

Decision No. 74049**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF
SAND CITY to construct a
public crossing over the
Southern Pacific Railroad.

Application No. 49540
(Filed July 11, 1967)

Milton W. Thompson, for applicant.
Harold S. Lentz, for Southern Pacific Company,
protestant.
Hoge, Fenton, Jones & Appel, by Lewis L. Fenton
and John I. Horton, for Monterey Sand Company
and Willis E. Haines, Deputy County Counsel,
for the County of Monterey, interested parties.
M. E. Getchel, for the Commission staff.

O P I N I O N

This is an application for a public crossing at grade on Blair Road over the tracks of the Monterey Branch Line of Southern Pacific Company. Public hearings were held before Examiner Power at Monterey on October 10, November 21 and 22, 1967. Submission took place on November 22.

Sand City is located upon the shore of Monterey Bay immediately south of the Fort Ord Military Reservation. It appears that sometime prior to the incorporation of Sand City the City of Seaside was incorporated. Seaside also starts at the southern boundary of Fort Ord. Its western boundary follows the easterly boundary line of Southern Pacific's right-of-way line for a long distance and jogs northwesterly to the bay shore in a narrow pan-handle. Just to the west of Seaside is the corporate limit of the City of Monterey, the two having a common boundary. The cities in this area have a tendency to follow the shore. One result of this is that the Fort Ord boundary is almost due east-west, while the

boundary between Seaside and Monterey is almost north and south.

The incorporation of Seaside left a fairly wide strip of land between that city and Monterey Bay. The bearing of this strip bears a rough resemblance to part of an arc of a circle. This strip is now incorporated as Sand City. The corporate limits include the railroad right-of-way.

At the northerly end of Sand City a new freeway, expected to be opened in August 1968, crosses the railroad from its inland to its seaward side. This freeway continues between the railroad and the bay down into Monterey.

The Division of Highways is constructing a grade crossing at the extreme northerly end of Sand City near the premises of Granite Construction Company. The next potential crossing is one of doubtful status, Blair Road. Southern Pacific Company regarded Blair Road as a private crossing, and after notice, closed it, apparently in October 1967. Blair Road passes under the freeway. The next crossing is Tioga Avenue which crosses both the railroad and the freeway. The next is Contra Costa Avenue which crosses the railroad but not the freeway. The last, actually outside of Sand City, is Humboldt Avenue, located at the boundary of Seaside and Monterey. It crosses both the railroad and the freeway. It is only three blocks from Sand City and provides access thereto.

If the instant application is denied, the traffic that would use Blair Road would be diverted over the Tioga Avenue crossing. One traffic count at Tioga Avenue showed an axle count of 2,350. This would show a vehicle count of 1,175 or less since some vehicles have more than two axles. A twelve-hour traffic count made by a railroad employee at Blair Road before it was

closed revealed 99 road vehicle movements and 6 rail movements. He classified the rail movements as 1 passenger, 4 freight and 1 "switch". The switch was a cut of cars disconnected from a train and rolled free down the track to get them ahead of the engine, to be spotted. The passenger figure omits the eastbound "Del Monte" train because the count went from 6:00 a.m. to 6:00 p.m. and the eastbound Del Monte arrives later than that.

The rail traffic at Tioga Avenue was not specifically established on the record. From much of the testimony, however, it would be a reasonable conclusion that there was more of it at Tioga than at Blair. It appeared also, in the testimony, that at times cars blocked Tioga Avenue for periods of several minutes.

A considerable body of evidence relating to potential development in the area was introduced. Most of the land between the Blair Road crossing site and the freeway belongs to Monterey Sand Company. This name covers both a corporation and a partnership of a father and two sons. One of the sons, Blair MacDonald, and an engineer testified. The engineer presented a plan for development of an industrial park. This plan has been accepted or approved by the Council of Sand City, but it is not in final form. The streets shown on it are not yet dedicated and may be relocated when a final version of the plan is presented. The engineer also presented a plan for a proposed Blair Road crossing.

The witness, MacDonald, testified that Monterey Sand Company has received a number of inquiries from potential occupants of the area. A discussion of these would be unintelligible unless the nature of this area were explained.

The Monterey Peninsula is associated with recreation. It has a considerable natural beauty. Many of its golf courses are

Famous across the country, not to mention across the world. Scattered throughout the year are such events as golf tournaments, music festivals, both jazz and classical, auto races and perhaps others.

One thing that follows from all this is that industries are not made welcome everywhere in the Peninsula. Aesthetic considerations carry much weight. Sand City was incorporated mainly to provide a home for industrial developments that might not be welcome in other parts of the Peninsula. Already there has been substantial development of manufacturing, distribution and transport in the Seaside-Sand City area. Establishments on the inland side of the railroad are in Seaside, those on the seaward side are in Sand City. The present industries in Sand City which are north of Tioga are also north of Blair Road. To get to the Tioga crossing vehicles from these industries must come south and then southeast over an undedicated street called Metz Road.

If the ultimate destination of this traffic is Monterey, Pacific Grove, Pebble Beach, Carmel, Carmel Valley or some point on the Monterey-Salinas Road, the route via Tioga Avenue is not circuitous. If the ultimate destination were north of Tioga, including the substantial traffic associated with Fort Ord, the Tioga route would be circuitous.

Since this is a disputed case the evidence briefly outlined above must be weighed in the light of Section 1705 of the Public Utilities Code. The cases decided under that section include, among others, California etc. Co. v. Public Utilities Commission, 59 Cal.2d 583, and Greyhound Lines, Inc. v. Commission, 65 Cal.2d 811. These cases hold that every preliminary issue of fact on the way to the ultimate finding must itself be resolved by

a finding. The evidence in this case would not sustain these preliminary findings if they were made. For that reason alone the application must be denied.

The Commission finds that:

1. Sand City is an incorporated city in Monterey County.
2. Southern Pacific Company operates a railroad line along the eastern and southeasterly edges of Sand City.
3. Prior to October 1967, there was a crossing opened under a private crossing agreement between Southern Pacific Company and Monterey Sand Company on Blair Road (M.P. 122.56).
4. Sometime in October 1967 Southern Pacific Company, after notice, closed and barricaded the crossing at M.P. 122.56.
5. Monterey Sand Company, which owns most of the land in the vicinity of M.P. 122.56 and between the railroad tracks and a free-way now under construction, proposes to develop its land as an industrial park.
6. As a part of this development Monterey Sand Company is willing to dedicate to the City of Sand City a street in the approximate location of the present Blair Road (undedicated) and to the City of Seaside a lot belonging to it and just opposite Blair Road. This lot extends from the Southern Pacific right-of-way to Del Monte Avenue in Seaside and formerly provided an extension of Blair Road to Del Monte Avenue.
7. The final dedications of Blair Road have not been made.
8. Monterey Sand Company has received inquiries from various industrial, commercial, transport and service companies regarding the acquisition of operating sites in its Sand City property.

A. 49540 ds

9. One of such inquiries has reached the stage of full commitment, another the stage of arranging financing and the rest have not gone beyond the inquiry stage.

10. The anticipated vehicular traffic at Tioga Avenue crossing with Blair Road closed at the present time is 1,300 vehicles per day, the anticipated rail traffic is 7 or more trains per day, including two passenger movements.

11. Public convenience and necessity do not require a public crossing at Blair Road now or in the readily foreseeable future.

12. There have been three or more accidents at Blair Road private crossing in recent times.

13. There is minor impairment of visibility at Blair Road in both of the eastern quadrants.

The Commission concludes that this application is premature and should be denied.

O R D E R

IT IS ORDERED that:

1. Exhibit 12, in evidence, shall consist of Sheets Nos. 1, 162, 163, 164, 165, 166, 167, 168, 169, 170, 403 and 412 of the plan offered.

2. Application No. 49540 is denied.

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

Dated at San Francisco, California, this

30th day of APRIL, 1968.

[Signature]
President
[Signature]
[Signature]
Commissioner William S. [Signature]