

ORIGINAL

Decision No. 45979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the City of Los Banos, California, for)
permission to construct additional) Application No. 32036
railroad crossings.)

George G. Murry, City Attorney, for applicant.
Michael Dambrosio, City Clerk, City of Los Banos.
R. S. Myers, for Southern Pacific Company, protestant.
William R. Peters, for Public Utilities Commission of the
State of California.

O P I N I O N

The City of Los Banos seeks an order authorizing it to construct crossings at grade over the tracks of the Southern Pacific Company at 8th, 9th and 10th Streets and to relocate the grade crossing at 2nd Street, in said city, all in such manner as is particularly delineated on a map attached to the application.

A public hearing was held at Los Banos before Examiner Silverhart and the matter submitted.

The streets involved, namely, 8th, 9th and 10th Streets parallel each other and run southerly from B Street, D Street and F Street, respectively, to a point where each terminates at the northerly line of the railroad right-of-way. Each then continues from the southerly line of such right-of-way two blocks to J Street, three blocks to Pacheco Pass Highway and one block to I Street, respectively. There are now three grade crossings west of 9th Street and two east thereof, viz.:

<u>Crossing Number</u>	<u>Street</u>	<u>Approximate Distance From 9th Street</u>
BA140.1	2nd	3/5 mile west
BA140.2	4th	9/20 mile west
BA140.7	7th	1/4 mile west
BA141.2	North Mercy Springs Road	9/20 mile east
BA141.3	Pacheco Pass Highway	1/2 mile east

Michael Dambrosio, City Clerk, Robert E. McSwain, Chief of Police, John Erreca, Mayor, and Frank Merrick, Fire Chief, testified in support of the application.

The city clerk testified that the present population of Los Banos is 3,982; that in 1940 there were no residents in the area east of 6th Street, north of the railroad tracks, west of Mercy Springs Road and south of the northerly city limits; that there are now 555 residents in such area; that such number will increase considerably during the melon season; that in such area there are now 185 dwellings including shacks and tents; that children residing north of the tracks and east of 6th Street use the 7th Street crossing in traveling to the grammar school⁽¹⁾; that trucks utilize such crossing going to and from the packing sheds; that itinerants congregate at the 7th Street crossing; that such crossing is often blocked by switching activities and locomotives taking on water. Upon cross examination the witness stated that there are only two residences on G Street (north of the tracks) between 7th and 8th Streets; that there is a walk for foot travel at the 7th Street crossing; that he desires a crossing mostly for pedestrians; that the melon season extends from mid July to November with the peak being reached in August; that if a crossing could be obtained at 9th Street he would not care about crossings at 8th and 10th Streets.

The chief of police testified that the many trucks using the 7th Street crossing during the packing season cause congestion; that several times when such crossing was occupied by a train traffic

(1) The Los Banos Grammar School is situated on J Street between 7th and 9th Streets and is two blocks from the 7th Street crossing.

(2)
backed up at H Street. The witness stated that he favored a crossing at 9th Street because it would provide children a direct route to the school and the proposed recreation area at the foot of 9th Street and one less hazardous than through the business section.

The mayor testified that the Fair Grounds are located north of F Street between 3rd and 5th Streets and extend to D Street; that the annual fair held on a weekend in the first part of May is attended by 30,000 to 40,000 persons; that during the Fair the crossings at 2nd, 4th and 7th Streets are congested. While the witness stated a crossing at 9th Street would be the best of those proposed herein, he conceded the principal crossings to the Fair Grounds would be the 2nd, 4th and 7th Street crossings.

According to the testimony of the fire chief a rapid increase in the number of residences and industries has occurred in the area north of the railroad tracks, east of 6th Street, west of the eastern city limits and south of the northern city limits. The witness stated that the fire station is located south of the tracks making it necessary to drive through the business district in order to use the 7th Street crossing; that there are delays at the 4th and 7th Street crossings; that the fire department is manned by volunteers most of whom reside east of 6th Street and south of the railroad. He declared that at least one more crossing is essential.

The applicant did not present or call any public witnesses.

(2) H Street is California State Highway 33 and is the first street south of the railroad right-of-way and runs parallel thereto.

Southern Pacific Company protested the granting of the application. The assistant superintendent of its Western Division testified that one regular passenger train in each direction, eight westbound and four eastbound through freight trains, one local freight train from Tracy and one local freight train from the Fresno area are operated daily. The witness stated as an average, westbound trains contain 70 cars and eastbound trains consist of 85 cars, a car being approximately 49 feet long. He asserted that if a grade crossing were opened at 9th Street it would be necessary, where a through train is involved, for the brakeman to proceed to such point, there cut the train, which operation⁽³⁾ would require several minutes, with a like period consumed thereafter in coupling the train. The same witness testified that during seven or eight months of the year switching operations take place at 3 o'clock or 4 o'clock a.m. and 2 o'clock or 4 o'clock p.m. that the Brooks-Cumming Company packing shed located on the north side of the tracks at 9th and G Streets has two loading tracks and a parallel drill track over which loaded and empty cars are switched out and in at the site of the crossing proposed at 9th Street; that such crossing would prevent the spotting of four cars east of 9th Street; that during the melon season the tracks are almost continually used; that reduction of trackage would increase switching. According to his testimony there are two packing sheds on the north side of the tracks at 9th and G Streets and one on the south side thereof. Also, the end of Standard Oil Company's spur tracks, the lead to the Azhdarian shed, the main track for through trains, and

(3) Such operations would be in addition to those now required in cutting a train at 7th and 4th Streets then coupling the train at 4th and 7th Streets.

an operating siding for the meeting and passing of trains are located at 9th Street. The witness testified further that during the Fair protestant provides special officers to protect traffic and pedestrians at the 2nd, 4th and 7th Street crossings; that local freight trains are dispatched so that such trains do not go through for several hours preceding and more than one hour after the Fair parade; that the crews of westerly bound trains are instructed to stop short of the crossing at 7th Street, detach the engine to take on water at the tank west of such crossing; that protestant anticipates using Diesel powered engines this fall which will accomplish elimination of water facilities. Such crossing, he said, not only would not be of advantage to protestant, but would subject it and its personnel to increased hazards and work an inconvenience upon its shippers whose facilities were there located.

Protestant's Western Division assistant division engineer testified that the view at 9th Street is impaired on the north side of the tracks looking westerly, by packing sheds, on the south side looking westerly by trees and section quarters, and looking easterly by the Standard Oil Company buildings.

Exhibit 1, a map of the districts adjoining the proposed crossing, shows that within the area bounded by 6th Street on the west, E Street on the north, Mercy Springs Road on the east and the railroad right-of-way on the south, there are approximately 95 empty lots, 36 houses, 31 one-room houses, 25 shacks, one quonset hut and four tents.

The evidence does not demonstrate that the existing crossings are insufficient to serve the public or that additional proposed grade crossings are necessary in order to adequately meet

the public's requirements. To the contrary, construction of additional crossings of streets with railroad would tend to expose the public to increased dangers and hazards.⁽⁴⁾ The evidence does not show that the conditions of which applicant complains would be eliminated by opening another crossing at grade. It appears to us that such result could better be obtained by a more effective utilization of the present crossings.

The City of Los Banos did not tender any substantial evidence with reference to that portion of its application dealing with crossings at 8th and 10th Streets.

The record shows that the parties hereto have negotiated an agreement as to the relocation of the grade crossing at 2nd Street and the apportionment of the costs thereof. The application will be granted to such extent; in all other respects it will be denied.

O R D E R

A public hearing having been held and based upon the evidence therein adduced and the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

(1) The City of Los Banos is authorized to relocate the crossing of 2nd Street at grade with the tracks of Southern Pacific Company (Crossing No. BA140.1), in the City of Los Banos, County of Merced, as described in the application and in accordance with the

(4) A legislative committee has been appointed to make a study looking toward reduction of grade crossing hazards.

plan attached thereto. Width of the crossing shall be not less than 24 feet and grades of approach not greater than four per cent. Construction shall be equal or superior to Standard No. 2 of General Order No. 72.

(2) Construction expense shall be apportioned as set forth in the agreement hitherto entered into by the parties herein. Maintenance cost outside of lines, two feet outside of rails shall be borne by applicant. Southern Pacific Company shall bear maintenance cost between such lines.

(3) Within 30 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 the time be extended, or if the above conditions are not complied with.

(4) In all other respects Application No. 32036 is denied.

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

Dated at San Francisco, California, this 24th day of July, 1951.

R. T. [Signature]
Justice J. [Signature]
Harold [Signature]
[Signature]
[Signature]
COMMISSIONERS