

ORIGINAL

Decision No. 67697

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the safety, use,)
and protection of the following)
crossing of THE ATCHISON, TOPEKA AND)
SANTA FE RAILWAY COMPANY in the Atwood)
District of Orange County; Crossing)
Trinidad Street No. 2B-39.5.)

Case No. 7770
(Filed November 11, 1963)

Ray Easton and O. Rotherban, for Alfred and Walter
Kraemer; and R. Tracy Wiles, for Placentia Mutual
Orange Assn.; protestants.

Jayne C. Billey, for The Atchison, Topeka and Santa
Fe Railway Company; and Robert F. Nuttman, for
Orange County; respondents.

Albert J. Yorba, for Rancho P. S. Yorba; William
Walker, for Jay Enterprises; Chas. G. Teed, for
Yorba Irrigation Company; Leon F. Boisseranc, in
own behalf; and Doris Boisseranc, for estate of
Emile Boisseranc; interested parties.

Wm. C. Bricca, for the Commission staff.

O P I N I O N

The above-entitled investigation was instituted for the purpose of determining whether or not a publicly used but purportedly private crossing over the double line of track of The Atchison, Topeka and Santa Fe Railway Company (Railway) at Trinidad Street in Orange County should be closed or, if not closed, what protection and improvements should be ordered thereat and who should pay the cost of improving the crossing and of protection installed thereat. The rail line is Railway's Los Angeles through San Bernardino to Chicago main freight line.

A public hearing was held before Examiner Rogers in Placentia on June 17, 1964. At the close of the hearing the County of Orange submitted a Memorandum of Points and Authorities in support

of its contention that the crossing is not on a county road and the county has no responsibility for the crossing. The Railway and the Commission staff were given permission to file statements in support of their positions within 20 days. The time for filing such statements has expired; the matter is submitted.

At the crossing site and for a distance of one mile east and two miles west the Railway is closely paralleled on the north by Orangethorpe Avenue, the principal east-west highway through the area. Trinidad Street extends southerly for approximately four-tenths of a mile from Orangethorpe Avenue to a private road extending west to approximately the continuation of La Palma Avenue. It is possible to use said private road to Taylor Street which is approximately one-half of a mile west of Trinidad Street and extends south from Orangethorpe Avenue across the track to the said private road or extension of La Palma Avenue. Trinidad Street and the grade crossing thereon provide the only access to Orangethorpe Avenue for several farms south of the right-of-way. The next track crossing to the east is at Imperial Highway (Yorba Linda Freeway) approximately one mile east of Trinidad Street.

A check made on Tuesday, May 5, 1964, showed a total of 63 automobiles and trucks over the crossing between 7 a.m. and 7 p.m. On November 13, 1962, the Railway made the following comment concerning the crossing which is protected by two No. 1 crossing signs:

" . . . this crossing was formerly classified as a public crossing. However, during crossing survey of 1958 the County of Orange claimed no jurisdiction whatsoever over the crossing; therefore, it was recommended that this be reclassified as a private crossing. This crossing serves several homes and some agricultural activities, therefore, it is recommended the two crossing signs remain in place. The County of Orange has been considering for some time, but has not yet made a decision as to improvement of other roadways in the area that would permit either abandoning this crossing or including it as a part of the County road system. To date the County has not made final determination and there is nothing we can do until such is made."

The Trinidad Street crossing is not covered by any private crossing agreement between the Railway and adjacent landowners.

On May 29, 1963, the Commission was advised by the County of Orange that:

"Trinidad Street is not a County road, and there are no plans contemplated for making it a part of the County road system. Future plans for the area include one new crossing Construction timing for the new crossing is dependent on the growth in the area."

After the commencement of the investigation herein the Orange County Road Department advised the Commission that it intends to develop La Palma Avenue or an approximate continuation thereof across Taylor Street to Orchard Avenue which is approximately one-third of a mile east of Trinidad Street and that it has no plans for improving Trinidad Street.

The Commission engineer stated that in his opinion Trinidad Street is used publicly, that it is the only access to and from farms along said street, and that the county is planning the extension of other streets which would make the use of Trinidad Street unnecessary but has set no time for such extensions. He recommends that Trinidad Street be declared a public crossing, that the County be directed to make such crossing and approaches a part of its County road system, and improve the crossing to a width of 24 feet and with grades not to exceed 6 percent. He further recommended that the Railway be directed to increase the paving in

the right-of-way to a width of 24 feet. The present condition, sight distances and accident record of the crossing are as follows:

1. Tracks 2 (1 main, 1 siding) 1/2° curve
2. Approaches 12 to 18 feet wide
3. Crossing 18 feet wide, paved, 90 degrees
4. Approach grades 10% north of the track
9% south of the track
5. Protective devices 2 Standard No.1 reflectorized signs
(with "2 Tracks" signs)
6. Maximum permitted train speeds
 . . . 79 M.P.H. passenger trains
 . . . 60 M.P.H. freight trains
7. Number of trains per day 3 passenger
 25 freight
8. Sight distances: From points north or south of tracks

	<u>At 25 ft.</u>	<u>At 50 ft.</u>	<u>At 100 ft.</u>
	<u>from track</u>	<u>from track</u>	<u>from track</u>
NE quadrant	2500 ft.	2500 ft.	1000 ft.
NW quadrant	2500 ft.	2500 ft.	1000 ft.
SE quadrant	2500 ft.	1500 ft.	1000 ft.
SW quadrant	3000 ft.	2000 ft.	2000 ft.
9. Accident Record . . . None

A witness for Railway testified that the Commission engineer's description of the crossing is correct and that he has searched the records of the Railway for any crossing agreement and can find no such agreement. He states that the nearest public crossings are Taylor Street which is approximately one-half of a mile west and Imperial Highway which is one mile to the east and is

to be improved as a portion of the Yorba Linda Freeway. He further testified that Taylor Street is protected by two Standard No. 8 flashing light signals, and that La Palma Avenue extends east from Taylor Street as a paved street for approximately 1000 feet at which point it becomes a dirt road which extends to the extension of Trinidad Street.

The Orange County Road commissioner stated that he visited the scene of the crossing within two days prior to the hearing; that he crossed the track at Taylor Street and drove east on the La Palma extension to Trinidad Street; that the road is unpaved; that the County plans to extend this street through to Orchard Avenue east of Trinidad Street but that the time of this improvement is not known and cannot be determined; and that when La Palma Avenue is open to Orchard Avenue, the Trinidad Street crossing will be unnecessary.

Several of the property owners and ranchers owning or leasing property on and along Trinidad Street opposed any closing of the crossing and stated that the crossing is necessary for their purposes.

Upon the record herein the Commission finds that:

1. Crossing at Milepost 39.5 known as Trinidad Street is a publicly used crossing in Orange County across the main line of Railway.
2. This crossing is used by the general public, residents, property owners, truckers, farmers and other parties having business or residing on or along Trinidad Street and coming from or going to Orangethorpe Avenue.

3. Visibility at the crossing is good; the approach grades are 10% north of the track and 9% south of the track; there are daily 3 passenger trains across the crossing at a permissive speed of 79 miles per hour and 25 freight trains at a permissive speed of 60 miles per hour.

4. There have been no accidents at the crossing.

5. The crossing, as it exists, is hazardous.

6. The crossing is, at the present time, the only practical means of access to the farms, residences and properties south of the right-of-way and on Trinidad Street.

7. The County of Orange contemplates extending a street from Orchard Avenue on the east to Taylor Street on the west on the approximate alignment of existing La Palma Avenue; that the proposed extension will not be made for two or more years in the future; and the extension of said street would render the Trinidad Street crossing unnecessary.

8. The County of Orange will not voluntarily contribute to the cost of improving the grade crossing herein concerned or the protection thereof.

9. The public convenience, necessity, health and safety require that the crossing be widened, paved and protected, and the cost of improvements and protection allocated between the Railway and the County of Orange as stated in the order herein.

The Commission concludes that the crossing should remain, that it should be improved as specified in the order herein; and that the costs should be divided as specified in the order herein.

O R D E R

IT IS ORDERED that:

1. The crossing of Trinidad Street at Milepost 39.5 with the track of The Atchison, Topeka and Santa Fe Railway Company in Orange County is hereby declared a publicly used crossing and identified as No. 2B-39.5.

2. The crossing at Trinidad Street shall, within ninety days after the effective date of this order, be improved so that the width of the crossing and the approaches shall be twenty-four feet and the grades of approach shall be not greater than six percent south of the track and as close to six percent as possible north thereof and protection shall be by two Standard No. 1 crossing signs (General Order No. 75-B) reflectorized. Construction shall be equal or superior to Standard No. 2 of General Order No. 72.

3. The railway shall make all necessary improvements of the crossing within lines two feet outside of the rails, and shall bear all installation and maintenance costs thereof.

4. The County of Orange shall make all necessary improvements to the approaches outside of the lines two feet outside of the rails and shall bear all installation and maintenance costs thereof.

5. The railway shall install and maintain the crossing protection provided for in paragraph 2 and bear all costs thereof.

The Secretary of the Commission is directed to cause personal service of this order to be made on the County of Orange and on The Atchison, Topeka and Santa Fe Railway Company. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 11th day of AUGUST, 1964.

Frederic B. Holbrook
President

John J. ...

George E. ...

George E. ...

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.