

**ORIGINAL**Decision No. 49661

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Investigation into the )  
 Van Norman Road grade crossing with )  
 Union Pacific Railroad Company and )  
 Los Angeles and Salt Lake Railroad )  
 Company in Los Angeles County. )

Case No. 5477

E. E. Bennett for Union Pacific Railroad Company and Los Angeles and Salt Lake Railroad Company, respondents. Alfred C. Davenport, City Attorney for the City of Montebello, protestant. Graham R. Mitchell for Brotherhood of Locomotive Engineers; T. H. Templin for Los Angeles County Road Department; Matthew Diontoni; interested parties. Arthur F. Ager, Assistant to the Director, and Halsey L. Rixford, Assistant Counsel, for the Public Utilities Commission.

OPINION AND ORDER ON REHEARING

Pursuant to an order of investigation dated July 14, 1953, and public hearing held thereon on September 14, 1953, this Commission issued its order in Decision No. 49164, dated September 29, 1953, in Case No. 5477. This order directed that the respondent railroads abolish by physical closing the crossing of Van Norman Road with the railroad main line (Crossing No. 3-9.3), in the County of Los Angeles. Subsequently a Petition for Rehearing was filed by the City of Montebello, alleging the findings and order of the Commission in Decision No. 49164 to be erroneous because (1) no notice of the hearing was given to the City of Montebello, (2) findings as to certain physical facts in the area were incorrect, and (3) the Commission failed to

consider that the alternate route which would have to be used if the crossing were closed was 1.3 miles longer and that this longer distance would seriously impede and inconvenience the city in providing police and fire protection to the residents in the area.

A public hearing on the Petition for Rehearing was held on January 8 and 14, 1954, in Los Angeles, before Examiner Syphers, at which time evidence was adduced and on the last named date the matter was submitted. It is now ready for decision.

The record discloses that notices of the rehearing were mailed to all interested parties, including the City of Montebello, and further that notices of this rehearing were posted at the crossing concerned.

In addition to the description of the crossing which is set out in Decision No. 49164, testimony was presented by an engineer of the City of Montebello and a representative of the engineering department of the Union Pacific Railroad in relation to the physical description of the crossing. From this testimony it is found that Van Norman Road is about 20 feet wide and is surfaced with an oil macadam pavement. The right of way for this road is 40 feet in width, the westerly 15 feet of which includes the westerly five feet of the paving, being within the city limits of Montebello. The easterly portion is in the County of Los Angeles. The road crosses the railroad track at a point which is approximately 14 feet above the level of the road, and on the approaches to this crossing on either side the grade is as steep as 14 percent. At the point of

crossing the pavement is 17 feet wide. The witness for the railroad testified that at a point 30 feet south of the center of the crossing the pavement was only 15 feet wide, and this was also true at a point 30 feet north of the center of the crossing.

It was stipulated between the parties that the residents in the area affected number 156 who live in 46 dwellings. All of these dwellings are south of the railroad tracks, 40 of them being west of Van Norman Road and six to the east.

The chief of police and the fire chief of the City of Montebello both testified as to the desirability of keeping the crossing open. The fire chief pointed out that if this crossing is closed it will necessitate additional travel of 1-1/3 miles to reach the area concerned. This would take from 3 to 3-1/2 minutes longer, considering traffic conditions in the area. He pointed out that the fire department, in addition to its fire prevention duties, maintains an inhalator service. He was also concerned with the danger of floods, and observed that in about 1938 the underpass at Whittier Boulevard and the railroad track, which would have to be used if the Van Norman crossing is closed, was flooded so as to be impassable. The chief of police likewise testified as to the additional distance which would be required to be traveled, and also mentioned flood conditions which had prevailed at the Whittier Boulevard underpass. He further testified that there is a drive-in theater located between Whittier Boulevard and Coffman Pico Road which has its main entrance and exit on Whittier Boulevard, but also

has an exit on Coffman Pico Road. During the time that people are leaving this theater the roads in question may become congested.

An engineer for the Los Angeles County Flood Control Department testified as to the flood control measures which have been taken affecting this area, and pointed out that there has been set up spreading grounds into which flood waters are allowed to run and settle. In case of high waters the flow from these spreading basins would be southwest to the Rio Hondo River and not to the area concerned. A witness for the Los Angeles County Road Department likewise testified as to the physical conditions, observing that the County rebuilt Loch Lomond Road in 1948. In the opinion of this witness that road has not been impassable due to flood conditions, but he stated that he had not been there at the peaks of any rain.

Additional testimony was presented by an engineer for the Union Pacific Railroad who operates trains over the railroad track and crossing concerned. This witness stated that the crossing is hazardous because it is in an area of low fog, because of the short distance in which the train engineer has to observe anything on the crossing, and because of the high speeds the trains are operated through that area. He told of two accidents which he had witnessed at this crossing.

Seven witnesses or property owners in the area presented testimony relating to the need of Van Norman crossing for the use of residents of the area. In substance, this testimony was to the effect that the crossing was needed to maintain adequate

fire and police protection, to provide a means of ingress and egress in case of flood and disaster conditions, to avoid the crowded conditions created by the drive-in theater, and also to avoid crowded conditions on Whittier Boulevard. Likewise, these witnesses were concerned about the curtailment of mail service inasmuch as the present deliveries are made via this crossing. There is, in the opinion of some of the witnesses, a danger of fog on the roads which would have to be used if the crossing were closed, and, in general, they all testified that the crossing was a need and a convenience to the residents of the area. Exhibit 1 RH is a certified copy of a resolution passed by the Council of the City of Montebello on December 7, 1953, opposing the closing of the crossing, and Exhibits 2 RH and 3 RH are petitions signed by the residents of the area in opposition to the closing. The representative of the city, as well as some of the witnesses who testified, submitted that the solution would be to repair the road and install signals and lights at the crossing.

The testimony disclosed that there are other ways of access to the area concerned, one having been previously referred to herein, that being via Whittier Boulevard, Coffman Pico Road and Loch Lomond Drive. This particular route would be approximately 1-1/3 miles longer. Other alternate routes would be considerably longer and would involve the use of Rosemead Boulevard.

A consideration of all of the evidence adduced herein leads us to the conclusion, and we now find, that the crossing in question presents a safety hazard and does not meet the

requirements which previously have been set up by this Commission. The prior practice of the Commission has been to oppose any grade of approach at a grade crossing in excess of six percent, and also to recommend a width of usable roadway of not less than 24 feet. The crossing in question clearly does not meet these requirements. Neither does it meet the requirements of General Orders 72 and 75 B of this Commission.

The testimony of the residents and property owners involved indicates that this crossing serves the public convenience in the area, and, accordingly, we are faced with the problem as to whether the public convenience, as shown in this record, outweighs the safety hazards involved. It is our opinion, and we now find, that the element of safety should be of paramount importance in this matter. There are other means of access to the area concerned which can be used. Therefore, unless and until this crossing is improved to adequate standards of safety, it should be closed. However, since this crossing has been in use for a number of years, the City and County will be given an opportunity to bring it to an adequate state of safety before a summary closing is ordered.

O R D E R

Petition for Rehearing as above entitled having been filed, a public hearing having been held thereon, the matter having been submitted and the Commission being fully advised in the premises and hereby finding it to be not adverse to the public interest,

IT IS ORDERED:

(1) That the Union Pacific Railroad Company and the Los Angeles and Salt Lake Railroad Company shall, ninety days after the effective date of this order, barricade and close the crossing of Van Norman Road with the main line railroad (Crossing No. 3-9.3) in the County of Los Angeles, unless the City of Montebello or the County of Los Angeles, or both of them, on or prior to that time shall have filed an application with this Commission for authority to establish crossings at these locations, according to the standards prescribed by this Commission.

(2) That within thirty days after the closing of said crossing, as provided herein, the Union Pacific Railroad Company and the Los Angeles and Salt Lake Railroad Company shall so advise this Commission in writing.

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

Dated at San Francisco, California, this 9th day of February, 1954.

A. Z. [Signature]  
President  
Justin F. Calver  
[Signature]  
[Signature]  
[Signature]  
Commissioners