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ORIGINAL

Decision No. 74953

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of)
San Joaquin County, acting)
through its Board of Supervisors,)
for permission to construct)
"Anteros Avenue" at grade across)
the Southern Pacific Railroad)
Company, a Corporation.)

Application No. 49271
(Filed April 10, 1967)

Robley E. George, Assistant County Counsel,
Thomas M. Zuckerman, Deputy County Counsel,
for the County of San Joaquin, applicant.
Harold S. Lentz, for the Southern Pacific
Company, protestant.
Mrs. Maybelle Reimche, for herself, and Max
Rosenthal, for himself, protestants.
M. E. Getchel, for the Commission staff.

O P I N I O N

The County of San Joaquin filed herein to request authorization to extend Anteros Avenue over the tracks of the Southern Pacific Company. The avenue is a north-south street and would intersect the railroad at a right angle. It is located one block east and runs parallel to both the freeway (Highway 99 and 50) and the Stockton city limits. There are two streets nearby that cross the tracks; Oro Avenue, which is three blocks east of Anteros and Gertrude Avenue two blocks east of Oro.

The proposed Anteros Avenue crossing had been conditionally authorized in two prior decisions. The county first requested authority to construct the crossing by Application No. 45570, filed on July 1, 1963. An ex parte order (Decision 65997) was issued on September 10, 1963, authorizing the opening of the crossing subject

to the filing of an agreement between the parties prior to the commencement of construction. The Division of Highways of the State Department of Public Works paid the county the sum of \$82,000 to improve Anteros and to construct the crossing. The payment was made to enable the county to provide a good parallel frontage road to keep local traffic off the freeway. All of the work was completed except for the installation of Standard No. 8 flashing light signals. The County agreed to pay for the installation of the No. 8 signals but refused to assume responsibility for any maintenance cost on the signals after they were installed. The Southern Pacific Company thereupon refused to participate in the agreement on apportionment of costs and the matter was reopened and scheduled for hearing by Decision No. 66572, dated January 7, 1964. A hearing was held and Decision No. 67576 was issued on July 21, 1964. It required the railroad to assume all maintenance cost on the flashing light signals to be installed; found that three crossings were not required and that the Oro Crossing would not be as safe as the proposed Anteros Crossing and authorized the Anteros crossing to be opened with the condition that Oro be closed. The County Board of Supervisors refused to close the Oro Avenue Crossing, and the railroad thereupon erected a barrier at Anteros. Both parties petitioned for a rehearing which was denied.

The present application was protested by the Southern Pacific Company and by several property owners who live on Anteros Avenue north of the tracks. A hearing was scheduled and heard before Examiner Fraser at Stockton on February 27, 1968 and April 2, 1968. The matter was submitted on the latter date. Testimony and documentary evidence were provided by the applicant, the Southern Pacific Company, and several members of the public.

The applicant's evidence emphasized that three crossings are the minimum required in the area; that the tracks are on a six foot mount at the Oro Avenue Crossing and that a warehouse is located next to the tracks so as to block the view of those driving south over the crossing. It was noted that trailers or low-body trucks could hang-up on the railroad embankment thereby closing the crossing to both trains and vehicles. It was further noted that Gertrude Avenue is located on Franklin High School property for three blocks north of the crossing which makes it a private road since it has never been deeded to the county and is blocked for 24 hours each year to prevent its becoming a county road by public use. Gertrude is also posted during the school season while school is in session. A sign is placed in the middle of Gertrude Street just north of the intersection of Gertrude and Miner Streets. Traffic is thereby encouraged to turn west on Miner and proceed on Miner to Oro Avenue. Miner parallels the railroad and is located one block north of the tracks. The sign used to block Gertrude is a small one which is mounted on a stand and reads: "Street Closed". Cars can pass on either side of the sign and occasionally do, to reach the school athletic fields or to proceed through the school property. A similar sign blocks the other end of the campus two blocks to the north. The vice principal of the high school testified that about 260 students drive to school and park in the student lot west of Gertrude and north of Miner. The parking area access ramps are all located on Miner Street. A county engineer testified that the Oro Avenue Crossing is unsatisfactory due to the railroad embankment, the off-set alignment and various other factors. He advised that it would take at least \$60,000 to make the Oro Crossing as good as Anteros, if the latter is opened

to public use. He concluded that to improve Oro Avenue crossing to handle heavy traffic would cost from \$75,000 to \$100,000. He stated he would not recommend spending \$60,000 on the Oro Crossing under the present circumstances as the expenditure would not be justified. Traffic counts taken during a 24-hour period by a mechanical counter were placed in evidence. They were taken on a day when school was in session during 1964, 1965 and 1967. Gertrude Avenue just north of the tracks registered 2,970 vehicles in 1964, with 2,465 vehicles south of the tracks. In 1964 Oro Avenue registered 2,558 north of the tracks and 1,407 south of the tracks. The 1967 traffic counts were approximately the same. A traffic engineer testified that he estimated the Anteros Crossing would be used by 1,000 vehicles per day.

Counsel for the Southern Pacific Company made a motion to have the State Department of Public Works, Division of Highways, brought in as a necessary and proper party. The motion was denied. A railroad representative testified that there are six to eight trains a day on six days of the week (Sundays are excluded). He stated the trains move from 8:00 p.m. to 9:00 a.m. although there are occasional movements during the day. Another witness presented the conclusions from a safety study, made at railroad crossings, which recommended that automatic gates be installed at all new crossings in addition to No. 8 flashing lights.

Five residents testified who either live near or own property close to the proposed crossing. All were opposed to the opening of the Anteros Crossing. The Avenue is narrower one block north of the tracks where it used to be Jesse Street. It has been renamed North Anteros. It was agreed that traffic proceeding north

from the crossing will be compressed as Anteros narrows thereby endangering neighborhood children and affecting street parking and access to driveways.

Discussion

The map shows Anteros as the closest location for a north-south street east of the freeway. Gertrude is centrally located in the urban area east of the freeway, but it is narrower than Anteros south of the tracks and its use is restricted or blocked at various times by the School District. It passes through the grounds of a large high school one block north of the crossing and has no warning devices to advise of approaching trains. The northern portion of Oro Street ends just south of the tracks at Railroad Avenue. If one is proceeding north on Oro it is necessary to turn east on Railroad Avenue - south of the tracks - drive 80 feet, then turn left (north), climb over the elevated railroad tracks and continue northerly on Oro Street. This off-set and the elevated tracks restrict the Oro Crossing to light traffic. The expense of eliminating the off-set and mound would be prohibitive and county engineers have recommended that nothing be done to improve the Oro Crossing. The Commission staff and the railroad have recommended that the Oro Crossing be closed as a prerequisite to opening Anteros.

The Gertrude and Oro Crossings will not be evaluated in this proceeding. They will be considered in a Commission investigation to be instituted on the date this decision is issued. If we ordered the opening of the Anteros Avenue Crossing and conditioned it on something to be done first at either of the other crossings it seems evident from past experience that nothing would be done.

After consideration the Commission finds that:

1. Anteros Avenue is paved on each side of the railroad right-of-way.
2. Public convenience and necessity require that the Anteros Crossing be opened to public use.
3. The County of San Joaquin has agreed to pay the entire cost of opening the crossing and the cost of installing the automatic protective devices.
4. The State Department of Public Works has paid the County \$82,000 to improve Anteros and construct the crossing.
5. An investigation should be instituted by the Commission for the purpose of determining whether the crossings of Oro Avenue and Gertrude Avenue should be improved, closed, protected by automatic signals and gates, or otherwise affected.

Conclusions

1. The Anteros Avenue Crossing should be opened to public use.
2. The County of San Joaquin should be authorized to complete and open to public use the Anteros Avenue Crossing.
3. The County of San Joaquin should bear the entire cost of the opening of the Anteros Crossing and the entire cost of installing the automatic protection at the crossing.
4. The County of San Joaquin should bear the maintenance cost of the crossing outside of lines two feet outside of rails. The Southern Pacific Company should bear maintenance cost of the crossing between such lines.
5. The motion to make the Division of Highways, Department of Public Works, a necessary and proper party herein, should be denied.

6. The Commission should issue an Order Instituting an Investigation of the Oro Avenue and Gertrude Avenue Crossings at grade over the tracks of the Southern Pacific Company in San Joaquin County.

O R D E R

IT IS ORDERED that:

1. The County of San Joaquin is authorized to construct the crossing of Anteros Avenue at grade across the tracks of the Southern Pacific Company in said county, at the location and substantially as described in Application No. 49271, to be identified as Crossing No. DC-93.1. As protection Southern Pacific Company shall install two Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with automatic gate arms. This authorization shall expire if not exercised within one year after the effective date of this order unless the time is extended by order of the Commission.
2. The County of San Joaquin shall bear the entire cost of the construction of the crossing and the installation of the automatic protective devices.
3. The County of San Joaquin shall bear the maintenance cost of the crossing outside of lines two feet outside of rails, and the Southern Pacific Company shall bear the maintenance cost of the crossing between such lines.
4. The maintenance costs for the automatic crossing protection shall be apportioned 100 percent to the County of San Joaquin, pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

5. Within thirty days after the opening of the Anteros Avenue Crossing the applicant shall advise the Commission in writing. The Southern Pacific Company shall advise the Commission in writing of the operation of the automatic signal protection and gates at the Anteros Avenue Crossing within thirty days after the date of installation.

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

Dated at San Francisco, California, this 19th
day of NOVEMBER, 1968.

William J. Lyons, Jr.
President
William L. Bassett
Augusta
Paul P. Morrissey
Commissioners

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