

ORIGINAL

Decision No. 53162

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own
motion into the status, maintenance,
operation, use, safety, and protection
of that grade crossing known as Miller-
grove Avenue (or Bouchard Road) and the
tracks of THE ATCHISON, TOPEKA AND SANTA
FE RAILWAY COMPANY, near Los Nietos,
Los Angeles County, and identified as
Crossing No. 2-152.4.

Case No. 5673

Mary Moran Pajalich, Senior Counsel, of the Commission's staff. Robert W. Walker and Matthew H. Witteman, for The Atchison, Topeka and Santa Fe Railway Company; Harold W. Kennedy and Forrest N. Shumway, for County of Los Angeles; Burke, Williams and Sorensen, by Royal M. Sorensen, for Meridian Metalcrafts, Inc., C. M. Peterson and A. W. Peterson; H. F. Holley for Los Angeles County Grade Crossing Committee; Graham R. Mitchell and William Rider for Brotherhood of Locomotive Engineers; Cyril C. Nigg for Bell Brand Foods, Ltd.; and Mort Ballagh, for self; interested parties.

O P I N I O N

This case was instituted on the Commission's own motion for the purpose of determining (1) the status of the grade crossing at Millergrove Drive (formerly Bouchard Road) and the tracks of The Atchison, Topeka and Santa Fe Railway Company (hereinafter referred to as Santa Fe), situated in Los Angeles County, and identified as Crossing No. 2- 152.4, (2) whether or not public safety requires the physical closing of said crossing, (3) whether or not public safety requires alteration or the construction and

maintenance of protective devices at said crossing, and (4) whether costs of such alteration or protection as may be found necessary shall be assessed to the Santa Fe or apportioned between said railroad and the County of Los Angeles.

A public hearing was held in the above-entitled matter in Los Angeles before Examiner Mark V. Chiesa. Oral and documentary evidence having been adduced, the matter was submitted for decision.

Use of Crossing.

The crossing in question in this proceeding is located between the communities of Rivera and Los Nietos in Los Angeles County and has existed since prior to 1926. This Commission has considered said crossing to be a public crossing, having assigned to it, for identification purposes, Crossing No. 2-152.4. There is evidence in the Commission's records that said railroad has also in the past considered said crossing to be a public one (see Application No. 25591, filed April 23, 1943).

Said crossing serves an otherwise isolated area approximately 3800 feet in length and approximately 900 feet in width, which area is bounded on the north by Santa Fe's right of way and tracks, on the east by the rear property lines of residential lots fronting on Decosta Avenue, on the south by the right of way and tracks of Pacific Electric Railway Company and the Southern Pacific Company, and on the west by the right of way and track of the Southern Pacific Company. The long axis of said area runs east and west. Parallel with and contiguous to the northern line of the Santa Fe right of way is Rivera Road. Parallel with and

contiguous to the southerly line of the Pacific Electric Railway Company right of way is Los Nietos Road. Millergrove Drive intersects Rivera Road from the north and crosses the Santa Fe tracks into the said area at a point a little to the east of its center. Millergrove Drive is not a dedicated street between Rivera Road and the Pacific Electric Railway Company right of way.

In 1930 Millergrove Drive, then known as Bouchard Road, continued southerly, as a 12-foot dirt road, at right angles across the single main-line track of the railway as a county lane to the south line of the railway's right of way, at which point it coursed easterly along the right of way for a short distance before its southerly continuation between two orange groves.

Protection consisted of one Standard No. 1 crossing sign and one advance sign. The railroad was on a fill, with the approaches on the highway shown to be four per cent grade on the south side and six per cent on the north. Corner views of the crossing were shown as open for three quadrants, with that for the southwest termed poor.

In 1943, by Application No. 25591, Santa Fe applied for authority to construct an additional main track across public highways between Hobart Yard and Fullerton, including Bouchard Road Crossing No. 2-152.4. By Decision No. 36386, dated May 25, 1943, the Commission authorized such construction. Construction was completed in November, 1946.

As part of this Commission's state-wide grade crossing survey, begun in 1947, said Crossing No. 2-152.4 was investigated in December of said year and it was found that the grade

approaching the tracks on the north was six per cent and the grade approaching the tracks on the south side was eight per cent. The crossing over the tracks had been widened by the railroad to 17 feet, but the approaches and the reverse curve to the south of the tracks remained 12 feet in width. Upon the Commission's recommendation, the railroad installed two "2 tracks" signs and painted the crossing number on another sign. At the same time it was recommended that the County of Los Angeles move the crossing about 50 feet to the east in order to eliminate the reverse curve from the south, raise both approaches, install two reflectorized advance warning signs, and install a boulevard stop sign at Rivera Road. The county has not performed the work, except that the boulevard stop sign was installed at the northwest corner of Bouchard Road and Rivera Road.

The County's position is that this crossing is a private street as there has been no dedication for public use.

In July, 1950, as a result of a follow-up investigation by the Commission's staff and representatives of the Santa Fe, the crossing was reported as "not a county road. Should be private crossing."

The evidence in the proceeding shows that the area served by said crossing prior to 1953 consisted of farm land (orange groves) and was occupied by not more than three or four residences. We find that there was no general public use of said crossing prior to 1953.

In 1953 and 1954 the character of the area began to change from agricultural to industrial, the property having been sold to four different purchasers who have developed it, or

intend so to do, industrially. In the latter part of 1953 said purchasers constructed a private road on their property between the said crossing at the Santa Fe right of way and the Pacific Electric Railway Company right of way. In the summer of 1953 Bell Brand Foods, Ltd., a corporation, engaged in the food processing business, began construction of a large plant on a portion of the area adjoining the Pacific Electric Railway Company right of way and facing east on said southerly extension of Millergrove Drive. The plant was completed in February 1954 and now employs approximately 200 persons. Between the Bell Brand property on the south and the Santa Fe right of way on the north is the property and plant of the Meridian Metalcraft, Inc., a corporation, constructed in 1954. A part of this property is also occupied by the Key Engineering Company, a machine shop. It was testified by the owner of the metalcraft business that "40 to 50 cars of our employees ... and 10 to 20 other cars come in there" on business each day. Mort Ballagh, part owner of the property immediately south of the Santa Fe right of way on the east side of Millergrove Drive, testified that he soon proposes to develop the land for industrial purposes. The Gabriel Box and Container Company, owner of the property immediately south of the Ballagh property and across the street from the Bell Brand plant, plans to build a large factory in the near future.

The evidence shows that the crossing at Millergrove Drive is the only present access to the properties hereinabove mentioned. There is one other crossing into this area situated approximately 700 feet west of Millergrove Drive, which is a

private road crossing serving one truck farmer and is not accessible to the remainder of this area.

The evidence is clear that since 1954 many persons, employees, and others having business at the said plants, drive passenger cars and trucks over the said Santa Fe main-line tracks at the Millergrove crossing, and that some trucks are of the large tractor and trailer type. A 16-hour traffic count at said Crossing No. 2-152.4 made on Monday, September 12, 1955, between 2 p.m. and 10 p.m., and on Thursday, September 15, 1955, between 6 a.m. and 2 p.m., shows the following number of vehicles, pedestrians, and trains passed over the crossing:

	<u>Total</u> <u>16 hrs.</u>
Automobiles	405
Trucks, light	81
" heavy	57
" with trailers	29
Motorcycles	6
Bicycles	<u>11</u>
Total vehicles	589
Pedestrians	<u>108</u>
Total	697
Trains	
Passenger EB	6
" WB	11
Freight EB	2
" WB	<u>6</u>
Total trains	25

The evidence also shows that traffic of this character has been moving over the crossing since early 1954 and that the volume of traffic is increasing. The Santa Fe presented

Exhibit No. 8 containing the following summary of traffic using said crossing for a period of 12 hours between 6 a.m. and 6 p.m., on November 28, 1955:

Automobiles	374	
Trucks, Light	51	
Trucks, Heavy	55	
School Buses	0	
Trucks W/trailers	16	
Transit Buses	0	
Pedestrians	26	
Bicycles	19	
Motorcycles	1	
		542
Pass. Trains	15	
Freight Trains	7	
Lt. Engines	5	
		27
Total		569

Upon the evidence hereinabove set forth, and other evidence of record, we find that the said Millergrrove Drive Crossing No. 2-152.4 has now attained the character of a publicly used crossing, and within the purview of the Public Utilities Code is a public road or highway.

Present Conditions at Crossing.

Uncontradicted to any material respect is the following portion of the Commission's engineers' report:

"Millergrrove Drive, as it is presently constructed, crosses the two main-line tracks of The Atchison, Topeka and Santa Fe Railway Company at an angle of approximately 45 degrees, with the highway paved to a width of 24 feet. Measured along the tracks, this portion is about 30 feet.

"With the difference in elevation that exists between the pavement of Rivera Road at Millergrrove Drive and the top of rails

of The Atchison, Topeka and Santa Fe Railway Company, an apron of pavement on the northerly approach has been warped to meet these extremities, still retaining a shelf-like segment where Rivera Road formerly existed. Severe grades on the approaches, at some portions even exceeding 20 per cent, coupled with difficult courses to follow along the westerly edge and an absence of superelevation in pavement at points where normally expected, creates a hazard to the motorist, even without the peril of an approaching train.

"The condition of the pavement, for the most part, is good, it having been placed at a comparatively recent date.

"Two main-line tracks cross the paved area on tangent alignment. A slight distance to the east, the railroad's curve to the right restricts the motorist's visibility of westbound trains by the convergence of a row of signal poles along the right of way, as well as trees on private property. To assure himself of safe conditions to the west, the southbound motorist must look back over his right shoulder while attempting to keep his car properly directed along the pavement. For the enginemen on westerly movements, this visibility is effectively restricted until the train is within between 800 and 900 feet of the actual crossing.

"Present protection consists of two Standard No. 1 crossing signs, one located on either side of the tracks, which have been reflectorized with reflex reflecting sheet material.

"No advance warning signs have been installed, but EXR pavement markings are in place on the pavement, one approximately

300 feet to the south of the tracks and the second on the northerly side, painted upon the apron of the grade of approach between Rivera Road and the tracks themselves.

"On both approaches to the crossing, double white lines are painted on the center line of the pavement.

"A street lamp has been installed on the northeast corner of Rivera Road and Millergrove Drive, but its effectiveness at the crossing is questionable.

"Based upon train operations in effect during the month of September, 1955, 40 or more train movements cross Millergrove Drive within 24-hour periods. On September 12 there were 21 passenger-train and 19 freight movements. On September 15, 22 passenger trains crossed this location and 26 freight movements took place.

"The track is designed for high-speed operation, with the adjacent two-degree curve heavily superelevated. The maximum speed prescribed for freight-train operation in this district is 55 miles per hour.

"On westbound operations, passenger trains are limited in their speed around the curve east of Millergrove Drive to 70 miles per hour, owing to the No. 20 turn-out into single track at D. T. Junction approximately 1,800 feet west of Millergrove Drive, where a maximum speed of 40 miles per hour is in effect.

"Eastbound passenger trains are normally operated at a maximum speed of 90 miles per hour but are reduced by the curve just east of Millergrove Drive to 80 miles per hour."

In order to reduce the north grade of approach at the present Millergrove Drive crossing to an acceptable standard, it

would be necessary either to lower the main-line tracks of the Santa Fe for a considerable distance from said crossing, or to raise Rivera Road at least two feet, creating a serious drainage problem, and, in either case, the expense would be substantial and in our opinion unjustifiable.

The parties to this proceeding do not contend that the present condition of Crossing No. 2-152.4 is not a dangerous one.

The record shows, and we find, that the logical solution to the crossing problem in the immediate area with which we are concerned is the closing of the Millergrove Drive crossing and the construction of the proposed extension of Pioneer Boulevard bisecting the said area between the railroads' rights of way at a location a short distance west of Millergrove Drive. Pioneer Boulevard would provide safe crossing conditions both from North and from South. ^{1/} Pioneer Boulevard from the south is now improved to Los Nietos Road which borders the Pacific Electric Railway Company right of way. Its extension northerly through this area, crossing the Santa Fe right of way and Rivera Road to Slauson Avenue, is part of the County's master highway plan. The boulevard could be made accessible to the properties along Millergrove Drive through private negotiations.

The Commission having considered the evidence of record, finds that the conditions of travel at the Millergrove Drive

^{1/} The Commission's engineer reports that "The County of Los Angeles has made an engineering survey of this possibility, and the method appears to be entirely feasible. A grade of approach across the high-speed main-line tracks of The Atchison, Topeka and Santa Fe Railway Company has been laid out with a maximum grade of 2.5 per cent. At the southerly crossing, a 4 per cent grade is obtainable."

Crossing No. 2-152.4 are dangerous to the public, both as users of the street and as passengers and employees of the railway, and justify the closing of said crossing. We further find that the abolishing of said crossing by physical closing is required by public convenience, necessity and safety.

As stated hereinbefore, in connection with its state-wide crossing survey which was begun in 1947, the Commission recommended that the County of Los Angeles take certain measures which were believed would tend to alleviate the dangerous conditions then and now presently existing at the crossing. The situation has become greatly aggravated since 1953, but the County of Los Angeles has not seen fit to do more than to install a boulevard stop sign at the northwest corner of Miller Grove Drive and Rivera Road. Therefore the aggravated conditions are, in part, charged to the failure of the County of Los Angeles, because of which it is right and proper to assess a reasonable part of the cost of the added protection which will be required in the order herein. This reasonable part of such added protection is hereby found to be a sum equal to 25 per cent of the cost of providing watchmen which the railway company will be required to provide at the crossing.

The Commission is concerned with the effects upon the public, upon the industries involved and upon the railway company, which can be expected to result from the closing of the crossing of Miller Grove Drive over the tracks of the railway company. As stated above, the extension of Pioneer Boulevard through the appropriate actions of the County of Los Angeles will afford the public and the industries involved with safe crossing conditions,

and will avoid the expenditures by the railway company incidental to compliance with the following order. The consideration of such actions is recommended to the County of Los Angeles.

The crossing will be ordered closed, subject, however, to the conditions as set forth in the following order.

O R D E R

A public hearing having been held, the Commission being fully advised in the premises and good cause appearing,

IT IS ORDERED:

(1) That The Atchison, Topeka and Santa Fe Railway Company shall close Millergrove Drive Crossing No. 2-152.4 at such time as owners or other parties interested in the properties or plants now reached by use of said crossing have other means of access opened to the area in question, but not later than one year after the effective date of this order.

(2) That The Atchison, Topeka and Santa Fe Railway Company shall establish and make effective the following improvements within sixty days after the effective date of this order:

- (a) Provide crossing watchmen at Millergrove Drive Crossing No. 2-152.4, to warn the public of approaching trains throughout a period of 24 hours daily.
- (b) Install an annunciator system to warn the watchman at least 50 seconds in advance of the arrival at the crossing of the normally fastest train movement.
- (c) Make all possible improvements to the north approach of said crossing, by filling and paving, to minimize the grade and improve the course of said crossing.

