

**ORIGINAL**

Decision No. 69778

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the status, safety, maintenance, operations, use and protection of a crossing at grade of the SOUTHERN PACIFIC COMPANY at or near Milepost 168.5 in Monterey County.

Case No. 8051  
(Filed October 27, 1964)

- Elmer J. Sjostron and M. E. Getchel, for the Commission staff.
- Harold S. Lentz, for Southern Pacific Co., respondent.
- John W. Hutton, for John Layous & Sons; William H. Stoffers, County Counsel, by Warwick Downing, Deputy County Counsel, for County of Monterey; G. R. Mitchell, for Brotherhood of Locomotive Engineers, interested parties.

O P I N I O N

The Commission opened this investigation into the status, safety, maintenance, operations, use and protection of a grade crossing of Southern Pacific's main line at Milepost 168.5, about five miles south of King City, Monterey County, to determine whether public safety and health require installation and maintenance of protective devices at the crossing, or, in the alternative, its abolishment and closing to public use; and to prescribe the terms of installation or maintenance of protection and the apportionment of costs thereof among the parties.

The County of Monterey, disclaiming any interest in the crossing and its approaches though named a "respondent" in the investigatory order, appeared and participated in the hearing solely as an "interested party". Such designations, of course,

are not conclusive of a party's status, which is established by what the record actually reveals it to be.

The case was heard at King City on May 19, 1965 and Salinas on July 15, 1965 before Examiner Gregory. It was submitted on the latter date on the issue of the necessity for and type of protection to be installed at the crossing. The parties stipulated, at the May 19th hearing, that they would not raise any issue concerning apportionment of installation or maintenance costs for whatever crossing protection might be ordered by the Commission, but that the Commission's order would provide that the apportionment of such costs should be handled by agreement of the parties; if they could not agree, that issue would be determined by the Commission after further hearings.

The case presents issues related to protection of especially hazardous rural crossings which are used primarily by adjacent landowners, their families and employees, by labor camp operators and by others having business on the property, but not by the general public, as a matter of custom, claim of right, or convenience.

The record discloses that the crossing, located about midway between King City and San Lucas on the Southern Pacific main line between San Francisco and Los Angeles, for many years has provided the only short, practicable, all-weather means of access from State Highway 101 to the easterly portions of the John Layous and Sons Ranch and adjoining ranches still farther east, to the Pedro Hermosillo Labor Camp situated on the Layous Ranch east of the railroad, and between the portions of the Layous Ranch which lie both east and west of the highway.

The Layous Ranch, engaged in row crop and cattle operations throughout most of the year, employs workers housed at the labor camp, as do several other ranches nearby. During peak crop operations in the area, about six labor buses per day traverse the crossing. Access (by dirt roads) from the Layous Ranch properties situated east of the railroad to Wild Horse Road and Freeman Flat Road (both county roads east of the Layous Ranch which connect with Highway 101, respectively, at Welby, about one and one-half miles north of Milepost 168.5, and with San Lucas, about four miles south of the crossing) is impeded by intervening fences and occasionally locked gates.

South of the crossing, about 0.6 mile, is a private crossing (No. E-169.1) of the Union Carbide Company plant, which provides access to Highway 101 and is constructed and protected in accordance with standards provided by the Commission's General Orders Nos. 72 and 75-B. The Union Carbide Company, located on land formerly owned by the Layous family east of the highway, has an option to purchase an additional 100 acres of the Layous' property. If the purchase is completed the northern boundary of the Union Carbide property would then extend along a line about 200 feet south of the present Layous Ranch crossing in a ravine across which the railroad right-of-way, adjoining on the west, passes over a fill.

The crossing near Milepost 168.5 established in the railroad right-of-way granted by deed executed in 1883 (Exhibit 23), has been used, according to Southern Pacific track records, since about 1887 and by the Layous Ranch for the past thirty-five years. Only one recorded accident (on September 26, 1964) has occurred at the site. There have been no recorded fatalities or personal

injuries. Sight distance to the north is limited to about 900 feet, due to a curve in the track north of the crossing and a steep bank between the track and the Layous Ranch to the east. Visibility is good south of the crossing. The approaches on both sides are in substandard condition, the angle of approach is about 60 degrees, and the grades of approach are about plus ten percent from the highway and minus two percent from the ranch properties to the east. Vehicular traffic on the day of the field investigation (December 8, 1964) was comparatively light and consisted principally of a few automobiles plus some thirty-five movements of pickup trucks driven by ranch personnel back and forth across the crossing several times during the day. On March 10, 1965 the staff witness observed a labor bus cross the tracks from the highway to the ranch after discharging its passengers, who walked across the tracks. The bus was timed; it took ten seconds to traverse the crossing from a stop on the westerly side, in the ten percent grade between the highway and the tracks. Observations of three southbound train movements established that the trains, travelling at permitted speeds, took ten seconds to arrive at the crossing after first being observed coming around the curve approximately 900 feet to the north. There are six passenger and twenty-two freight train movements per day at the crossing. Permitted (timetable) speeds are 50 m.p.h. westbound and 79-60 m.p.h. eastbound (railroad directions).

The only warning device presently at the crossing is a track car signal located close to the rails in the northwest quadrant and facing north and south. The signal facing south can be seen by pedestrians and vehicle drivers when in close proximity to the tracks and is used by persons familiar with

the crossing as advance warning of approaching southbound trains.

The staff has recommended (Exhibit 1) as minimum protection for this crossing the installation of two Standard No. 8 flashing light signals (General Order No. 75-B), estimated to cost about \$8,040, and the paving and widening of the crossing to twenty-four feet, with construction equal or superior to Standard No. 2 of General Order No. 72; otherwise, that the crossing be closed and another means of access developed. As indicated above, there does not appear to be another practicable means of access between Highway 101 and the portions of the Layous Ranch lying east and west of the highway.

Southern Pacific Company has taken the position, in this case, that the protection devices recommended by the staff are not economically justifiable and has, instead, proposed the installation of a much less expensive automatic flashing light signal, similar to those used at highway intersections, which would flash continuously if no trains were approaching the crossing. The signal would show a solid red light on approach of a train. If the flashing unit failed an appropriate sign affixed to the signal pole would warn those approaching the crossing of the message intended to be conveyed by the various aspects of the signal itself, whether flashing or solid red, or dark due to power or lamp failure. (Exhibits 4, 5, 6 and 7.)

A representative of the Brotherhood of Locomotive Engineers, who testified at the July 15th hearing concerning the hazardous nature of the Layous Ranch crossing and others in Monterey County, indicated that there was merit to the signal

device proposed by the railroad if appropriate language could be devised for a warning sign in both English and Spanish, since many predominantly Spanish-speaking people use rural crossings, both as pedestrians and as operators of labor transportation vehicles.

Close examination of Southern Pacific's showing in connection with its proposed signal installation at the Layous Ranch crossing points inescapably to the conclusion that the railroad is concerned about the financial burden that might be entailed if the Commission were to require high-cost automatic protective devices, such as those recommended by the staff here, at little used, though hazardous, rural crossings throughout its system in California. The company's showing, however, does indicate a concern for these hazardous ranch crossings and a willingness to provide the type of signal installation it considers to be both adequate and economically feasible, such as the one proposed here.

It is clear, however, from the record here and from facts of which we may take official notice (Code Civ. Proc., Sec. 1875(2)), that the meaning conveyed by a flashing red light to motor vehicle operators at a highway intersection differs importantly from that of a flashing red light at a railroad crossing. At a railroad crossing a flashing red light normally warns of an approaching train; at a highway intersection a flashing red light commands the motor vehicle operator to stop and then proceed if safe to do so.

Reflexes of experienced motor vehicle operators are conditioned to the different responses called for by railroad crossing and highway intersection signals. A change in the

meaning conveyed by a signal, such as a flashing red light, would, of necessity, tend to produce a degree of confusion in the habitual response. Such confusion might well prove disastrous. While explanatory language on a signboard beneath an automatic signal might be helpful, it would seem necessary, for explanations to be meaningful, to cover all aspects of the signal. This might dictate that the mere abundance of language on a sign could, in itself, promote confusion.

If it would be possible to modify the proposed signal and the related track circuits to show, with the approach of a train, a flashing red light that would be extinguished after the train had cleared the crossing, such a device would seem to have merit, from the standpoint both of economic feasibility and of consonance with the normal aspect presented by automatic light signals at railroad crossings. Whether its use would be authorized at the crossing here involved, or at other rural crossings presenting special hazards for vehicular or pedestrian traffic, would appear to depend on whether the proposed device could be modified and, if so, if it could be considered, alone, or supplemented in other ways, as adequate protection.

We make the following findings of fact from the evidence of record in this case:

1. The crossing here involved, located near Milepost 168.5 on the main line of Southern Pacific Company approximately five miles south of King City, Monterey County, is a "farm" or "private" crossing within the meaning of Section 7537 of the Public Utilities Code of California.

2. Said crossing is the only present practicable means of access to the John Layous and Sons Ranch and the Pedro Hermosillo Labor Camp located thereon, on the easterly side of State Highway 101.

3. Visibility northward from said crossing, along the tracks of Southern Pacific Company, is approximately 900 feet, due to a curve in the tracks to the right in a northerly direction and a steep bank on the east between the tracks and the Layous Ranch.

4. Trains moving at permitted speeds take approximately ten seconds to arrive at the crossing from the time they are first observed north of the crossing by a person at the crossing.

5. A labor bus, stopped between Highway 101 and the tracks, takes approximately ten seconds to clear the crossing proceeding in an easterly direction.

6. The Commission's General Order No. 75-B requires that crossing signals, automatically controlled, shall be installed so as to display the warning aspect for approximately 25 seconds with limits of from 20 to 30 seconds in advance of the normally fastest train operated over the crossing protected, except where special conditions prevail. The permitted (timetable) speeds of trains at the crossing here involved are 50 m.p.h. westbound and 79-60 m.p.h. eastbound (railroad directions). Six passenger and 22 freight trains per day move over said crossing.

7. Approach grades at said crossing are about plus ten percent easterly and minus two percent westerly; the angle of crossing is 60 degrees and the width of the crossing is from 12 to 15 feet. The crossing and its approaches are paved and are in substandard condition.



8. Said crossing is unduly hazardous for persons and vehicles having occasion to use it.

We conclude that the crossing and its approaches should be improved and protected as provided in the ensuing order.

O R D E R

IT IS ORDERED that:

1. Southern Pacific Company and the owners of the John Layous and Sons Ranch are authorized to negotiate an agreement for the improvement and protection of the crossing herein, located near Milepost 168.5 on the main line of Southern Pacific Company, said agreement to provide for: (a) the paving and widening of said crossing to 24 feet with construction equal or superior to Standard No. 2 of the Commission's General Order No. 72; (b) protection to be not less than two Standard No. 8 flashing light signals (General Order No. 75-B), subject to the provisions of the following ordering paragraph 2.

2. The parties may agree that, in lieu of installation and maintenance of two Standard No. 8 flashing light signals, two automatic light signals, back to back, of the type depicted by Exhibits Nos. 4, 5, 6 and 7 herein, with appropriate signs in both the English and Spanish languages, may be installed and maintained, provided that said light signals and related track circuits are so arranged that the signals will operate in accordance with standards not less than those provided in Section VI of said General Order No. 75-B, Automatic Signals; and, provided further, that the design, method of operation and circuitry of said signals, with related track circuitry, together with estimated costs of

installation and maintenance thereof, shall first have been submitted to the Commission and the Commission, by supplemental order herein, shall first have authorized such installation.

3. Any agreement negotiated by the parties with respect to the improvement and protection of said crossing shall also provide for the proportion in which said parties shall bear the cost of construction, installation and maintenance of such improvement and protection. Said agreement may be submitted contemporaneously with the information concerning automatic signal protection referred to in the preceding paragraph and such signal information may be annexed to said agreement in the form of an exhibit thereto.

4. If the parties are unable, within sixty days from the effective date of this order, to agree, in whole or in part, concerning the improvement and protection of said crossing substantially in accordance with the foregoing provisions hereof, Southern Pacific Company, within ten days thereafter, shall so advise the Commission in writing. Thereupon the Commission, after a hearing, will reconsider the type of protection and extent of improvement reasonably necessary for the safety of said crossing, including the costs of surface construction, signal installation and maintenance involved, and will render its supplemental order herein accordingly.

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

Dated at San Francisco, California, this 13<sup>th</sup> day of OCTOBER, 1965.

Fredrick B. Whitliff President  
George T. Trover  
Reginald  
William C. "Bill" Beard

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioners