

Decision No. 41552

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Board of Supervisors of the County of Santa Clara, State of California, for an order of the Public Utilities Commission authorizing the applicant to construct a public highway across a Railroad. (Fitzgerald Road over S.P. Company Railroad)) Application No. 28736

Edwin H. Williams, Assistant County Counsel for the County of Santa Clara; R. S. Myers, for Southern Pacific Company; Robert B. Chandler, in propria persona

O P I N I O N

In this application the County of Santa Clara requests authority to construct a public crossing of Fitzgerald Road at grade, across the double track main line of Southern Pacific Company, in the vicinity of Coyote. Public hearing was held at San Jose on April 5, at which time the matter was submitted.

In this vicinity the main coast route of Southern Pacific Company extends in a general northwesterly southeasterly direction, which for convenience will be termed north and south, and Monterey Road (State Highway Route 2, U.S. No. 101,) is located parallel to and immediately east of the railroad. Numerous crossings of roads, both public and private, serving the area to the west of the railroad, have been established, many of them existing since the building of the railroad. Fitzgerald Road with which we are concerned in this proceeding is such a road and crossing. Originally a private road, it has, as the country developed, become more or less public in use and has now been taken over as a county highway. The crossing with the railroad track was probably installed when the railroad was constructed, and the County now desires to have this recognized as a public crossing.

About 2000 feet to the north there is another crossing of a road known as Martinvale Road which has a similar history. This crossing however, was legalized as a public crossing on application of the County in 1928 (Decision 20381 - Application 14646). Both Martinvale Road and Fitzgerald Road extend westerly at right angles to the railroad and serve an agricultural area. Martinvale Road extends for a

distance of about half a mile as a county road and then as a private lane into privately owned property. It has no outlet to other public roads west of the track excepting that, about a quarter mile west of the railroad, Cobb Road connects Martinvale Road with Fitzgerald Road. This road is dedicated and traveled but has not been improved by the County. Fitzgerald Road does have a connection at its westerly end to other public roads in the County Highway system.

Both crossings are with a double track main line over which train movements are frequent and fast. There are fourteen scheduled first-class trains daily at speeds up to 75 M.P.H. and as many or more freight trains with permissible speeds of 50 M.P.H. At both locations the railroad tracks are from three to four feet above the adjacent highway, but a better approach grade is possible at Fitzgerald Road than at Martinvale Road. View conditions are also more open at the Fitzgerald crossing. The county engineer testified that both crossings served the same territory but Fitzgerald Road was more important from a traffic viewpoint. He stated that, if Fitzgerald Road is opened, the Martinvale crossing could be closed.

When authorizing the Martinvale crossing in 1928, the Commission called attention to the crossing situation in this vicinity and cautioned against the establishment of numerous public crossings, as follows:

The entire crossing situation in Santa Clara County along the main line of Southern Pacific Company southward from San Jose to Gilroy is far from ideal. In this territory there are numerous so-called private crossings which are becoming public in nature, and, in many instances, these crossings are but a few hundred feet apart. It is believed that many of these crossings could be eliminated if a comprehensive plan was evolved under which public crossings could be opened at certain points and connecting roads established in the territory on the opposite side of the track from the main highway. The Commission has frequently announced its policy of keeping the number of public crossings at a minimum consistent with public convenience and necessity, and it, accordingly, will not look with favor on the establishment of a multiplicity of public crossings in this territory, where existing private crossings are assuming the aspect of public crossings for want of an adequate system of public roads in the districts across the tracks from the main highway. It would appear that the County of Santa Clara should, therefore, develop a plan for serving this territory with a minimum number of public crossings consistent with public needs. On the

other hand, the railroad company should be cautioned against permitting these numerous private crossings to develop into semi-public crossings.

In the light of the above, two crossings cannot consistently be authorized within such a short distance. The testimony of applicant's witness indicates that the Martinvale Road crossing can be closed and that the Fitzgerald Road crossing is the more logical location for a public crossing. The Commission will grant this application only on condition that the Martinvale crossing is abolished.

The Martinvale crossing is now protected by one Standard No. 3 wigwag and two second train indicators. If the Fitzgerald Road crossing is established as a public crossing, it should also be provided with signal protection, and it would appear reasonable that if the Martinvale crossing is abolished, Southern Pacific Company could very well be required to bear the expense of moving the protection from the Martinvale crossing to the new crossing. In the present order, however, the Commission will leave open the apportionment of the cost of protection and thereby give the county and the railroad an opportunity to reach an agreement. Failing to agree the Commission will apportion the cost.

ORDER

Hearing having been held in the above entitled application and the matter submitted and ready for decision, it is ordered that the County of Santa Clara is authorized to construct a public crossing of Fitzgerald Road with the main tracks of the Southern Pacific Company, in the vicinity of Coyote Station at the location more particularly described in the application and shown on the map "Exhibit A" attached thereto, subject to the following conditions:

1. The above crossing shall be identified as Crossing No. E-61.0.
2. The crossing shall be constructed of a width of not less than 24 feet and at an angle of approximately 90 degree to the railroad, with grade of the approach not in excess of 6 per cent on the westerly side and as light as is physically possible on the easterly approach. Construction shall be equal or superior to the type shown as Standard No. 2 in the Commission's General Order No. 72.

The crossing shall be protected by two Standard No. 3 or Standard No. 8 signals as specified in the Commission's General Order No. 75-B.

- 3: The entire expense of constructing the Crossing exclusive of the protection herein ordered shall be borne by applicant. The cost of maintenance of that portion of the crossing up to lines 2 feet outside of the outside rails shall be borne by applicant. The cost of maintenance between said lines, shall be borne by Southern Pacific Company.
- 4: The cost of providing the protection required herein shall be borne in accordance with agreement between the parties. Failing to reach such agreement, the Commission will on request of either party apportion the cost of installation and maintenance by further order.
- 5: Upon completion of the crossing herein authorized, the existing crossing of Martinvale Road (Crossing No. E-606) shall be abolished and physically closed to public use and travel.
- 6: Within thirty days after completion pursuant to this order, applicant shall so advise the Commission in writing. This authorization shall become void if not exercised within one year, unless time be extended, or if above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

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

Dated at Los Angeles, California, this 4th day of May, 1948.

R. J. Anderson
Justin F. Caswell
Walter D. Gifford
Harold F. Kuhl
Samuel H. Potter
 COMMISSIONERS