

Decision No. 75274**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the status, safety, maintenance, use and protection or closing of the crossings at grade of the lines of The Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company located in the City of Fresno.

Case No. 8779

Harold S. Lentz, for Southern Pacific Company;
Robert B. Curtiss and R. D. Hayes, for The
 Atchison, Topeka and Santa Fe Railway
 Company; William E. Sherwood and Frank G.
Waterhouse, for State of California
 Department of Public Works; Alan D. Davidson,
 for City of Fresno, respondents.
G. R. Mitchell, for Brotherhood of Locomotive
 Engineers, interested party.
William C. Bricca, Counsel, and Richard Collins,
 for the Commission staff.

INTERIM OPINION

On January 10, 1968, by letter dated January 4, 1968 and signed by its Director of Public Works, the City of Fresno, hereinafter called Fresno, provided notice of its intention to widen Cedar Avenue and to make certain other improvements and alterations in said street at Crossing No. BS-209.0 of the Southern Pacific Company (SP) Clovis Branch line. The filing did not include evidence required by General Order No. 88 that SP and Fresno were in agreement relative to the proposed alteration.

On April 2, 1968, the Commission instituted this investigation on its own motion into the status, safety, maintenance, use and protection or closing of 100 grade crossings in the City of Fresno, including Crossing No. BS-209.0, for the purpose of

determining, among other things, whether the public health, safety and welfare require the relocation, widening, closing or other alteration of said crossings or require installation and maintenance of additional, different, or improved protective devices at said crossings.

Hearings were held December 3 through 6, 1968 before Examiner Thompson at Fresno at which time Fresno and SP requested that the Commission act upon the proposed widening request without delay. Evidence concerning said proposal was received at the hearings.

Fresno has formulated and adopted a master street plan which provides that Cedar Avenue shall be an arterial street and the widening project is an implementation of such a plan. The work of improving and widening Cedar Avenue in the vicinity of Crossing No. BS-209.0 is now in progress and it is anticipated that the project can be completed within a short period of time.

Prior to the inauguration of the street improvement, Cedar Avenue between Belmont Avenue and Tulare Street was approximately 36 feet in width with one lane of traffic moving in each direction (north and south). SP's Clovis branch crosses Cedar Avenue on a diagonal at the intersection of Cedar and Illinois Avenues. The crossing is and has been protected by Standard No. 1 signs (cross-bucks).

The plans of Fresno for the street improvement in the vicinity of Crossing No. BS-209.0 call for the widening of Cedar to 80 feet between curb lines and, other than in the intersection and other than within 10 feet of the center line of the railroad track, the construction of a divider strip. The street would be constructed

to accommodate two moving lanes of through traffic moving northbound and two southbound and one lane in the median which will provide for left turns or U-turns. Illinois Avenue on the west side of Cedar will be rerouted to the north and parallel to the railroad which will eliminate the crossing of the tracks and Illinois Avenue. The realignment of Illinois Avenue and the construction of the divider strip will prevent a left turn by vehicles proceeding north on Cedar and thence west onto Illinois.

An arterial street is designed to carry a high volume of traffic with vehicles ordinarily taking trips exceeding three miles of travel and it is anticipated that by 1975 the average daily traffic count on Cedar Avenue will be from 18,500 to 20,000 vehicles daily. Traffic counts on Cedar Avenue between Belmont Avenue and Tulare Street taken in October 1967 disclosed an average daily traffic count of 15,000 vehicles.

The present maximum speed limit on Cedar is 25 miles per hour. It is anticipated that the maximum speed limit after improvement will be at least 35 miles per hour, not greater than 45 miles per hour, and probably will be 40 miles per hour.

SP has two to four trains daily over the crossing and the maximum speed limit of those trains is 15 miles per hour.

Fresno and SP have executed an agreement in writing (Exhibit 9) relative to the proposed alteration which provides, among other things, that in the event the Commission orders the installation of automatic signals and devices at the crossing, as a part of the consideration for the right to construct the street on SP property, Fresno will pay the entire cost of installing the protective devices that may be ordered and the cost of maintaining said devices shall be shared equally by Fresno and SP provided,

however, that within ten years in the event devices are no longer required and are removed Fresno shall receive credit for whatever salvage may result therefrom.

Following discussions, agreement in principle has been reached by Fresno, SP, The Atchison, Topeka and Santa Fe Railway Company (ATSF), the State of California Department of Public Works, and individuals and industries affected concerning abandonment by SP of a portion of its Clovis Branch. Crossing No. BS-209.0 is on the section of line involved in the proposed abandonment. At present negotiations between SP and ATSF are taking place concerning the terms and conditions under which SP would be permitted to utilize ATSF's main line and Fresno Interurban Branch line as a bypass of the portion of SP's Clovis Branch involved. If agreement can be reached concerning such terms and conditions, it is the intention of the parties to file application with the Interstate Commerce Commission to authorize the abandonment and to authorize the movement of SP trains over the tracks of ATSF. At this time, however, the parties are unable to state when agreement may be reached and when such application will be filed. It also is not possible to determine when the Interstate Commerce Commission would act upon such an application if and when it were to be filed.

It was estimated that the installation of Standard No. 8 flashing lights at the crossing will cost \$15,200 and that automatic gates would cost an additional \$4,000 provided certain islands and curb modifications in the street were made which would permit the installation of standard low-cost devices. It was also stated that ordinarily it requires between 6 and 12 months to complete such installation because the devices are not inventoried by SP but must

be ordered from the manufacturers and because the number of skilled workmen necessary to install such devices are limited and SP has a number of future installations required either by order of the Commission or commitments previously made to local authorities.

Fresno urges the Commission to authorize the street widening and the street improvements at the crossing without requiring automatic signals. It states that if the line is abandoned the money required to install the protective devices would be wasted and might have been spent to protect some other crossing.

SP has agreed to the widening of the crossing. Its position is that if the Commission determines the crossing should be protected by automatic protective devices the proper devices would be Standard No. 8 flashing lights with automatic gates.

The Commission staff recommends that Standard No. 8's with gates be required but that during construction and for a period not exceeding six months from the effective date of an order of the Commission Fresno be permitted to widen the crossing and to use the improved street for vehicular traffic without the automatic protective devices.

Before considering the degree of hazard at the crossing when widened, it is desirable first to consider the possible alternatives. For at least six months after the effective date of this decision, and possibly longer, automatic protective devices cannot be in service at the crossing. The street widening, except for the crossing itself, will probably be completed prior to the effective date of this decision. Assuming for the moment that the crossing as modified would require automatic protection in the form of Standard No. 8's with gates we have the choice of: (1) ordering

the closing of the crossing until the protective devices are installed, (2) requiring the protective devices to be installed and operative before the crossing is widened, or (3) authorizing the widening and the use of the widened crossing without automatic protection pending its installation.

The first alternative would not be in the public interest. Cedar is a major cross-town street and the County General Hospital is located on Cedar only about one-fourth mile from the crossing. Roosevelt High School is located on Cedar approximately one-eighth of a mile from the crossing. It is not to be expected that cross-town traffic will diminish and if Cedar is closed at the crossing such traffic would merely be diverted to another street such as Barton Avenue to the east or Ninth Street to the west. There are no automatic protective devices at the crossings at Barton Avenue or at Ninth Street. The result, therefore, would be to merely divert heavy traffic to other crossings without any greater protection.

The second alternative is not in the public interest because it would provide a bottleneck to traffic on Cedar and thereby create an additional hazard. While there is no evidence herein concerning the relative probability of accidents which might occur from such bottleneck conditions as compared to the probability of a train automotive vehicle collision at the widened crossing, it is reasonable to believe that the incidence of automobiles colliding as a result of two lanes of high speed traffic funneling into one lane would be as great as the incidence of collision between automobiles and trains when it is considered that the train traffic involves only from two to four trains per day.

The third alternative poses this problem: automobiles traversing the widened crossing will be subject to whatever hazards may exist for at least six months and possibly longer; is it reasonable or in the public interest to require the expenditure of around \$19,200, or possibly more, if the protective devices are used for only six months, a year, or even 18 months? In other words, the people having been subjected to this hazard for six to eight months might be paying \$20,000 for protective devices that are in use for the same period of time.

This investigation covers 100 grade crossings and from the evidence received thus far it is apparent that there are other crossings, and particularly main line crossings, that provide a hazard at least as great as, if not greater than, any hazard that might be contemplated at the widened crossing. It is true that \$20,000 can be spent prudently on other crossings involved in this investigation. It seems clear, therefore, that if it were known that the Clovis line were to be abandoned within a definite period such as one or two years it would not be in the public interest to require the expenditure of \$20,000 at this crossing, keeping in mind that money, manpower, and material place a limit upon the number of crossings that can be improved within a period of time. We do not know if and when this line will be abandoned. We do know that negotiations are taking place.

If some safeguards which will reasonably notify the motorist of his approach to the crossing and will clearly indicate the location of the crossing can be provided, it is in the public interest to defer consideration of automatic protective devices until the parties have had a reasonable opportunity to complete their negotiations.

The minimum advance warning required by the Vehicle Code is an advance warning sign on the right-hand side of each approach at a reasonable distance from the crossing. General Order No. 75-B requires that there shall be a crossing sign (Standard No. 1 or Standard No. 1-A) located in a conspicuous place facing highway travel, preferably at either corner of the crossing intersection on the right-hand side of the traffic flow and in advance of the railroad track. In this instance such advance warning signs posted on the right-hand side of each approach would not be adequate to notify the driver of an automobile proceeding at 40 miles per hour in the left-hand lane of traffic of his approach to the crossing, particularly if another vehicle is proceeding in the right-hand lane ahead of the motorist which would prevent him from seeing the advance warning sign, and especially during rainy or foggy weather when visibility is impaired. The Standard No. 1 signs on the right-hand side of the crossing intersection would not be readily apparent to a motorist traveling 40 miles per hour in the left-hand lane because he would more likely be looking at the road ahead or would be concerned with the possibility of the approach of traffic from Illinois Avenue which enters Cedar immediately before the crossing in the case of both northbound and southbound traffic. The aforementioned signs positioned as required by the Vehicle Code and by General Order No. 75-B, by themselves would not provide the protection necessary.

Illinois Avenue enters Cedar Avenue immediately before the crossing. Providing advance warning to motorists on Illinois Avenue that upon making a right turn onto Cedar they will be in a crossing would be not feasible if not virtually impossible. A

southbound motorist on Cedar intending to make a left turn onto Illinois could easily cause vehicles behind him to stop in the crossing.

The aforementioned conditions are the primary hazards at this crossing. They are amplified by reason of the fact that for vehicles traveling 40 miles per hour the visibility on three of the four quadrants will be relatively obscured, and by reason of the fact that the effect of any warning from the locomotive's headlight and Mars light^{1/} is diminished because the crossing is at a diagonal.

We come to the question of what can be done by respondents to eliminate or at least ameliorate the aforesaid unsatisfactory conditions.

1. The City has the power to prohibit any right turn from Illinois Avenue onto Cedar Avenue and the evidence indicates that no undue hardship nor any unnecessary new hazard would result from the exercise of such power.

2. The City may prohibit and has the practical means to prevent any left-hand turns from Cedar Avenue onto Illinois Avenue. Practical means consist of extending the divider strip by constructing a temporary island extending from a point not closer than ten feet to the center line of the track to the point where an extension of the median line of Illinois Avenue intersects the median line of Cedar. "No left-turn" signs can be erected on the divider strip.

3. The construction of the aforementioned island will permit a Standard No. 1 sign to be erected on the south side of the crossing facing oncoming traffic in the left lane.

^{1/} The Mars light is a bright light which provides an oscillating beam and which is intended to warn of the approach of the train.

4. The prohibition of left turns from Cedar Avenue onto Illinois Avenue will permit the widening of the divider strip north of the crossing so as to accommodate a Standard No. 1 sign north of the crossing facing oncoming traffic in the left lane on Cedar.

5. Advance warning signs can be placed on the divider strip on Cedar facing the left-hand lanes of approaches to the crossing.

6. Street light conduit shown on the plans for the Cedar Avenue project extends along both sides of the street. Taps can be made in such wiring which will permit the installation of a flashing yellow light at each of the warning approach signs. Such flashing light will attract the drivers' attention to the advance warning sign and during rainy or foggy weather or at other times of limited visibility will warn the driver of the necessity of proceeding with caution.

7. Appropriate markings can be painted on the street for each lane of traffic warning of the approach to the crossing.

The unsatisfactory conditions can be eliminated or ameliorated and it appears that such can be done at a cost substantially lower than the installation of automatic crossing protective devices. The City should be authorized to widen the crossing subject to the condition that it take the remedial steps indicated or provide for some other means of eliminating the unsatisfactory conditions. It is not desirable to set forth any rigid specifications concerning the work to be done.

It may well be that the flashing yellow lights, the advance warning signs, the street markings and reflectorized Standard No. 1 signs may not be as effective in preventing accidents as Standard No. 3 flashing lights with automatic gate arms; however, we find that the placing of said lights and signs for each

lane of traffic on Cedar Avenue, and the prevention of right turns from Illinois Avenue and left turns onto Illinois Avenue will provide reasonable notice and warning of the approach to the grade crossing so that the ordinary prudent motorist will be able to avoid a collision with a train at said crossing.

We conclude that Fresno should be authorized to widen the crossing of Cedar Avenue at grade with a track of the Southern Pacific Company, Crossing No. BS-209.0 in the City of Fresno, Fresno County, subject to the conditions prescribed in the order that follows and, because of the possibility of the Clovis Line being abandoned, consideration of whether automatic protective devices for this crossing are necessary to promote and safeguard the health and safety of trainmen and the public should be deferred for one year.

INTERIM ORDER

IT IS ORDERED that:

1. The City of Fresno is authorized to widen the crossing of Cedar Avenue at grade with a track of the Southern Pacific Company, Crossing No. BS-209.0, in the City of Fresno, Fresno County, and to make street improvements and realignments within said crossing as proposed and more particularly described in Exhibit 6 herein, subject to the following conditions:

- (a) A physical barrier in the form of a divider strip or some other design shall be constructed on the median line of Cedar Avenue south of the rail line from a point not closer than 10 feet from the center line of the track to a point where the extension of the median line of Illinois Avenue intersects the median line of Cedar Avenue.

- (b) There shall be posted on the divider strip of Cedar Avenue at the approaches to Illinois Avenue signs prohibiting left turns from Cedar Avenue onto Illinois Avenue.
- (c) Right-hand turns from Illinois Avenue onto Cedar Avenue shall be prohibited and appropriate signs shall be erected to implement said prohibition.
- (d) Protection at the crossing shall be by Standard No. 1 crossing signs reflectorized with reflex-reflective sheet material located in a conspicuous position facing street travel at either side of the crossing on the right-hand side of street traffic flow and on the divider strip at or near the median line of Cedar Avenue facing the inside lane of traffic flow and in advance of the railroad track.
- (e) In addition to the advance warning signs required by Section 21362 of the Vehicle Code, there shall be erected in the divider strip facing inside lane traffic flow, at a reasonable distance from the crossing, a warning approach sign of the type and design specified in Section 21404 of the Vehicle Code.
- (f) There shall be erected, at or near said warning approach signs, a yellow flashing light facing each street lane for moving traffic. Said light shall be operated, if not at all times, from one-half hour before sunset until one-half hour after sunrise and at all times of limited visibility caused by rain or fog.
- (g) There shall be painted in each lane in Cedar Avenue, at a reasonable distance in advance of the crossing but not in advance of the flashing yellow lights, roadway markings stating "R.R. Xing."
- (h) The widened portion of the crossing shall not be opened to public use until the barrier strip, signs, lights and roadway markings have been installed and are operative.

2. Width of the crossing shall not be less than 80 feet and grades of approach shall not be greater than 1 percent. Construction shall be pursuant to General Order No. 72.

3. The cost of widening and the installation cost of protective devices at the crossing shall be apportioned pursuant to the agreement entered into between the City of Fresno and Southern Pacific Company (Exhibit 9).

4. Maintenance cost of the crossing outside of lines two feet outside of rails shall be borne by the City of Fresno. Southern Pacific Company shall bear the cost of maintenance of the crossing between such lines.

5. In all other respects the application of the City of Fresno to widen Crossing No. BS-209.0 is denied.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 4th day of FEBRUARY, 1969.

William J. Simpson, Jr.
President

August

Fred P. Monissey

Thomas

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.