

Decision No. 37800**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application for a railroad)
 crossing over the S. P. Railroad near the center) Application
 of Section 23, Township 21 South, Range 27 East,) No. 25939
 M. D. E. & M.)

LeRoy McCormick, Assistant District Attorney,
 for Applicant

R. S. Myers, for Southern Pacific Company

BY THE COMMISSION:

O P I N I O N

In this application the County of Tulare proposes to construct a crossing at grade over the Porterville Branch of Southern Pacific Company about one mile north of the north city limits of Porterville.

A public hearing was held in this matter before Examiner Hall on April 5, 1945, at which time the matter was submitted for determination.

In this general territory State Highway Route No. 65 runs in a northwest and southeast direction between Strathmore and Porterville; likewise the Porterville Branch of Southern Pacific Company runs between these two points and at the location of the proposed crossing it is parallel to and west of State Highway Route No. 65.

The territory in the vicinity of the proposed crossing and west of the railroad is laid out with east and west streets approximately one-fourth of a mile apart and the streets involved are as follows:

<u>Name of Street</u>	<u>County Road No.</u>	<u>Crossing No.</u>
Pioneer Road	21-3/4E	BC-272.8
Westfield Drive	21-1/2E	Proposed Crossing
Mulberry Road	21-1/4E	BC-273.4

Pioneer Road and Mulberry Road extend westerly from State Highway Route No. 65 to a north and south road along the west side of Section 22, a distance of about one-half mile west of the State highway. Neither of these streets extend easterly beyond the State highway. It is proposed to extend Westfield Drive, located midway between Pioneer Road and Mulberry Road, easterly across the railroad to a connection with State Highway Route No. 65. Westfield Drive extends west only to the north and south center line of Section 22, or a distance of about one mile west of the State highway where it connects with Prospect Road, a north and south county road in the center of Section 22. These three east and west streets are connected by north and south roads immediately west of the railroad.

Applicant contended that the new crossing was necessary for residents of Westfield Drive to reach State Highway Route No. 65 in going to Porterville.

Witnesses for applicant stated that the crossings of Mulberry Road and Pioneer Road were hazardous and instead of using either of these crossings to reach Porterville they now traverse streets southerly and west of the railroad and then turn east to the business district, crossing the railroad at one of the streets in Porterville.

The record shows that there are some thirty odd residents living adjacent to Westfield Drive. It also indicates that the crossings of both Pioneer Road and Mulberry Road are hazardous whereas a crossing at Westfield Drive would have slight grades of approach and vehicles would have a clear vision of approaching trains.

Southern Pacific Company protested the granting of the application unless either Pioneer Road crossing or Mulberry Road crossing were closed.

Southern Pacific Company operates in this territory an average of three freight trains per day throughout the year, except during the fruit season when there is an average of seven trains per day.

The maximum allowable speed on this section of the Porterville Branch is 30 miles per hour.

A review of the evidence clearly indicates that the two existing crossings are hazardous, both from the standpoint of steepness of grades of approach and obstruction to view of approaching trains by trees and buildings. Furthermore, the Mulberry Road crossing has a very steep grade of approach to State Highway Route No. 65, which is marked as a boulevard and all vehicles must stop before entering it. On the other hand, however, if the proposed crossing were constructed and Westfield Drive extended to the State highway, the grades of approach to the crossing would be relatively light, the view of approaching trains unobstructed, and it would have a satisfactory connection with State Highway Route No. 65.

We are of the opinion, due to the connecting roads west of the railroad, that the territory could be better served by one crossing on the extension of Westfield Drive than by the two existing crossings of Pioneer Road and Mulberry Road, and that the two latter crossings should be closed in the event Westfield Drive is opened.

It appears that public convenience, necessity, and safety require that Westfield Drive be opened and, upon the opening of said crossing, the crossings of Pioneer Road and Mulberry Road be closed to public use and travel. The following order will so provide.

O R D E R

A public hearing having been held in the above-numbered application and the matter being now under submission;

IT IS HEREBY ORDERED that the Board of Supervisors of the County of Tulare, State of California, is hereby authorized to construct Westfield Drive (County Road No. 21½E) at grade across the track of the Porterville Branch of Southern Pacific Company at the location as described in the application and as shown by the maps attached thereto, subject to the following conditions:

- (1) The above crossing shall be identified as Crossing No. BC-273.1.
- (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 feet outside of the rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two feet outside of the outside rail shall be borne by Southern Pacific Company.
- (3) The crossing shall be constructed of a width of not less than 24 feet and at an angle of approximately 50 degrees to the railroad, with grades of approach not greater than 4 per cent; shall be constructed equal or superior to type shown as Standard No. 2 in our General Order No. 72; shall be protected by one Standard No. 1 crossing sign (G. O. No. 75-B), and shall in every way be made suitable for the passage thereon of vehicles and other road traffic.
- (4) Prior to the beginning of actual construction of the crossing herein authorized, the County of Tulare 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 public grade crossings of Pioneer Road (Crossing No. BC-272.8) approximately one-fourth of a mile north, and Mulberry Road (Crossing No. BC-273.4) approximately one-fourth of a mile south of the crossing herein authorized. Upon completion of the crossing herein authorized and upon its being opened to public use and travel, said Crossings Nos. BC-272.8 and BC-273.4 shall be legally abandoned and effectively closed to public use and travel.
- (5) Applicant shall, within 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.
- (6) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the effective date hereof, unless further time be granted by subsequent order.
- (7) This authorization may be revoked or modified at any time if public convenience, necessity, or safety so require.

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

Dated at San Francisco, California, April 17 1945.

Harold Gudmund
Inspector J. E. ...
Richard ...
...
...
 Commissioners