

HJH

Decision No. 72207

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the status,)
safety, maintenance, use and)
protection or closing of three)
crossings at grade of the lines)
of The Atchison, Topeka and)
Santa Fe Railway Company in)
the County of San Bernardino;)
crossings 2D-1.4, 2D-2.6 and)
2D-7.0.)

Case No. 8280

Neal W. McCrory and Robert B. Curtiss, for
The Atchison, Topeka and Santa Fe Railway
Company; Eugene Holder, for County of
San Bernardino; respondents. 1/
Catherine D. McAndrew, David R. Larrouy,
W. F. Hibbard and William L. Oliver, for
the Commission's staff.

O P I N I O N

This proceeding is an investigation by the Commission on its own motion into the status, safety, maintenance, use and protection or closing of three crossings of The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) in the County of San Bernardino, namely, Crossing No. 2D-1.4 (I Avenue), 2D-2.6 (Peach Avenue) and 2D-7.0 (Kiowa Road). The crossings are located in or in the vicinity of the unincorporated community of Hesperia on the carrier's Lucerne Valley District, also known as the Cushenbury Branch.

1/ Mr. Larrouy was designated staff counsel on March 4, 1966 after Mrs. McAndrew resigned from the Commission's staff.

The purposes of the investigation, as set forth in the Order Instituting Investigation, are to determine:

1. Whether or not the 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 order, Santa Fe and the County of San Bernardino (County) are made respondents in the proceeding.

Public hearing was held before Examiner Bishop at Victorville on February 15, 1966 and at Los Angeles on April 4, May 3 and August 23 and 24, 1966. A brief was filed by Santa Fe, and with the filing of a stipulation of the parties relative thereto on November 3, 1966 the matter was taken under submission.

Evidence was introduced on behalf of the staff through an assistant transportation engineer; for Santa Fe, by its chief office claim agent and for County by its traffic engineer.^{2/}

The branch line on which the three crossings here in issue are located, the record shows, is operated for freight service only. The branch serves a cement plant at Cushenbury, some twenty-nine

^{2/} Portions of an exhibit introduced by Santa Fe were prepared by an assistant to its signal engineer. The parties entered into a stipulation concerning the testimony which the assistant would have given had he been called as a witness.

miles east of the junction with the carrier's main line at Hesperia. There is one train per day in each direction, Monday through Friday. The eastbound train passes over the crossings in question approximately between 3:00 and 4:00 p.m. and the westbound between 11:00 p.m. and 2:30 a.m. According to the Santa Fe witness, this has been the situation for at least three years last past, and no change in these times is contemplated in the foreseeable future.

The maximum speed of trains over these crossings, under Santa Fe operating rules, is thirty-five miles per hour. The maximum permissible speed for motor vehicles over the crossings is sixty-five miles per hour. The three crossings are protected by reflectorized crossbuck signs (Standard No. 1-A) and by reflectorized advance warning signs.

I Avenue

The vicinity of this crossing, the staff engineer testified, is desert country with rolling terrain, and many Joshua trees. It is also a residential area, with a scattering of houses. A school is located 2,100 feet south of the crossing.^{3/} This crossing, he said, is on a direct route between the Bear Valley Cutoff Road and the business district of Hesperia.

In the opinion of the staff witness, the I Avenue Crossing is hazardous, in that the view of the track, both to the east and the west, for approaching cars is obscured by the many Joshua trees in the area. The view for southbound motor vehicles, he said, is further obscured by a severe dip in the pavement approximately 160 feet north of the crossing.

^{3/} This witness observed school buses moving over the I Street crossing at about 3:00 p.m.

Since the opening of the Cushenbury line to traffic in 1956, the record discloses, there has been only one accident at the I Avenue crossing. No injuries or deaths resulted from that accident. The witness reported 1,180 cars having passed over the crossing on one day in January 1966, based on data from the San Bernardino County offices. Speeds of motor vehicles observed by the witness ranged from forty to sixty miles per hour.

The Santa Fe witness testified that the visibility of approaching trains to the motorist is excellent in all quadrants. The exhibits of both the Santa Fe and the Commission's staff included photographs of the views easterly and westerly of crossing from highway locations north and south of it.^{4/} The Santa Fe witness included a set of pictures in color from the same general locations which included a freight train either approaching the crossing or receding from it. These photos were designed to show that trains in the vicinity can be plainly seen by a motorist approaching the crossing from the north or the south, and that neither the presence of the Joshua trees, nor the effect of the dip in the pavement materially affects the visibility of trains to approaching motorists.

The Santa Fe study showed a traffic count of two hundred cars between 3:50 p.m. and 4:30 p.m. and a count of twenty motor vehicles between 11:50 p.m. and 2:30 a.m. The carrier's witness stated that the indicated periods are those in which trains pass over the crossing and asserted that traffic counts for other periods of the day have no significance for the purposes of this proceeding.

^{4/} Like photographs were taken by both parties at the Peach Avenue and Kiowa Road crossings.

Peach Avenue

The Peach Avenue crossing is about a mile east of the I Avenue crossing. The character of the terrain and vegetation in the vicinity of the former crossing, the staff engineer testified, is about the same as in the area of the I Avenue crossing, except that the hilly character of the country is more pronounced. Peach Avenue, he said, provides a route between the north central section of the Hesperia area and the central commercial section of that community. The road is quite hilly to the north and south of the crossing, the witness testified, and although it generally levels out within a few hundred feet of the tracks, the surrounding terrain and the dips and curves in the road result in some restriction of visibility of approaching trains. Some eight hundred feet north of the crossing is a severe dip in the road, at which location the visibility of trains is assertedly almost nonexistent. Joshua trees, he said, further restrict the visibility in all quadrants.

On a test day in January 1966, 376 vehicles passed over the Peach Avenue crossing. In the ten year period since the opening of the branch there has been one accident on the crossing. This occurred in March 1964 and resulted in one fatality. In the opinion of the staff engineer, this crossing is a hazardous one.

The Santa Fe witness testified that visibility of trains approaching the Peach Avenue crossing is excellent in all quadrants. As with the I Avenue crossing, the photographs in the Santa Fe exhibit which showed a train approaching or receding from the Peach Avenue crossing were designed to show that trains in the vicinity can be plainly seen from the north or the south by approaching motorists. With respect to the severe dip in the road eight hundred feet north of the crossing, the Santa Fe witness pointed out that cars traveling at normal speeds are only momentarily in the dip.

The Santa Fe study showed traffic counts of sixty and six vehicles moving over the crossing in the periods of 3:50 to 4:35 p.m. and 11:50 p.m. to 2:30 a.m., respectively.

Kiowa Road

This crossing is located about seven miles east of Hesperia. Kiowa Road, the staff witness testified, provides a direct route between the Bear Valley Cutoff Road and Rock Springs Road, leading to Hesperia. Visibility of eastbound trains for northbound motorists, he said, is somewhat restricted by the general terrain in the southwest quadrant where trains proceed from a cut or indentation in the land approximately two hundred fifty feet west of the crossing. Visibility is further restricted in the northeast and southeast quadrants, the witness testified, by a house and numerous Joshua trees. The view to the west, on approaching the crossing from the south, is obscured by a long row of evergreen trees. However, this row of trees terminates about three hundred feet from the crossing.

The one-day traffic count taken in January 1966 showed a total of 440 vehicles using the crossing. No accidents have occurred at this crossing since the opening of the Cushenbury branch line.

According to the Santa Fe study, visibility at the Kiowa Road crossing is excellent in all quadrants. As with the crossings hereinbefore considered, the photographs included in the Santa Fe exhibit showing a train approaching or receding from this crossing were presented to show that trains in the vicinity can be plainly seen from the north or the south by drivers on the highway.

According to the Santa Fe witness, their traffic counts disclosed that sixty-five and twelve vehicles passed over Kiowa Road crossing during the periods from 3:50 to 4:35 p.m. and from 11:50 p.m. to 2:30 a.m., respectively.

Other factors, in addition to those hereinbefore set forth, were mentioned by the staff witness as bearing upon his opinion that all three crossings are hazardous. He testified that the dark background of the desert and mountains sometimes made it difficult to distinguish an approaching train from its surroundings. To many motorists, he further stated, the existence of crossback signs indicates the presence of a track, but not of trains, so that they are careless in their approach to such a crossing. The crossings are used by four loaded school buses daily. He recommended that the protection at each of the three crossings here under investigation be upgraded by the installation of two Standard No. 8 flashing signals, the costs to be borne fifty percent by Santa Fe and fifty percent by County.

The Santa Fe witness recommended that no change be made in the existing protection at any of the three crossings. His opinion was that such protection is adequate. This conclusion was predicated on the slow train speeds over the crossing, the fact of only two train movements per day, the low volume of highway traffic, the observed medium speeds (forty to fifty miles per hour) of motor vehicles approaching the crossings, and the visibility of approaching trains, which he considered to be excellent in all directions. He expressed the additional opinion, however, that Santa Fe should review these crossings, at least annually, to determine whether conditions should have so changed as to then require increased protection at the crossings.

The witness for County stated that he had made a priority study for that body to determine the relative protection needs of crossings throughout San Bernardino County. The crossings here under consideration, he testified, were lower in priority than many others. Visibility at Kiowa Road, in his opinion, was not as good as at the other two crossings, but the low traffic count at Kiowa Road placed it below I Avenue and Peach Avenue in priority.^{5/} County takes periodic traffic counts of all grade crossings within its bounds. County has no objection to the installation of Standard No. 8 flashing signals at I Avenue and Peach Avenue, but believes it would be desirable to delay the installation and periodically review those crossings to determine when protection would be required. While County believes it is desirable to have automatic protection at all crossings, the witness felt that no such protection is required now at Kiowa Road. He concurred in the Santa Fe proposal for a periodic review of the crossing.

The evidence presented by the Commission's staff and by Santa Fe relative to the question as to whether or not circumstances prevailing at the crossings here under investigation are such as to require improved crossing protection in the interest of public safety, health, welfare, convenience and necessity has been carefully

^{5/} At the initial session counsel for Santa Fe attempted to question the Commission staff witness on the relative need of automatic protection at these three crossings as compared with Santa Fe crossings elsewhere in the State. Counsel for the staff objected to such questioning and to a proposal of Santa Fe to introduce evidence on this question and on the problems facing the carrier in attempting to comply with outstanding and prospective orders of the Commission for improved grade crossing protection throughout the State. The objection was made on the ground that such questioning and evidence would be outside the scope of this proceeding. At a later session the objection was sustained by the examiner. An offer of proof by counsel of Santa Fe was than received relative to the evidence sought to be adduced.

considered. This consideration included, among other things, the numerous photographs introduced by Santa Fe and the staff. Without discussing the evidence in detail, it is apparent that the view of trains approaching these crossings is obscured, in part, for motorists at some points more or less distant from the crossings. However, such obscuration is not, in consideration of the other factors involved, of sufficient importance to require upgrading, under current conditions, of the present protection at any of the three crossings at the present time.

We find that the existing railroad crossing protection at each of the three grade crossings embraced by this proceeding is adequate. Public welfare, health and safety do not require the installation of improved protection at any of these crossings.

O R D E R

IT IS ORDERED that the investigation in Case No. 8280 is discontinued.

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

Dated at San Francisco, California, this 28th day of MARCH, 1967.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners