

ORIGINAL

Decision No. 80767

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of EDWARD O. STABEN, JR.,
 GEORGE A. UHRICH, WILLIAM T. KELLEY,
 SANGER C. HEDRICK, FRANK P. STABEN,
 RICHARD THOMAS BARTON and PATRICIA
 CADDELL BARTON, to secure a private
 roadway crossing.

Application No. 53257
 (Filed April 10, 1972)

Edward O. Staben, Jr., in propria persona, and
Sweet, Norman & Siple, by Frank H. Sweet,
 Attorney at Law, for applicants.
William E. Still, Attorney at Law, for Southern
 Pacific Transportation Company, respondent.
Melvin R. Dykman, Attorney at Law, for State of
 California, Department of Public Works,
 Division of Highways; and Francis C. Buchter,
 Attorney at Law, for California Department of
 Parks and Recreation; interested parties.
John P. Ukleja, for the Commission staff.

O P I N I O N

Edward C. Staben, Jr., and six other individuals, seek an order for a private roadway crossing over the railroad tracks of the Southern Pacific Transportation Company (SP), at Milepost 346.45 or vicinity in the County of Santa Barbara, so that a road may be built from their property to Highway 101. The SP and the Department of Public Works oppose the application.

Public hearing was held before Examiner DeWolf at Los Angeles on June 29 and July 11, 1972 and the matter was submitted on July 11 subject to briefs which have been filed.

The application alleges that each applicant is the owner of an undivided interest in certain real property of approximately 8.0 acres. On the north this property adjoins the property of a private landowner on which land applicants have an easement 60 feet in length and 30 feet in width. It is over this neighbor's property that applicants want the grade crossing located. The neighbor did not join in the application.

Applicants allege that for many years prior to January 1966 a grade crossing existed at a location known as Milepost 346.45 and that the SP closed this crossing on or about January 1966; that a grade crossing is necessary at Milepost 346.45 to permit applicants to have reasonable and convenient access to their property; that there is no other access available to them other than over private property across which applicants do not have a right-of-way or easement for roadway purposes; that access to applicants' property other than at Milepost 346.45 is impractical by reason of the nature of the terrain.

The Division of Highways of the Department of Public Works and the California Department of Parks and Recreation appeared as interested parties and presented witnesses who testified in regard to the interests of the State in the freeway construction on Highway 101 and in Refugio Beach State Park.

A witness for the SP testified that at the proposed crossing the view to the west is between 1,215 and 1,275 feet, and to the east between 1,346 and 1,424 feet. There are approximately 14 trains a day over the track. The railroad speed limit in this location is 55 miles per hour. The usual 100-car freight train, traveling 55 miles per hour, would take approximately 4,500 feet to stop in this area and would not be able to stop within the sight distance available for the proposed crossing. The witness testified that a freight train traveling in either direction of the average size operated (between 60 and 100 cars) could not stop within the sight distance of this crossing, nor would similar trains be able to stop within sight distance at 30 miles per hour.

In this area there is an underpass at Refugio Beach and a crossing about 2-1/4 miles to the south at Tajiguas Creek, both of which are in highway improvement plans. The proposed private crossing is 1.09 miles from the Refugio Beach underpass. The SP witness testified that applicants are adequately and safely served with present access over a road through Refugio Beach State Park connecting with an existing road on applicants' property. The SP states that the opening of the requested crossing would not be safe.

A design engineer from the State Division of Highways testified in opposition to the granting of the application. He testified that the highway adjacent to the proposed crossing is an expressway, first improved in 1940; the southbound lane carries approximately 6,500 vehicles per day at an average speed of 60 miles per hour; the highway is 45 feet north of the nearest rail at the proposed crossing area; the highway accident rate in the crossing area is not good, 2.6 accidents per vehicle mile compared to the statewide average for similar highways of 1.9. If the application is granted, use of the crossing should be limited to a single vehicle at a time, and only occasionally because vehicles using the proposed road accelerating onto the highway or decelerating from it provide a hazard to other highway vehicles causing possible unsafe lane changes. In applying for a highway encroachment permit, applicants would have to construct adequate acceleration and deceleration lanes, the cost of which is estimated at \$1,500.00 for an opening for limited use. Freeway construction in this area, eliminating all access such as sought here, is planned for January 1975. If this application were to be granted, the crossing would have to be closed permanently at the time of freeway construction.

Findings

1. The proposed private crossing over the railroad and railroad right-of-way is not reasonably necessary for ingress to or egress from their property.

2. Highway 101 is now a limited access highway and designated to become a freeway at an early date. A new entrance at or near the proposed location is hazardous.

3. Applicants have other suitable means of access to their property.

4. The proposed crossing would be hazardous for applicants because of the high speed trains passing over the railroad and the heavy traffic on the highway.

5. A new crossing between Refugio Beach and Tajiguas Creek, a distance of 2-1/4 miles, is unnecessary.

6. Further crossing of the railroad would interfere with pending improvement of the freeway on Highway 101 adjacent thereto.

The Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that the application is denied.

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

Dated at San Francisco, California, this 5th/12
day of DECEMBER, 1972.

Vernon L. Stenger
President
William Lyons Jr.
J. P. H. Hain
Ed. H. Hain
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.