

ORIGINAL

Decision No. 67576

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 San Joaquin County, acting through
 its Board of Supervisors, for
 permission to construct "Anteros
 Avenue" at grade across the Southern
 Pacific Railroad Company, a
 corporation.

Application No. 45570

Robley E. George, for the County of
 San Joaquin.
Randolph Karr and Harold S. Lentz, for
 Southern Pacific Company, protestant.
George D. Moe and Melvin R. Dykman, for
 the State of California, Department of
 Public Works, Division of Highways.
 Special appearance in protest to a
 motion to join the department as a
 necessary and proper party.
James K. Gibson and Martin J. Lewis,
 for Commission staff.

OPINION

By its application filed July 1, 1963, the County of San Joaquin requested authority to construct "Anteros Avenue" at grade across the track of Southern Pacific Company near Stockton. On September 10, 1963, the Commission signed an ex parte order (Decision No. 65997) authorizing construction subject to the filing of an agreement between the parties prior to the commencement of construction. Without reaching an agreement as to the apportionment of costs, construction was commenced and completed, except for the installation of standard No. 8 flashing light signals. By Decision No. 66572 the matter was reopened for further consideration.

Public hearings were held before Examiner Daly at Stockton and San Francisco with the matter being submitted on May 19, 1964.

During the course of hearing the Southern Pacific Company

filed a motion to join the Department of Public Works of the State of California as an additional, necessary and proper party. The motion was denied; however, a representative of the department appeared as a witness.

The record indicates that the Anteros grade crossing was constructed pursuant to an agreement with the State of California, Department of Public Works, Division of State Highways and the County of San Joaquin. The grade crossing is made necessary in order to comply with the State Division of Highway's plan to eliminate the traffic signal and the closing of the median strip at the Washington Street crossing of U.S. Highway 99 and to provide a frontage road paralleling U.S. Highway 99. Under the agreement the County was paid \$82,000 to construct the Anteros crossing and to improve Anteros Avenue.

Although the County would use the money received from the State Division of Highways to pay 100 percent of the installation costs, the Southern Pacific Company refused to enter into an agreement unless the County agreed to an apportionment of maintenance costs. In line with the Commission's announced policy, the Southern Pacific Company was not permitted to introduce evidence relating to the apportionment of maintenance costs. Such costs shall be paid by the railroad.

The tracks of the Southern Pacific Company cross U.S. Highway 99 between Fremont and East Main Streets. Between said streets and east of State Highway 99 the area is bounded by a diverting canal. Anteros Avenue is located one block east of U.S. Highway 99. At the present time there are two grade crossings

within the area. One is located three blocks east of Anteros Avenue at Oro Avenue and the other is located two blocks farther east at Gertrude Avenue. Although the Anteros crossing is complete, with the exception of the flashing lights, the crossing is barricaded and all traffic wishing to cross the tracks must use either the Oro or Gertrude crossings. The County is also negotiating for a right of way along the newly paved link connecting the southern and northern portions of Anteros Avenue near the grade crossing.

Residents living south of the crossing generally supported the opening of the Anteros crossing, whereas those living north thereof opposed its opening. Particular opposition was evidenced by residents living on the northern segment of Anteros Avenue who were of the opinion that the additional traffic along Anteros Avenue would constitute a safety hazard.

Several witnesses testifying in support of the crossing stated that the proposed crossing would be more desirable than the Oro Avenue crossing which they claim constitutes a safety hazard because of a jog in the approach to the grade and because of blind spots caused by adjacent buildings.

A staff representative testified that he had made an investigation of the crossings in the immediate area. It was his opinion that the Anteros crossing should be authorized on condition that the Oro Avenue crossing be closed. He testified that the Oro Avenue crossing has been the site of three accidents, the last occurring on February 27, 1964.

The County contends that all three crossings should be maintained due to the fact that Gertrude Avenue north of the tracks

passes in front of the Franklin High School. According to the record the street immediately in front of the school is closed during school hours and all traffic is diverted along Miner Street to Oro Avenue.

After consideration the Commission finds:

1. The Anteros crossing was instigated and financed by the Department of Public Works, Division of State Highways as part of its over-all plan to eliminate the Washington Street crossing of U.S. Highway 99 and to make Anteros Avenue a frontage road.

2. The Anteros crossing has been completed with the exception of a right of way by the County of San Joaquin over a newly paved portion of Anteros Avenue. Public convenience and necessity require the completion of said crossing.

3. The County of San Joaquin has agreed to pay all of the installation costs pertaining to the Anteros crossing.

4. Within the immediate vicinity of the Anteros crossing the tracks of the Southern Pacific Company are crossed at grade by Oro and Gertrude Avenues.

5. The Oro Avenue grade crossing, because of the topography and structures in the vicinity thereof, is not as safe as the Anteros crossing would be.

6. When the Franklin High School is in session traffic along Gertrude Avenue is diverted to Miner Street and Oro Avenue.

Conclusions

1. Three crossings within a distance of six blocks to serve the area herein considered are not necessary and will only increase the chances for accidents.

2. At the present time the Oro and Gertrude Avenue crossings are capable of accommodating those who wish to traverse the Southern Pacific Company tracks notwithstanding a detour from Gertrude Avenue in front of the Franklin High School.

3. The Anteros Avenue crossing would provide a safer crossing than Oro Avenue.

4. Subject to the concurrent closing of the Oro Avenue crossing, the County of San Joaquin may complete and open to public use the Anteros Avenue crossing.

ORDER

IT IS ORDERED that:

1. Within ninety days after the date hereof the County of San Joaquin may complete construction of the Anteros Avenue Crossing at grade across the tracks of the Southern Pacific Railroad Company. Applicant shall bear entire construction expense, also maintenance cost of the crossing outside of lines two feet outside of rails. Southern Pacific Company shall bear maintenance cost of the crossing between such lines, and also maintenance cost of the automatic signals. Protection shall be by two standard No. 8 flashing light signals (General Order No. 75-B). Within thirty days after completion pursuant to this order, applicant shall so advise the Commission in writing. This authorization shall expire if not exercised within one year after the effective date of this order unless time be extended if above conditions are not complied with.

2. The authorization granted in ordering paragraph 1 hereof is made subject to the concurrent closing of the Oro Avenue crossing.

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

Dated at San Francisco, California, this 21st day of July, 1964.

President

John E. Mitchell

Charles W. Rogers

William W. Bennett

Commissioners

I dissent.

George T. Grover

I concur except as to the order requiring Southern Pacific to bear all of the maintenance costs of the automatic signals. I would require that such costs be shared.

Frederick B. Halshoff