

ORIGINAL

Decision No. 70549

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the status, safety,)
maintenance, use and protection or)
closing of the crossing of the San)
Diego & Arizona Eastern Railway)
Company in the County of San Diego,)
City of Chula Vista, with Moss Street;)
Crossing No. 36-9.1.)

Case No. 8198
(Filed June 15, 1965)

Investigation into the status, safety,)
maintenance, use and protection or)
closing of the crossing of the San)
Diego & Arizona Eastern Railway Company)
in the City of Chula Vista, with "K")
Street; Crossing No. 36-8.6.)

Case No. 8206
(Filed June 22, 1965)

Randolph Karr, Walt A. Steiger, and Alan L. Freedman,
for San Diego & Arizona Eastern Railway Company;
Sam B. Ward, for the County of San Diego; George D.
Lindberg and Lane F. Cole, for the City of Chula
Vista; respondents.
John C. Gilman and J. R. Ritchie, for the Commission's
staff.

O P I N I O N

These proceedings are investigations on the Commission's own motion into the status, safety, maintenance, use and protection or closing of the crossings of the San Diego & Arizona Eastern Railway Company (Railway) in the County of San Diego (County) with Moss Street (Crossing No. 36-9.1) (Case No. 8198) and in the City of Chula Vista (City) with "K" Street (Crossing No. 36-8.6) (Case No. 8206).

In its orders instituting these proceedings the Commission stated the purposes of the investigations as follows:

- (1) Whether or not public health, safety and welfare require relocation, widening, closing or other alteration of said crossings, or require installation and

maintenance of additional or improved protective devices at said crossings;

(2) Whether, if any of the above should be done on what terms such shall be done, and to make such apportionment of costs among the affected parties as may appear just and reasonable;

(3) Whether any other order or orders that may be appropriate in the lawful exercise of the Commission's jurisdiction should issue.

By said orders Railway and City are made respondents in both cases. County is also made a respondent in Case No. 8198.

Public hearing of the proceedings was held on a common record before Examiner Bishop at Chula Vista on October 27, 1965. Evidence was presented by witnesses from the Commission's staff, Railway, and City. At the conclusion of the hearing Case No. 8198 was taken under submission. For reasons to be hereinafter stated, Case No. 8206 was submitted on December 27, 1965. Disposition of both proceedings will be made in this decision.

Moss Street (Case No. 8198)

An assistant transportation engineer testified concerning a study he had made of this crossing. From his presentation and the testimony of the city engineer of Chula Vista the following facts were disclosed:

The crossing, while located in unincorporated territory, is adjacent to the city limits of Chula Vista, since said limits are contiguous with the westerly boundary of Railway's right-of-way. The general location of the crossing is on the southwesterly outskirts of Chula Vista. Just west of the crossing, Moss Street, which runs east and west, intersects Industrial Boulevard, and

deadends a few hundred feet west of that intersection. Farther west lies the Montgomery Freeway, an on- and off ramp of which is located approximately one quarter mile north of Moss Street.

The preponderance of vehicles moving over the crossing westbound turn north or south into Industrial Boulevard, which is parallel and adjacent to Railway's right-of-way. Similarly, traffic moving easterly over the crossing largely comes off of Industrial Boulevard. A substantial portion of the traffic is moving to or from the freeway. A 1965 traffic count showed 700 vehicles per day using the crossing, and a county engineer estimates that by 1975 this figure will have increased to 1,400 per day.

The staff engineer's survey, made in 1965, disclosed three public school bus movements per day, two loaded and one empty, over the crossing. The city engineer testified, however, that, as of the date of the hearing, the daily school bus movement over the crossing comprised one loaded, and one empty bus.

The crossing is over Railway's main line between San Diego and the Imperial Valley. Four trains per day pass over the crossing, except that, from mid-December to March, there are 6 trains per day. At this point on the line there is also a siding; consequently, there are also switching movements over the crossing.

The present protection at the crossing consists of two Standard No. 1-A (reflectorized) crossbuck signs and one advance warning sign.

As a westbound driver on Moss Street approaches the crossing his visibility is restricted on the left hand by buildings of a packing company, by freight cars stored on the siding, which is easterly of the main track, and by trucks parked and materials stored from time to time on the ground between said buildings and

the street. Visibility to the right, for westbound road traffic is clear for a substantial distance. For the eastbound drivers, turning into Moss Street just west of the railroad right-of-way, from either the north or the south on Industrial Boulevard the view to the left (north) is obscured by buildings located west of the tracks. This situation obtains both before and after the turn onto Moss Street is made. For such drivers the view to the right (south) is clear for a substantial distance.

There had been no accidents at this crossing for at least five years prior to the date of hearing. The investigation of the crossing originated in a statewide survey which the Commission's staff made of grade crossings which are used by school buses.

The staff witness recommended that:

- (1) Protection at the Moss Street crossing be improved by the installation of two Standard No. 8 flashing light signals, supplemented with automatic gates, costs to be borne 50 percent by Railway, 25 percent by County, and 25 percent by City;
- (2) the pavement in the crossing area be repaired, cost to be borne by Railway; and
- (3) the R&R pavement markers and double white clearance markers, located 10 feet in advance of the tracks, be repainted, cost to be borne by County and City.

Railway's assistant division engineer testified that the estimated installation cost of signals and gates would amount to \$15,300. Annual maintenance and operating costs, he stated, would be \$764. He pointed out that these estimates were predicated on the premise that improved crossing protection at Naples Street, the nearest crossing south of Moss Street, should be completed prior

to installation of improved protection on the latter crossing.^{1/} So much of the work of the circuits on the main line would have been done in connection with the Naples Street installation, he indicated, that the work necessary at Moss Street would be materially reduced.

The position of City, as stated by its city attorney, is that the showing made does not justify the installation of signals at the Moss Street crossing, but if it is concluded to direct such installation City protests any apportionment of the cost to it.

Counsel for Railway stated that his company's position is that if the Commission determines that automatic protection is necessary at Moss Street, the staff's recommendation as to the specific installation is appropriate. Railway is also in accord with the allocation of costs recommended by the staff. The carrier would object strenuously, however, to any greater proportion of the cost being assigned to it than as proposed by the staff.

While the volume of traffic over the Moss Street crossing is considerably less than that at some other crossings in the area, it is clear that this volume will substantially increase, as Montgomery Freeway is widened, and after "K" Street Crossing is closed, as a part of the widening program. Meanwhile, the hazards which are presently encountered in the vicinity of the crossing require the upgrading of the present protection.

While the crossing is located entirely in the county, it is clear that the residents of Chula Vista have a substantial interest in the quality of protection provided at the crossing and would be affected by upgrading of said protection. Under the authority conferred by Section 1202 of the Public Utilities Code this Commission has in many instances assigned a portion of the cost of improved

^{1/} The record shows that at the time of the hearing negotiations between Railway and County for installation of Standard No. 8 flashing light signals, supplemented with automatic gates, were in progress.

crossing protection to an entity the jurisdiction of which is outside the boundaries of the governmental body wherein the crossing at issue is located.^{2/}

We find that:

1. Public safety, convenience and necessity require that (a) the crossing embraced by the Commission's investigation in Case No. 8198 be improved by the installation of two Standard No. 8 flashing light signals, supplemented with automatic gates; (b) the pavement in the crossing area be repaired; and (c) the RKR pavement markers and double white clearance markers be repainted.

2. The cost of installation and maintenance of said improved protection should be borne as follows: 50 percent by San Diego & Arizona Eastern Railway Company, 25 percent by the County of San Diego and 25 percent by the City of Chula Vista; the cost of repairing the pavement should be borne by said Railway; and the cost of repainting the pavement markers should be borne as follows: 50 percent by said County and 50 percent by said City.

"K" Street (Case No. 8206)

The aforesaid engineer from the Commission's staff had also made a study of the "K" Street crossing. The following facts were adduced through his presentation and through testimony of the aforesaid city engineer of the City of Chula Vista:

The crossing is with the aforesaid main line of Railway and is located in the City of Chula Vista. It is the second crossing to the north of the Moss Street crossing and is about a quarter of a mile north of "L" Street crossing. "K" Street extends to the east

^{2/} See, for example, Decision No. 65456, dated November 20, 1962 in Case No. 7279 (Commission Investigation of crossings of Southern Pacific Company at Mendota; 60 Cal. P.U.C. 353).

of the crossing here in issue, but just west of said crossing it terminates at its junction with the aforesaid Industrial Boulevard. The latter thoroughfare also terminates at this point, extending therefrom only in a southerly direction. Thus, vehicles going westward on "K" Street, after traversing the crossing must turn south onto Industrial Boulevard. Similarly, vehicles proceeding northbound on the latter street must turn east onto "K" Street and go over the crossing. At this point Montgomery Freeway is just a short distance west of Industrial Boulevard.

A one-day traffic count made by the City of Chula Vista showed 3,000 vehicles moving over the crossing. The bulk of this traffic, it appears, consists of vehicles moving to or from Montgomery Freeway, via Industrial Boulevard and the freeway on- and off-ramps at "L" Street.

The staff engineer's survey failed to disclose that any public school buses regularly use the "K" Street crossing. However, the city engineer testified that, as of the date of hearing, one loaded 8-passenger school bus passed daily over the crossing.

The number of trains passing daily over the crossing is as hereinabove stated in connection with the Moss Street crossing. However, there is no side track at this location, so there are no switching moves over the crossing.

The present protection at the crossing consists of two Standard No. 1-A (reflectorized) crossbuck signs and two advance warning signs.

The view of the westbound driver approaching the crossing on "K" Street is obscured, both to the north and to the south, by residential dwellings, which extend in both directions along the east side of the railroad right-of-way. Drivers traversing the

crossing in an easterly direction approach it, of course, travelling northbound on Industrial Boulevard, making a right angle turn onto "K" Street shortly before entering the crossing. On this approach the view is unobstructed, both to the north and the south, for a substantial distance. However, some distance south of the aforesaid turn Industrial Way goes over an overpass. As drivers come down the overpass, the staff engineer testified their view of the railroad to the north of "K" Street is obstructed by advertising billboards. The city engineer testified, however, that said billboards were erected at such a height as to enable approaching drivers to see the track through open space below.

The railroad track is elevated, at the crossing, approximately $4\frac{1}{2}$ feet above the level of "K" Street east of the crossing, with an approach grade of 5 or 6 percent. According to the staff engineer this situation was an additional factor in the impairment of visibility of approaching trains to westbound road traffic.

The record discloses that there have been no accidents at this crossing in at least the past five years. It appears that the most recent accident was in 1958.

The staff witness recommends:

1. Installation of two Standard No. 8 flashing light signals, supplemented with automatic gates, costs to be borne 50 percent by Railway and 50 percent by City;
2. The pavement in the crossing area be repaired, costs to be borne by Railway; and
3. The RKR pavement markers and the double white clearance lines be repainted, costs to be borne by City.

Railway's assistant division engineer testified that the estimated installation cost of signals and gates would amount to

\$15,270. Annual maintenance and operating costs, he stated, would be \$672. He further stated that these estimates were predicated on the premise that improved crossing protection at "L" Street should be completed prior to installation of improved protection on "K" Street. The reasons given were similar to those hereinbefore set forth, which he gave in connection with his cost estimates for the Moss Street crossing.^{3/}

The city engineer testified that the State Division of Highways plans to widen Montgomery Freeway from four lanes to eight lanes. Concurrently, it will be necessary to eliminate the "K" Street crossing, and the City of Chula Vista has entered into a preliminary agreement with the Division of Highways to that effect. The engineer had no information regarding a starting date for the freeway project, but stated that plans call for its completion by 1972.^{4/}

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- ^{3/} By Decision No. 67534, dated July 14, 1964, City was authorized to make certain improvements at said "L" Street crossing. The order also required the installation of Standard No. 8 flashing light signals. By Order Extending Time dated September 14, 1965, the time within which applicant might exercise said authority was extended to August 4, 1966.
- ^{4/} At the suggestion of staff counsel and agreement of the parties submission of Case No. 8206 was withheld for 60 days to give the city attorney of Chula Vista an opportunity to ascertain whether that city would be agreeable to the closing of the "K" Street crossing at this time. Subsequent to the hearing, and prior to submission of the matter, no response was received from City. However, on March 1, 1966, the Commission received a certified copy of Resolution No. 3996 of the city council of the City of Chula Vista, adopted by that body on February 23, 1966. The resolution pointed out that the city had entered into an agreement for the construction (widening) of Freeway Route No. 5, necessitating the elimination of the "K" Street crossing, that such freeway construction was expected to be accomplished not later than 1972 and that the "K" Street crossing would be closed at least two years prior thereto. The resolution further urged that this Commission not require the installation of improved protection at the "K" Street crossing, on the ground that said protection would be used only for a brief period, and would not, therefore, be economically feasible. Case No. 8206 is hereby reopened for the sole purpose of incorporating into the record said resolution, which is received as Exhibit No. 4.

Railroad's position with reference to the "K" Street crossing is the same as that expressed by its counsel concerning the Moss Street crossing, as hereinbefore set forth. Counsel for City made no statement of position regarding the "K" Street crossing.

The "K" Street crossing, the record shows, is heavily used, particularly by vehicles going from or to Montgomery Freeway via the "L" Street on- and off-ramps. The hazards presented by the physical environment of the crossing, coupled with the volume of traffic moving over the crossing are indicative of the need of improved protection.

As hereinbefore stated, it is the plan of the State Division of Highways to widen Montgomery Freeway from four lanes to eight lanes. Because of the nearness to the "K" Street crossing the project will necessitate the closing of that crossing. While, according to the Division's timetable, the record indicates that the widening is to be completed by 1972, it is not unreasonable to conceive that this "deadline" may be subject to postponement. Even if that completion year should be observed the "K" Street crossing may not be closed until the latter part of 1970, which eventuality would allow between four and five years more of public use of said crossing. In any event, the need for improved protection at the crossing is present and should not wait upon future action of the Division of Highways and of the City of Chula Vista.

We find that:

1. Public safety, convenience and necessity require that (a) the crossing embraced by the Commission's investigation in Case No. 8206 be improved by the installation of two Standard No. 8 flashing light signals, supplemented with automatic gates; (b) the pavement in the crossing area be repaired; and (c) the RRR pavement

markers and double white clearance lines be repainted.

2. The cost of installation and maintenance of said improved protection should be borne as follows: 50 percent to San Diego & Arizona Eastern Railway Company and 50 percent to the City of Chula Vista; the cost of repairing the pavement should be borne by said Railway; and the cost of repainting the pavement area should be borne by said City.

O R D E R

IT IS ORDERED that:

1. San Diego & Arizona Eastern Railway Company shall, within six months after the effective date of this order, improve the protection of the crossings of Moss Street and "K" Street, Nos. 36-9.1 and 36-8.6, respectively, with its main line by installing two Standard No. 8 flashing light signals, supplemented with automatic gates, at each of said crossings.
2. Said Railway shall, within six months after the effective date of this order, repair the pavement in the crossing area at each of said crossings.
3. The County of San Diego shall, within thirty days after the effective date of this order, repaint the RXR pavement markers and double clearance lines at said Crossing No. 36-9.1.
4. The City of Chula Vista shall, within 30 days after the effective date of this order, repaint the RXR pavement markers and double white clearance lines at said Crossing No. 36-8.6.
5. The installation costs for said protective devices specified in numbered paragraph 1 of this order shall be apportioned as follows: for Crossing No. 36-9.1, 50 percent to San Diego & Arizona Eastern Railway Company, 25 percent to the County of San Diego and 25 percent to the City of Chula Vista; for Crossing No. 36-8.6, 50 percent to San Diego & Arizona Eastern Railway Company and 50 percent to the City of Chula Vista.

6. The cost of repairing the pavement in the crossing area at each of said crossings shall be apportioned 100 percent to San Diego & Arizona Railway Company.

7. The cost of repainting the RXR pavement markers and double white clearance lines shall be apportioned as follows: for Crossing No. 36-9.1, 50 percent to the County of San Diego and 50 percent to the City of Chula Vista; for Crossing No. 36-8.6, 100 percent to the City of Chula Vista.

8. The maintenance costs for said automatic protective devices specified in numbered paragraph 1 of this order shall be apportioned in the same manner as the installation costs are ordered to be apportioned in numbered paragraph 5, pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

9. Within 30 days after the completion of work pursuant to the first four numbered paragraphs of this order San Diego & Arizona Eastern Railway Company, County of San Diego and City of Chula Vista, respectively, 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 5th day of APRIL, 1966.

Fredrick B. Hallock
President

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William B. Bennett
Commissioners

I concur as to the Moss Street crossing but dissent as to the "K" Street crossing. In view of the plan to close the "K" Street crossing when the freeway is widened, I would not require the installation of the proposed protection there at this time.
George T. Crower

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