by proper planking and paving, and that the glare of the lights can be prevented by dimming or extinguishing them when moving on or near the Y.

Defendant moved to dismiss upon the ground that, as the locality under consideration is two miles out of town in Kern County, and not within the town's limits, it is not a proper party to bring the action. It was stipulated at the hearing that the county might later intervene or be substituted as complainant if it so determined. Although the county is not a party to this proceeding, it has advised that it will cooperate with the defendant and assist in the proper planking and paving of the crossing if defendant will operate its locomotives over the highway in the manner described in the order.

O R D E R

A public hearing having been held in the above entitled case, and it being submitted and now ready for decision,

IT IS HEREBY ORDERED that defendant construct and maintain, in connection with its Y tracks across the county highway, at a point about two miles south of Tehachapi, Kern County, planking or planking and paving between the rails composing said Y tracks, and for a distance of one foot on each side of the outer rails thereof, of a height flush with the top of said rails; that its locomotives when moving over said highway shall not exceed a speed of five miles per hour; that each of said locomotives shall carry a warning light upon its pilot and upon the rear or tender, or, in lieu thereof, that it shall be preceded by a human flagman displaying a flag or light; and that locomotives moving along its right of way in the vicinity of said Y tracks shall have their headlights dimmed or extinguished when in such position that travellers on the highway approaching said Y tracks might otherwise be confused or temporarily blinded by said headlights.

That portion of this order relating to planking or planking or paving about said Y tracks is made upon the condition that the County of Kern/^{or others} shall, at the same time, pave a portion of said highway not less than 12 feet wide extending between the two points of said highway where the respective outer rails of said Y tracks cross the outer line of said 12 foot paved roadway.

IT IS HEREBY FURTHER ORDERED that the cost of constructing and maintaining the planking or planking and paving between said rails and for a distance of one foot outside thereof, and of operating its locomotives in the manner hereinabove described is to be borne by defendant, but no part of the cost of paving said highway is to be borne by defendant.

The Commission reserves the right to make such other and further order relative to the subject matter of this order

as to it may seem right and proper or which, in its judgment,
public convenience and necessity demand.

Dated at San Francisco, California, this 25th
day of January, 1921.

H. D. Loveland
Frank K. Nelson
H. B. Brundage
Dwight M. Austin
Commissioners.