

Decision No. 9500.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the matter of the application of
County of San Bernardino for per-
mission to construct a crossing over
the Southern Pacific Railroad on Live
Oak Avenue, at Declez Station, in
San Bernardino County.

ORIGINAL

Application No. 6855.

John L. Campbell, for Applicant.

Frank B. Austin, for Southern Pacific Company.

By the Commission:

O P I N I O N

In this application the County of San Bernardino asks permission to construct Live Oak Avenue at grade across the tracks of Southern Pacific Company near Declez.

A public hearing was held at San Bernardino before Examiner Williams.

Live Oak Avenue is a north and south road extending several miles north of the railroad and approximately two miles south of the railroad from Slover Avenue to a small settlement near the Declez quarry. Slover Avenue is an east and west road, graded, and in fair condition but not paved, that nearly parallels the Main line of the Southern Pacific and at its intersection with Live Oak Avenue is about 1000 feet south of the railroad.

Colton Avenue is an east and west paved boulevard and at its intersection with Live Oak Avenue is approximately 1500 feet north of the railroad. Colton Avenue is a main through highway extending from Colton to Ontairo, and carries the major portion of traffic des-

tined either east or west from this general vicinity.

The nearest north and south roads across the railroad are Magnolia Avenue and Etiwanda Avenue located $2\frac{1}{2}$ miles east and $2\frac{1}{2}$ miles west of Live Oak Avenue, respectively.

The Southern Pacific has a wye track at Declez by which the spur track leading to the Declez quarry about 2 miles to the south is connected to the main line. This spur parallels and is immediately east of Live Oak Avenue south of Slover Avenue.

Although Live Oak Avenue has never been publicly opened across the right of way of the Southern Pacific, it is a fact that the public has for some years actually been travelling over a somewhat circuitous private road across the railroad's right of way. This present route of travel has several turns, and requires traffic to cross the main line, passing track, east leg of the wye and the Declez spur (at Slover Avenue). If the road were constructed as now proposed, the route would be shorter and more nearly straight, and would cross the main line, passing track and west leg of the wye. With the exception of a small knoll about eight feet high located east of the proposed crossing and south of the railroad, there is no serious obstruction to view. If this knoll were graded down about four feet, the proposed crossing would not present a greater hazard than usually exists at any grade crossing, and would be less hazardous than the existing private crossings at Declez.

The Southern Pacific objected to the granting of this application, principally upon the ground that the installation of a public crossing at this location in addition to being over the main line would be over an important passing track and they would be required to cut freight trains that stood on this passing track in excess of five minutes in order to clear the crossing, this being a burden that they are not legally required to assume in regard to a private crossing. The Southern Pacific further claimed that it would be necessary in order to eliminate the delay and expense involved in thus cutting the crossing to move the passing track approximately 1200 feet westerly

at an estimated expense of \$ 3,869.00. However, the evidence did not conclusively show that such an expenditure could be economically justified, and since it has not the usual practice to remove passing tracks from public crossings, it would seem proper in this case to leave the decision of moving the passing track with the railroad, such work if undertaken to be solely at the expense of the Southern Pacific.

It is recognized that a multiplicity of yard tracks adjacent to the main line would materially increase the hazard of a crossing at this location, but the testimony shows that there are at present no plans for constructing such yard tracks. Nor does it seem probable that such additional tracks will be required in the future, for with the existing facility the rock required for the San Pedro Breakwater was handled from the Declez spur.

There are 12 scheduled passenger trains and approximately 13 freight trains moving over the railroad in this location daily. The passenger trains pass at speeds from 35 to 55 miles per hour and the freight trains at speeds from 18 to 40 miles per hour. It is estimated that the volume of traffic over the crossing will be approximately 100 movements per day. A considerable portion of this traffic is employes and vehicles of the Fontana Farms Company which owns and cultivates several thousand acres of land in the vicinity. This Company has a headquarter camp south of the railroad at Declez, and a large portion of their cultivated lands is north of the railroad.

Since the existing public crossings are now five miles apart, and since there is actually a considerable flow of public travel over the circuitous private road now connecting Live Oak Avenue, north and south of the railroad, it appears that public necessity and convenience require a public crossing over the tracks of Southern Pacific Company at Live Oak Avenue.

O R D E R

A public hearing having been held and the matter being under submission,

IT IS HEREBY ORDERED, that permission be and it is hereby granted the County of San Bernardino to construct Live Oak Avenue across the tracks of Southern Pacific Company at the location described as follows:

Commencing at a point in the North Right of Way line of the Southern Pacific Railroad near Declez Station on the center line of Section 23, T. 1 S., R. 6 W., where the center line of Live Oak Avenue intersects said north Right of Way line at a point in said Right of Way line which point bears N. $0^{\circ} 06'$ W. distant 50 feet from Engineers Station 3625 - 47.4 on the main line of the said Southern Pacific Railroad; thence N. $88^{\circ} 08'$ E. along said north Right of Way line a distance of 20 feet; thence S $0^{\circ} 06'$ E., a distance of 402.96 feet; thence S. $13^{\circ} 14'$ W., a distance of 340.0 feet; thence S. $0^{\circ} 06'$ E., 284.06 feet to a point in the north property line of Slover Avenue. Thence west a distance of 14.0 feet along the said north property line of said Slover Avenue to a point in the westerly Right of Way line of the Declez Branch of the Southern Pacific Railroad; thence northwesterly along said westerly Right of Way line of said Declez Branch on a curve concave to the west with a radius of 827.7 feet, a distance of 208.02 feet to a point; thence N. $0^{\circ} 06'$ E., 82.9 feet; thence N. $13^{\circ} 14'$ E., a distance of 340 feet; thence E. $0^{\circ} 06'$ W., 397.04 feet to a point in the north Right of Way line of the Southern Pacific Railroad Main Line; thence N. $88^{\circ} 08'$ E., 20.0 feet to the point of beginning.

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

(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 the Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twentyfour (24) feet and at an angle of approximately 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 sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) The applicant shall have removed prior to the opening of the crossing sufficient earth from the top of the knoll located immediately south of the main track of the railroad, and east of the proposed crossing so that no part of said knoll will remain in excess of five (5) feet above the elevation of the top of rail of the adjacent main track.

(4) The existing private road across the main track, passing track and east leg of the Decler wye track shall be effectively closed and abandoned.

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

(6) 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.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as 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 14th day of September 1921.

H. B. Anderson

Wm. M. ...
Chas. H. ...
J. J. ...
Commissioners.