

Decision No. 9554.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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ORIGINAL

In the Matter of the Application of)
 Board of Supervisors of Merced County)
 for permission to construct South Orchard)
 Drive in Road District No. 2, Merced) Application No. 7028.
 County, at grade across the tracks of)
 The Atchison, Topeka and Santa Fe Railway)
 Company, near Tuttle.)

M. Curtis, for Applicant.

By the Commission:

O P I N I O N

In this application the County of Merced requests permission to extend South Orchard Drive north over the tracks of The Atchison, Topeka and Santa Fe Railway Company to connect with the State Highway, located on the north side of and parallel to the railroad.

A public hearing was held at Merced before Examiner Satterwhite. No appearance was made by the Atchison, Topeka and Santa Fe Railway Company.

South Orchard Drive is a north and south road one quarter of a mile east of the west line of Section 25, Township 7 South, Range 14 East, M.D.B. & M., which extends southerly several miles from the railroad. This road does not extend north of the railroad. The proposed crossing, over the main line and a passing track, is located three-fourths of a mile west of the Tuttle Road and three-fourths of a mile east of Calimyrna Avenue, both of which are north and south roads now crossing the railroad. The Tuttle Road is a main thoroughfare extending several miles north and south while Calimyrna Avenue is a more local road extending comparatively a short distance south.

There is a private crossing now located at the site of the proposed crossing and this private crossing is used by the public. Childs Avenue is a graded and oiled road in fair condition paralleling the railroad and located one-half mile to the south. The territory served by South Orchard Drive is a highly developed agricultural territory, held in small tracts devoted to a culture of grapes, figs, peaches, apricots and similar products. These products are hauled either to Tuttle, located three-fourths of a mile to the east, or Merced, located approximately five miles to the west. At the point where this road crosses the railroad, the tracks are approximately three feet above the surrounding ground and therefore there is a clear view in all directions, except that fig trees partially obscure the view of the trains approaching from the east. At present this obstruction to view is not serious, and the condition will become more hazardous as the trees become larger and as traffic increases over the crossing.

The testimony indicates that the South Orchard Drive crossing would serve a greater public necessity and convenience than is served by the Calimyrna Avenue crossing (authorized in Decision No. 8687) and with the opening of this crossing, the traffic over the Calimyrna Avenue crossing would be so reduced that that crossing could be dispensed with.

In view of the highly developed and productive character of the territory served by South Orchard Drive, not so local in character as Calimyrna Avenue, it appears that public necessity and convenience require that this road should be extended across the tracks to the State Highway, provided, the Calimyrna Avenue crossing be closed and abandoned to public use and travel.

ORDER

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 Board of Supervisors of the County of Merced, State of California, to construct a railroad crossing in Road District No. 2, Merced County, across tracks of The Atchison, Topeka and Santa Fe Railway Company, described as follows:

A strip of land - Forty feet in width the center line of which is described as beginning at the Northwest corner of Lot Three (3) Tuttle Colony, according to the official map of said Colony of record in the office of the County Recorder of the County of Merced; thence North 100.0 feet to the South line of California State Highway known as Merced-Mariposa Lateral, and being for a grade crossing over the right of way of the Atchison, Topeka & Santa Fe Railroad. The said crossing being parallel with and one-fourth mile east of the west line of Section Twenty-five, Township Seven (7) South, Range Fourteen (14) East, Mount Diablo Base & Meridian. The Northerly end of said strip being approximately 30.0 feet South of the East and West half section line in said section,

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 Atchison, Topeka and Santa Fe Railway 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 sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) The existing grade crossing of Calimyrna Avenue over the tracks of The Atchison, Topeka and Santa Fe Railway Company, authorized in Decision 8687, be closed and abandoned to public use and travel,

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

(5) 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.

(6) 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 23rd day of September, 1921.

W. H. Howard
George Martin
Charles H. Haver

Commissioners