

Decision No. 28851.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
BOARD OF SUPERVISORS OF KERN COUNTY,
California, (Viewers' Petition) for
permission to construct a road across
tracks of Southern Pacific Company
beginning at S.E. corner of Sec. 27,
Tp. 29 South, Range 28 East, running
thence westerly to connect with East
California Avenue.

Application No. 20889.

ORIGINAL

W. A. McGinn, Assistant District Attorney, and
J. R. Williams, for Applicant.
Ansel Williams, for Southern Pacific Company,
Protestant.

BY THE COMMISSION:

O P I N I O N

The Board of Supervisors of Kern County, on November 24, 1936, under provisions of Section 2694 of the Political Code of California, filed a certified copy of a petition of freeholders of said County for the construction of a certain road (Pioneer Drive), together with a certified copy of the Order of the Board of Supervisors appointing viewers to view said road, which road crosses the right of way and tracks of Southern Pacific Company in the vicinity of Bakersfield, County of Kern, State of California.

A public hearing was held in this matter by Examiner Hall in Bakersfield on February 16, 1937.

It is proposed to construct the crossing herein involved at grade across the double track main line of Southern Pacific Company approximately 2.4 miles east of Union Avenue, Bakersfield. Southern Pacific Company's main line from Bakersfield to the east is straight for many miles and runs on a line at a slight angle

south of east. The highways in that territory are laid out generally north and south, and east and west, except that the Bakersfield-Mojave State Highway is south of, adjacent to, and parallel with the railroad right of way. California Avenue runs easterly from Bakersfield and connects with the Bakersfield-Mojave Highway in the vicinity of the proposed crossing. Pioneer Drive is an east and west highway on the opposite side of the railroad on approximately the line of California Avenue extended. It is the proposal to connect California Avenue with Pioneer Drive by the construction of the proposed crossing.

The first crossing to the east of the proposed one is that of Oswell Street, running in a northerly and southerly direction. It is located approximately three-tenths of a mile east of the proposed crossing. Oswell Street runs north from the Mojave State Highway, crossing the railroad at grade, and intersects Pioneer Drive as well as other east and west roads north of the railroad. Seven-tenths of a mile west of the proposed crossing is located the crossing of Mount Vernon Avenue, a north and south highway. Mount Vernon Avenue extends both north and south of the railroad and connects with California Avenue as well as other east and west roads on both sides of the railroad; all of which is shown on Exhibit No. 1 filed at the hearing.

In applicant's original plan it was proposed to connect California Avenue with Pioneer Drive on a straight line, crossing the railroad at a very flat angle. At the hearing, applicant modified the alignment of the extension of Pioneer Drive so that the crossing could be constructed at an angle of approximately 35 degrees to the railroad and as shown by Study No. 4 on applicant's Exhibit No. 3. At the point of crossing there would be two main line tracks and a siding.

It is applicant's desire to provide this crossing in order

to afford the people residing north of the railroad a more direct route to and from Bakersfield, and it proposes, in the event this application is granted, to close the existing crossing of Oswell Street. Although the Oswell Street crossing is nearly at right angles to the railroad, applicant contends that it is not a satisfactory crossing for general public use. Applicant alleges that the approach grades of this crossing are rather steep and that the distance between the State highway and the tracks is too short for making the turn from one highway to the other.

Considerable testimony was introduced to show that the community would be better served by the proposed extension of Pioneer Drive across the railroad than by the continued use of Oswell Street, based upon the contentions that:

1. The distance to or from Bakersfield would be shortened.
2. The proposed crossing would be less hazardous.
3. The approaches could be constructed with more satisfactory grades.
4. More convenient turns could be made from and to the State highway.
5. A larger volume of vehicular traffic would result.

Southern Pacific Company objected to the granting of the application on the grounds that: (1) the proposed crossing would be more hazardous than the existing Oswell Street crossing; (2) the cost of maintenance would be higher due to the flat angle of the crossing to the railroad; (3) the highway distance between the points affected would not be materially lessened; and (4) the territory to be served is sparsely settled and is now served by four existing grade crossings within a distance along the tracks of 2.1 miles. Southern Pacific Company further contended that if application is granted, the crossing should be protected by two automatic signals with two-train indicators.

The record shows that there is an average of 28 trains per day passing over the point of proposed crossing, consisting of passenger and freight trains, and switching movements, with speeds of from 50 to 20 miles per hour. No traffic counts were available for the adjacent crossings, but it was estimated that there are 100 vehicle movements over the Oswell Street crossing per day.

An estimate of the cost of constructing the proposed crossing at the location, by Study No. 4 on Exhibit No. 2, was produced which shows:

2 wigwag signals with 2-train indicators	\$5,100.
Preparing track for pavement, paving between rails and 2 feet outside thereof	1,500.
Raising wires, telegraph and signal	<u>400.</u>
Total	<u>\$7,000.</u>

The record shows that if the proposed road extension and the grade crossing were constructed, the travel distance would be somewhat lessened and that at least two right-angled turns would be eliminated. Although the view of approaching trains is physically unobstructed at both the proposed crossing and that of Oswell Street, the former would be of a somewhat more hazardous nature than Oswell Street, due to its relatively flat angle of crossing (approximately 35 degrees) which would tend to reduce the ability of a vehicle driver approaching the crossing to observe a train approaching from the same direction.

The record shows that the proposed crossing and road extension would be more convenient for the residents located north of the railroad; that a direct connection would be made to California Avenue leading into Bakersfield; and that better grades of approach would be constructed than by the continued use of the Oswell Street crossing.

It is apparent that the area north of the railroad is

developing and vehicular traffic will increase between that area and Bakersfield. Although no automatic protection is provided at the Oswell Street crossing, it is concluded that such protection, consisting of two wigwag signals, as prescribed in our General Order No. 75-A, should be provided at the crossing herein involved when constructed and opened to road traffic.

A review of the record shows that public convenience and necessity require the granting of this application, provided the Oswell Street crossing is closed, and the following Order will so provide.

O R D E R

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

IT IS HEREBY ORDERED that the County of Kern, State of California, is hereby authorized to construct Pioneer Drive at grade across the tracks of Southern Pacific Company, at the location as shown by the map (Exhibit No. 3 - Study No. 4, filed at the hearing in this matter), subject to the following conditions and not otherwise:

- (1) The above crossing shall be identified as Crossing No. B-314.1.
- (2) The entire expense of constructing the crossing 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.
- (3) The crossing shall be constructed of a width of not less than twenty-four (24) feet and at an angle of approximately thirty-five (35) degrees to the railroad and with grades of approach not greater than four (4) 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) Applicant, at its sole expense, shall provide and cause to be installed, two (2) No. 3 wigwag signals, as specified in our General Order No. 75-A, for the protection of said crossing. Said signals shall thereafter be maintained in first-class operating conditions at the sole expense of Southern Pacific Company.
- (5) Prior to the beginning of actual construction of the crossing herein authorized, the County of Kern shall file with this Commission a certified copy of an appropriate ordinance or resolution duly and regularly passed, instituting all necessary steps to legally abandon and effectively close the existing grade crossing of Oswell Street and identified as Crossing No. B-315.4, upon completion of the crossing herein authorized, and upon its being opened to public use and travel said Crossing No. B-315.4 shall be legally abandoned and effectively closed to use and travel.
- (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.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 14th day of June, 1937.

Walter H. Brown
Leon Abbeville
Frederick H. Brown
Paul W. H. H. H.
Ray L. Riley
 Commissioners.