

Decision No. 92371

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the County of Fresno for permission to construct and maintain a public highway crossing over the right of way and tracks of the Central Pacific Railway Company near Fresno, Fresno County, California.

**ORIGINAL**

Application No. 6882

Roy C. Wakefield, for Applicant  
Frank B. Austin, for Southern  
Pacific Company.

By the Commission:

O P I N I O N

County of Fresno applies hereby for authority to construct Olive Avenue at grade across the tracks of the Southern Pacific Company, lessee of the Central Pacific Railway Company, near Fresno.

A public hearing upon this application was held by Examiner Westover at Fresno.

Olive Avenue is situated in the County of Fresno, just north of the City of Fresno. On Application No. 4150, the County of Fresno made application for the construction of Olive Avenue across the tracks of the Southern Pacific at a location approximately 175 feet northwesterly from the site of the crossing now applied for, and, after a public hearing the Commission made its decision No. 5998, dated December 21st, 1918, granting authority to construct the crossing in the location then applied for, subject to the condition, among others, that the crossing should be protected by an automatic flagman, the cost of which should be

divided equally between the applicant and the railway company.

The testimony shows that the crossing authorized under the above mentioned decision was never constructed due to the fact that the County met with difficulty in obtaining the necessary right of way for the road in the location formerly proposed. It appears that the County is now able to secure the necessary right of way, adjacent to the right of way of the Fresno Traction Company in the location now proposed. Olive Avenue, in this latter location would cross the tracks of the Southern Pacific Company at right angles and be located approximately 175 feet farther from a knoll north of the proposed crossing and adjacent to the Southern Pacific right of way and there would be a less obscured view of approaching trains than would obtain at the location heretofore authorized. In view of these facts both the County and the Southern Pacific have expressed the opinion that it is unnecessary to install an automatic flagman for the protection of this crossing. Although the Commission's engineering department believe that the protection of this crossing by an automatic flagman is desirable, it recognizes the fact that it is not so fundamentally essential as it would be in the former location.

The extension of Olive Avenue across the Southern Pacific right of way to the State Highway is necessary to give a suitable outlet from the northerly portion of Fresno to the State Highway, which is located on the westerly side of, and adjacent to, the railroad. The territory east of the railroad, served by Olive Avenue has been subdivided and partially developed. Public necessity and convenience would appear to require the extension of Olive Avenue across the tracks of the Southern Pacific to the State Highway.

It was stipulated by the parties at interest in this proceeding that the Decision No. 5998 should be rescinded in the event authority be granted for the construction of the Olive Avenue crossing as now applied for and this will be done.

O R D E R

A public hearing having been held upon the above application, the matter being submitted and ready for decision,

IT IS HEREBY ORDERED, that permission is hereby granted the Board of Supervisors of the County of Fresno, State of California, to construct a street at grade, across the tracks of Southern Pacific Company, described as follows, to wit:

COMMENCING at the intersection of the north westerly line of Olive Avenue with the north-easterly line of the right of way of the Southern Pacific Railroad which point is S 42° 19'E along the northeasterly line of said railroad right of way a distance of 127.5 feet from the S.W. corner of Lot 50 Reedings Villa Colony as per map of said tract now on file and of record in the office of County Recorder of Fresno County, thence S 42° 19' E along the northeasterly line of said railroad right of way a distance of 45 feet; thence S 47°41'W a distance of 100 feet to the southwesterly line of said railroad right of way; thence N.42°19'W along the southwesterly line of said railroad right of way a distance of 45 feet; thence N.47°41'E. a distance of 100 feet to the point of commencement.

said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing the crossing shall be borne by the applicant. The cost of its maintenance up to a line two (2) feet outside the rails shall be borne by the applicant. The maintenance of that portion of the crossing between the rails and two (2) feet outside thereof shall be borne by Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad and with grade of approach not greater

than four (4) per cent; shall be protected by a suitable crossing signs and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(4) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(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.

Dated at San Francisco, California, this 16<sup>th</sup> day of August, 1921.

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Commissioners