

Decision No. 36978.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of the People of the State of California, on relation of the Department of Public Works, for an order authorizing and directing the abandonment and removal from within the State highway of a spur track of the Southern Pacific Railroad located approximately one-fourth mile north of the Town of Selma, Fresno County, California.

Application No. 19291.

ORIGINAL

Frank B. Durkee, for Applicant.
R. S. Myers, for Southern Pacific Company.
H. A. Savage, for J. M. Eules and Citizens Lumber Co.

BY THE COMMISSION:

O P I N I O N

In this proceeding applicant seeks an order authorizing and directing the abandonment of one of two industry track connections over a State highway as part of a program to widen and improve State Highway Route No. 4 (U.S. 99), to the south of Fresno.

A public hearing was conducted in this matter by Examiner Hunter on March 27, 1934. The parties indicated that if they were allowed ten days for further negotiations it was probable an agreement could be reached as to a plan of procedure which would settle the questions now at issue. Accordingly the matter was held open for a period of two weeks during which time an agreed plan could be filed as part of the record in this proceeding. Under date of April 13, 1934, applicant advised that no

such agreement had been reached and the matter, therefore, will be decided upon the record adduced at this hearing.

State Highway Route No. 4 extends parallel to and immediately west of Southern Pacific Company's right of way of its main San Joaquin Valley line, in the vicinity of the crossings involved herein, and is the main highway through this valley. The section of the highway under consideration is now 60 feet wide and is paved to a width of 20 feet with 3-foot shoulders. Applicant has under way a plan to widen the highway to 90 feet, all of which is to be graded and improved with a 30-foot pavement. This improvement is to extend over a distance of about two miles from the end of the new paved section south of Fresno to the northerly limits of the Town of Selma and is estimated to cost approximately \$100,000. Funds are now available for this work and applicant desires to proceed with same at an early date. The traffic on the highway ranges from 3,000 to 4,000 vehicles per day.

At this time Southern Pacific Company maintains and operates an industry siding 700 feet in length, off its main line, located at a point about one-quarter of a mile north of the Town of Selma. This siding crosses State Highway Route No. 4 at two points and was constructed about thirty years ago to serve industrial property located to the west of the State highway, the present owners of which are the Associated Oil Company, Citizens Lumber Company, and J. M. Eulless.

Applicant's plan of effecting this highway improvement contemplates acquiring 30 feet of private property along the west side of Route No. 4 and shifting the said siding to the west if it is to remain. It is the contention of applicant that one crossing over the highway will afford Southern Pacific Company reasonable access to the industrial property now served by this siding and that it is in public interest to eliminate

unnecessary crossings over such an important highway, both from the standpoint of public safety and economy in maintenance.

Southern Pacific Company takes the position that if the owners of the industrial property are satisfied with the track layout, as proposed by applicant, it will not oppose the granting of this application, otherwise it desires to go along with the wishes of the property owners. Witness for the railroad testified that while a track with one connection over the highway would not afford the same flexibility of operation as is at present offered with two connections, a single contact to the main line would permit of rendering reasonable railroad service to this industrial property particularly in view of the fact that there is a passing track adjacent to the main line at this point which permits the train crew to make run around movements in switching off the main line. It was estimated that the structural cost incident to carrying out applicant's track plan would amount to about \$5,000.

Two of the three property owners were represented at the hearing, viz., J. M. Euless and Virgil C. Schoeneman for the Citizens Lumber Company, each taking the position that the rail service under applicant's plan would be inferior to that now available. At one time fruit and wine shipments were made from these properties; however, since the winery on the property of the Citizens Lumber Company burned down some two years ago, no service other than that to the Associated Oil Company has been performed on this siding. Exhibit No. 2 shows that during the years 1932 and 1933 only four cars were moved over this siding, which were deliveries to the Associated Oil Company's plant.

Several witnesses testified that if one of the two rail connections was abolished, as proposed herein, it would add to

the cost of handling freight shipments, in that cars would have to be moved oftener with one connection than with two and in the case of fruit shipments partially-loaded cars would have to be braced to prevent damage to the shipment if they were moved during the time the car was being loaded. It was also shown that there is a possibility of the winery being reconstructed on the Lumber Company's property and it was contended that a double connection would be more attractive to the lessee of this property than would be the case if one of the connections were removed. It was their further contention that the existing good railroad facilities greatly enhanced the value of this potential industrial property and that any change in the track layout which would make operation less flexible would tend to decrease the value of the property.

After carefully considering the record in this proceeding it appears that this industrial property would be afforded reasonable railroad service with one track connection over the highway. The two connections to the main line may have some advantage over one; however, this advantage must be weighed against the disadvantage of having an additional track over such an important highway, both from the standpoint of reducing hazard to vehicular traffic and the resultant saving in maintenance expense. It is in public interest to eliminate grade crossings where reasonably possible and it appears that this is such a case, therefore, the following order will provide that Southern Pacific Company will be required to remove one of the two connections, preferably the one to the north opposite the Associated Oil Company's property as this track will not be in a position to serve the Oil Company's buildings after the highway is widened. If, however, it is determined that a more suitable location can be found for a track

crossing over the highway to serve these properties, the Commission will authorize such new crossing to replace the two existing ones.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter being under submission and now ready for decision,

IT IS HEREBY ORDERED that Southern Pacific Company be and it is hereby directed to construct or reconstruct, maintain and operate over only one spur track crossing with State Highway Route No. 4 in serving the industrial properties now held by the Associated Oil Company, Citizens Lumber Company, and J. M. Eules, located a quarter of a mile north of Selma, in Fresno County, shown on Exhibit "A" attached to the application, and to remove any and all other tracks across the highway, subject, however, to the following conditions:

- (1) Southern Pacific Company shall, within thirty (30) days from the date of this order, determine the location it desires for such a single spur track crossing and so advise the parties to this proceeding and the Commission, and the work of rearranging and removing the tracks shall be completed by the railroad within ninety (90) days from the date of this order.
- (2) The entire expense of constructing or reconstructing the spur track prescribed herein, together with the cost of removing other track or tracks, shall be borne by applicant. The cost of maintenance of that portion of said crossing outside of lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company. Southern Pacific Company shall perform all actual work of constructing the crossing between lines two (2) feet outside of the outside rails.

- (3) The crossing shall be constructed of a width of not less than forty (40) feet and with grades of approach not greater than two (2) per cent; shall be constructed equal or superior to type shown as Standard No. 3 in our General Order No. 72; and shall be protected by two (2) Standard No. 1 crossing signs as specified in our General Order No. 75A. All train movements over this crossing shall be preceded by a member of the train crew or some other competent employee of Southern Pacific Company acting as flagman to protect traffic on the highway. At all times when trains are passing over or occupying the crossing during night hours Southern Pacific Company shall maintain human flagman protection on each side of the crossing to warn vehicular traffic of said train movements. The crossing shall in every way be made suitable for the passage thereon of vehicles and other road traffic.
- (4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing and of its compliance with the conditions hereof.
- (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, public convenience and necessity demand such action.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 23^d day of April, 1934.

C. Leary
Leon C. Whiteley
W. A. Carr
M. B. Linn
A. J. ...
Commissioners.