

ORIGINAL

Decision No. 31687.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of The
 Atchison, Topeka and Santa Fe Railway
 Company, a corporation, for an order
 authorizing and directing it to close
 and abolish that portion of a private
 road lying within and across its 100
 foot right of way and its tracks at mile
 post 117 plus 1061 feet, and being direct-
 ly north of Orange Avenue, in the City of
 Azusa, County of Los Angeles, State of
 California.

Application No. 21577.

BY THE COMMISSION:

ORDER

This application, filed by The Atchison, Topeka and Santa Fe Railway Company on November 10th, 1937, asks that the Commission determine the status of a crossing at grade directly north of Orange Avenue, in the City of Azusa, and that an order be issued directing the closing of said crossing.

As indicated by Exhibit "A," attached to the application, a private crossing agreement was entered into between the applicant and an individual of Azusa on December 15th, 1919, at which time the railroads were under control of the Federal Government, through its Director-General of Railroads. On January 20th, 1934, formal notice was sent to this individual, notifying him of the termination of the contract, but the crossing was never physically closed.

The crossing involved is narrow and rough and the grades of approach are steep and, although it is almost exclusively used by a single individual and members of his family, it could well be

classed as extremely hazardous. A large number of high-speed trains are operated over the tracks daily and the physical surroundings and view conditions make the crossing very dangerous to the persons using the same, as well as to persons riding upon the trains of applicant.

A number of conferences have been held between representatives of the city, the owners of the property served by the crossing, the railroad and the Commission's Engineering Department and, as a result thereof, a plan has been worked out whereby access may be had to the property north of the railroad tracks by means of a twenty-foot strip adjacent to the railway company's right of way, which the railway company proposes to acquire and convey to the City of Azusa for street purposes. In addition to acquiring this strip, the company has agreed to pay to the City of Azusa the sum of \$150 to cover the cost of remodeling the existing curb at Foothill Boulevard and grading and oiling the twenty-foot strip so as to provide a public way to the property involved. The legal owners of the property, as indicated by their letter to the Commission dated July 26th, 1938, have indicated that such a plan would be acceptable to them. Similarly, the City of Azusa, in its letter of December 16th, 1938, has indicated that the proposal is agreeable to it.

Although the crossing involved was covered by private crossing agreement until 1934, it nevertheless has been open to and used by the public for a considerable period and may have attained public status through usage. Inasmuch as the parties are all in agreement as to the hazard which exists and the lack of necessity for the crossing if the alternate means of access to the property involved is provided, there would appear to be no necessity for formal hearing and this Order will direct the closing of this crossing, in conformity with the prayer of the application.

The existing crossing (public or private), lying within and across the 100-foot right of way of The Atchison, Topeka and

Santa Fe Railway Company and its tracks at Mile Post 117 plus 1061 feet, located directly north of Orange Avenue in the City of Azusa, County of Los Angeles, State of California, shall be physically abandoned and effectively closed by the installation and maintenance of suitable physical structures. These structures shall be installed and thereafter maintained by the applicant.

Within sixty (60) days from the date of this Order, the City of Azusa shall file with this Commission a certified copy of an appropriate ordinance or ordinances, duly and regularly passed, instituting all necessary steps to legally abandon and effectively close the grade crossing involved herein.

Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the closing of the crossing, as directed herein, and of its compliance with the conditions hereof.

This Order shall be effective immediately.

Dated at San Francisco, California, this 23rd day of January, 1939.

James P. Palmer
Ray C. Kelley
J. J. Hall
Justice J. Coenen

Commissioners.