

Decision No. 79853

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
the County of Contra Costa, State of
California, for a crossing at Grade
of Tracks of the Southern Pacific
Company at Paraiso Drive, South of
Danville, Contra Costa County, Calif.
(PUC No. BO-55.9)

Application No. 52963
(Filed November 2, 1971)

James A. Klinkner, Attorney at Law, for the
County of Contra Costa, applicant.
Harold S. Lentz, Attorney at Law, for the
Southern Pacific Transportation Company,
and William Hoelsken, Attorney at Law,
in propria persona, interested parties.
William Figg-Hoblyn, Attorney at Law, for
the Commission staff.

O P I N I O N

The County of Contra Costa requests a permanent reopening of a grade crossing (Crossing No. BO-55.9) at Paraiso Drive over the tracks of the Southern Pacific Transportation Company near Danville.

A public hearing was held before Commissioner Sturgeon and Examiner Daly on February 16, 1972, at Danville at which time and place the matter was submitted.

The record indicates that by Decision No. 64439 dated October 23, 1962, the County of Contra Costa was authorized to construct a temporary crossing at Paraiso Drive. The temporary crossing was to have been used until such time as vehicular access was provided to the permanent Sycamore Valley Road crossing (Crossing No. BO-55.5) via Brookside Drive.

By letter dated October 7, 1971, the Commission advised and directed the railroad and the county that the connection with Sycamore Valley Road had been made and that Paraiso Drive crossing should be closed in conformance with Decision No. 64439. Pursuant

thereto the railroad physically closed the temporary crossing on October 27, 1971.

On November 2, 1971, the County of Contra Costa filed the instant application requesting an immediate order reopening the Paraiso Drive crossing pending a hearing on its request that said crossing be made a permanent crossing. By Decision No. 79333 dated November 16, 1971, the Commission issued an Interim Order reopening said crossing. On November 24, 1971, Southern Pacific Transportation Company filed a petition seeking to set aside the Interim Order on the ground that it was issued without a hearing and without the consent of all parties. By Decision No. 79529 dated January 4, 1972, the Commission granted rehearing of Decision No. 79333, but did not vacate the decision. The crossing has remained open pending final Commission determination.

At the commencement of the hearing the attorney for the Southern Pacific Transportation Company stated that the railroad was assuming a neutral position and that its petition for rehearing had been filed not for the purpose of opposing the application, but for the purpose of assuring procedural due process. He further stated that the application should be considered and processed as a request for the opening of a new crossing.

The Paraiso Drive crossing provides access to a subdivision area that was commenced in 1962 and has steadily grown over the years. Although Paraiso Drive was originally intended as a collector road it has, as a result of the crossing, served as an arterial road. With the completion of the Brookside Drive connection the area was provided access by the additional means of the Sycamore Valley Road crossing, which is located by way of the tracks approximately four-tenths of a mile north of the Paraiso Drive crossing. Because of curves the distance via Brookside Drive is slightly greater.

Twenty-four hour vehicular checks were made by the County of Contra Costa on June 21, 1971, November 2, 1971, and February 9, 1972, and the results thereof were introduced as Exhibit 2. The

checks conducted at the Paraiso Drive crossing indicate that the vehicular count rose from 574 in 1967 to 1,115 in 1972. Checks made on Brookside Drive at a location 200 feet north of Paraiso Drive indicate that the vehicular count dropped from 2,665 on November 2, 1971, when the Paraiso Drive crossing was closed, to 1,493 on February 9, 1972, when the crossing had been reopened. The County of Contra Costa believes that the closing of the Paraiso Drive crossing would place too much of a traffic burden upon Brookside Drive.

A similar view was expressed by the principal of the John F. Baldwin School, located on Brookside Drive, who testified that the additional traffic would not only constitute a safety hazard for the school children, but would pose a turn around problem for the school buses.

A representative of the Danville Fire Department testified that he conducted time and distance tests on November 10, 1971. The distance via the Sycamore Valley Road crossing and Brookside Drive was 1.8 miles from the fire house and required a traveling time of 5 minutes. The distance via the Paraiso crossing was 1.7 miles and required a traveling time of 3 minutes. He further testified that because of the two minute differential and its importance during an emergency, the department recommends that the Paraiso Drive crossing remain open permanently.

A number of residents appeared and testified in support of the application. Their reasons ranged from a concern about the safety of school children to a matter of convenience. Several were members of a Cabana Club, which is located near the Paraiso crossing. Two petitions, signed by residents supporting the application, were also received in evidence.

Two individuals testified in opposition to the application. They expressed the opinion that the County of Contra Costa should have considered other alternatives to traffic control if its main

concern was the traffic hazard that would be created along Brookside Drive if the Paraiso Drive crossing were closed; however, the record demonstrates that the County of Contra Costa considered not only safety as a factor, but also considered factors of public convenience before filing the instant application. The same individuals who opposed the application, were also of the opinion that in the event the Paraiso crossing were opened permanently that stop signs should be placed at the crossing and at the intersection of Paraiso Drive and Brookside Drive for the purpose of establishing speed controls along Paraiso Drive.

Southern Pacific Transportation Company introduced the testimony of two witnesses. One testified that the railroad operates two train movements a day over the Paraiso Drive crossing on an average of 3 to 5 times a week. Additional train movements may result with the establishment of a new plant in the area. The second witness testified that in the event the application is granted that the present two No. 1 reflectorized crossbuck signs at the Paraiso Drive crossing be replaced with automatic gates at a cost of \$18,550. The County of Contra Costa recommended the installation of automatic lights at a cost of \$14,800; however, a representative for the County of Contra Costa testified that the county would abide with whatever type of protection the Commission specifies.

After consideration the Commission finds that:

1. The Paraiso Drive crossing was constructed in 1962 as a temporary crossing pending the completion of a connecting road with the Sycamore Valley Road crossing located four-tenths of a mile north thereof.
2. Since 1962 the residential area to which the Paraiso Drive crossing and the Sycamore Valley Road crossing provide access, has grown to a great extent and will continue to grow in the foreseeable future.

3. The closing of the Paraiso Drive crossing would create a traffic hazard along Brookside Drive. It would also leave the Danville Fire Department only one means of access to the area, which could be impeded during the time of an emergency.

4. There are presently two train movements on the average of 3 to 5 times a week which may be increased to meet the needs and requirements of a new plant within the area.

5. Public convenience and necessity require a permanent crossing at Paraiso Drive.

6. Said crossing should be equipped with automatic gates, the cost of which shall be paid for by the County of Contra Costa.

7. With the installation of automatic gates there is no apparent need for the installation of stop signs at the crossing. The matter of installing stop signs at the intersection of Brookside Drive and Paraiso Drive should be determined by the County of Contra Costa.

O R D E R

IT IS ORDERED that:

1. The Paraiso Drive Crossing No. 80-55.9 near Danville, in Contra Costa County shall remain open and shall be equipped with two Standard No. 8 flashing light signals (General Order No. 75-B) supplemented with automatic gates.

2. The Southern Pacific Transportation Company shall install these automatic gates within one year of the effective date of this decision.

3. The County of Contra Costa shall pay for the cost of reopening the Paraiso Drive crossing and shall pay the cost of installing the automatic gates as well as the cost of maintaining said protection pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

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

Dated at San Francisco, California, this 28th day of MARCH, 1972.

William L. ... Chairman
...
...
... Commissioners

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