

Decision No. 29518.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application authorizing the Southern Pacific Company to grant an easement to the County of Ventura across the tracks and right of way of said company, and for an Order authorizing certain improvements to be made at said crossing between Tico and Matilija crossings.

ORIGINAL

Application No. 20796.

Al D. Barnes, District Attorney of Ventura County, by M. A. Waite, Deputy, for the County of Ventura, Applicant.

A. S. Williams, for Southern Pacific Company, Protestant.

BY THE COMMISSION:

O P I N I O N

This is an application filed by the County of Ventura, asking that the Commission authorize Southern Pacific Company to grant an easement across its tracks and right of way for public road purposes, to serve a subdivision known as Meiners Oaks at a point near Tico Station in Ventura County.

Public hearing was held at Ventura before Examiner J. G. Hunter on January 12th, 1937, at which time the matter was duly submitted and it is now ready for decision.

The railroad involved is a single track line of Southern Pacific Company known as the Ojai Branch. The record shows that there is no regularly scheduled service over the line and that rail movements consist entirely of freight averaging in number about two or three per week, depending entirely upon the volume of freight to be moved.

The area which the proposed crossing would serve is now served by two grade crossings, one of which is designated as No. BAE-409.1 and the other as Loma Drive. The latter, however, has never been assigned a Commission number as a public crossing, as it is the railroad's contention that it is a private crossing and a sign so indicating is maintained by the railroad at the crossing. These two crossings are separated by a distance of 2,759 feet. The proposed crossing, if constructed, would be approximately .25 of a mile easterly from Crossing No. BAE-409.1 and approximately .27 of a mile westerly from the Loma Drive crossing.

Exhibit No. 2, introduced by Southern Pacific Company, is a map of the area involved, upon which have been tabulated the results of a traffic check, showing the volume of traffic through the various intersections in the area. This check was made on Friday, January 9th, 1937, covering a period between the hours of 8:00 A. M., and 5:00 P. M., and shows that during this time there was a total of 264 cars over Crossing No. BAE-409.1 and 46 cars over the private crossing at Loma Drive.

Southern Pacific Company contends that the district is now amply served with the two grade crossings referred to above and that the proposed crossing would not materially reduce the distance of travel to any vehicle using the crossing, if constructed; furthermore, that adding another crossing in this district increases the hazard to the public and railroad without an equal offsetting factor in the way of public convenience and necessity.

It is applicant's contention that in spite of the comparatively small volume of traffic, as reflected by this check, the proposed crossing is necessary for the reason that it would eliminate a hazardous turn at the existing public crossing and also would save some little distance in travelling to or from Meiners Oaks from

Ventura Avenue, located immediately south of and adjacent to Southern Pacific Company's right of way.

The area immediately adjacent to the proposed crossing is devoted largely to the growing of berries, fruits and vegetables, and the poultry business. Residents of this area, who appeared as witnesses for applicant, testified that the successful conduct of their business is largely dependent upon their ability to market these products at their doors, and that, under existing conditions, prospective patrons frequently pass up the tract because of lack of familiarity with the routes by which it must be reached. In their opinion, this condition would be corrected by the opening of the crossing as proposed herein.

The views at the existing public crossing are somewhat obscured, due to the fact that the railroad is on a curve and in a cut immediately east of the crossing. There are also some trees and shrubs in the area which tend to interfere with the view of approaching trains. Furthermore, Ventura Avenue being parallel and immediately adjacent to the railroad on the south accentuates the hazard at this location. The record shows that if the proposed crossing were constructed the views would be quite seriously impaired, unless trees and shrubs in the immediate vicinity are either trimmed or removed. Two witnesses for applicant, who are the owners of the property adjacent to the railroad on the north of the proposed crossing, indicated they would be willing to have these trees removed or trimmed so as to provide unobstructed views of the track in either direction. The other trees and shrubs which would obstruct the view at this crossing are located either on Southern Pacific Company's right of way or on the highway right of way and it is anticipated that there would be no difficulty in having these trees and shrubs either removed or trimmed so as to provide proper approach views. While Ventura Avenue is adjacent

and parallel to the railroad at the site of the proposed crossing, it is applicant's contention that the hazard to motorists would be less at the proposed crossing than at Crossing No. BAE-409.1 by reason of the fact that the intersection would be at a point where both the railroad and highway are on tangent.

Witnesses were generally of the opinion that if the crossing were to be installed, automatic protection should be provided, but felt that one signal would be sufficient in view of the comparatively small volume of rail traffic over this particular line.

A review of this record leads to the conclusion that the construction of the proposed crossing would offer some convenience to the vehicular traffic which would avail itself of the use of the crossing. On the other hand, when we analyze the record dealing with the attendant public hazard, it is concluded that in this particular case, if the crossing is constructed and provided with a clear view and afforded signal protection, it would not be what might be classed as a hazardous crossing, particularly in view of the light traffic on the railroad, and it is finally concluded that public convenience and necessity justify the granting of this application.

The application will therefore be granted with the provisions that the approach view of the crossing be clear and also that the crossing be provided with automatic protection.

O R D E R

Public hearing having been held and the Commission being fully advised,

IT IS HEREBY ORDERED that the County of Ventura is hereby authorized to construct Tico Road at grade over the track of Southern Pacific Company's Ojai Branch, at the location more particularly

described in the application and as shown on the maps (Exhibits "A," "B," and "C"), attached thereto, subject to the following conditions and not otherwise:

- (1) The above crossing shall be identified as Crossing No. BAE-409.3.
- (2) The entire expense of constructing the crossing, including the protection prescribed herein, shall be borne by applicant. The cost of maintenance of that portion of said crossing up to lines two (2) feet outside of the rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the rails shall be borne by Southern Pacific Company. No portion of the cost herein assessed to the applicant for the maintenance of said crossing shall be assessed by applicant, in any manner whatsoever, to the operative property of Southern Pacific Company. Southern Pacific Company shall perform all actual work of constructing the crossing between lines two (2) feet outside of the rails.
- (3) The crossing shall be constructed of a width of not less than twenty-four (24) feet and at an angle of approximately eighty (80) degrees to the railroad and with grades of approach not greater than six (6) per cent, shall be constructed equal or superior to type shown as Standard No. 2 in our General Order No. 72, and shall in every way be made suitable for the passage thereon of vehicles and other road traffic.
- (4) A Standard No. 4 wigwag (side-of-street type), as specified in General Order No. 75-A of this Commission, shall be installed at the sole expense of applicant for the protection of said crossing of Tico Road (Crossing No. BAE-409.3). The crossing shall also be protected by a Standard No. 1 Crossing Sign, as specified in our General Order No. 75-A. The maintenance of these protective devices shall thereafter be borne by Southern Pacific Company.
- (5) Before this crossing is opened to public use, a clear view of the tracks shall be provided so that for the last 100 feet of the approach to the crossing from the north the driver of a vehicle shall have a clear and unobstructed view of the railroad track in each direction for a distance of 400 feet. It shall be applicant's responsibility to provide and maintain this clear view in so far as it involves the private property located to the north of the railroad and within the right of way of Ventura Avenue. It shall be Southern Pacific Company's duty to provide and maintain this clear view in so far as it involves the railroad right of way.

- (6) 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.
- (7) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof, unless further time is granted by subsequent order.
- (8) 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.

For all other purposes the effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 5th day of February, 1937.

Mattie M. M.
Leon C. White
Oran R. Allen
Ray B. Walker
Ray C. Kelly
Commissioners.