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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Southern Pacific Transportation
Company for determination of status
of Crossing No. CF-396.4 at Macdoel,
in the County of Siskiyou, State of
California, and for an order
requiring that crossing either be
closed or improved if it is deter-
mined to be a public crossing.

Application No. 54170
(Filed July 13, 1973)

Harold S. Lentz, Attorney at Law, for
Southern Pacific Transportation
Company, applicant.

Frank J. DeMarco, Attorney at Law, for
County of Siskiyou, interested party.

Kenneth G. Soderlund, for the Commission
staff.

O P I N I O N

Applicant Southern Pacific Transportation Company (SP) seeks a determination of whether Crossing No. CF-396.4 is public or publicly used and a Commission order that it either be closed or improved, with an apportioning of costs if improved.

Crossing No. CF-396.4 is located in the community of Macdoel, Siskiyou County, 1,900 feet south of Montezuma Avenue. It services an unidentified, unimproved, graded dirt road running east-west leading to State Highway 97. The service road varies in width from 12 to 20 feet. The grades of approach are 8.6 percent and 11.0 percent which are much steeper than that designated as desirable in General Order No. 72-B. It intersects with an unimproved north-south dirt road identified as Railroad Avenue East. Railroad Avenue East

runs north-south parallel to applicant's tracks from Montezuma Avenue to the unimproved dirt road. Montezuma Avenue is a paved east-west county-owned and maintained road leading to State Highway 97, crossing SP's tracks at Crossing No. CF-396.7, 1,900 feet south of CF-396.4 and protected by two Standard No. 9 automatic gates.

On each side of the railroad tracks are packing sheds used to store potatoes awaiting shipment to market. By using the unidentified east-west dirt road and Crossing CF-396.4, rather than Montezuma Avenue, drivers of vehicles delivering potatoes via Highway 97 to the packing sheds from the south save approximately five minutes per delivery trip.

SP presented 14 exhibits through two witnesses. Exhibits Nos. 1-3 are timetables and special instructions of the Oregon Division which serves Macdoel.

Exhibit No. 4 is a blueprint of the status at Crossing No. CF-396.4. In addition to illustrating the ingress and egress problems of the adjacent landowners, it details the grades of approach.

Exhibits Nos. 5 and 6 establish the vehicular traffic count over Crossing No. CF-396.4 for two different time periods.

Exhibits Nos. 7-13 are photographs of the subject crossing from various angles depicting conditions of the roads and surrounding area.

Exhibit No. 14 is a rough draft of the grade projection necessary to bring the crossing up to the standard specified in General Order No. 72-B. The exhibit shows that the grades of approach are 8.6 and 11.0 percent, both much greater than is deemed desirable by Commission General Order No. 72-B.

The county of Siskiyou presented its director of public works who testified that the subject crossing and the road leading up to it were not within the county's publicly maintained road system and that the road had not been dedicated or accepted by the county. He also stated that, while the subject crossing and the road leading up to the crossing were used by the public, the county did not believe the road or crossing was necessary to serve the area.

Mr. Arthur M. Cherry, owner of the property to the southeast of the subject crossing, stated that Railroad Avenue East was the private property of Mr. Robert E. Cheyne, that it had never been a private access road, and that it could be closed by Mr. Cheyne at any time. He also stated that should Railroad Avenue East be closed the east-west dirt road crossing the railroad tracks would be the only access to his property.

Mr. Keith Lesh stated that he was the owner of the parcel of land immediately east of that owned by Mr. Cheyne. He stated that the only access to his property was over the east-west dirt roadway and that if the subject crossing were closed he would be compelled to build a new road for ingress and egress to his property.

Mr. Robert Cheyne testified on his own behalf that Railroad Avenue East from Montezuma Avenue south traversed his property, that only the first 900 feet from Montezuma was dedicated to public use, that no other part had been offered to the county, and that he could close it at any time and thereby bar both Mr. Cherry and Mr. Lesh from access to their property.

Mr. Cheyne stated that he would be willing to dedicate property for the east-west road coming over Crossing No. CF-396.4, but that he would not be willing to pay the cost of improvements to bring the road up to county standards.

The subject crossing is used by the public as an alternate to Crossing No. CF-396.7 for access to potato storage sheds adjacent to applicant's tracks. It has grades of approach of 8.6 and 11.0 percent which are greater than can be negotiated safely by the general public. While it is alleged that it is used to save time and is more convenient, the parties acknowledge that Crossing No. CF-396.7, located at Montezuma Avenue 1,900 feet to the north and protected by two Standard No. 9 automatic gates, is more than adequate, giving equal access to the area while providing maximum safety.

The property owner, Mr. Cheyne, testified that at no time had the property in question been dedicated or offered to the county and that he would offer it to the county but would not pay for any paving and/or grading. In fact all parties agreed that they were opposed to any proration of funds. In addition, the county of Siskiyou stated that the road and crossing in question had not been accepted by the county, were not in the county's publicly maintained road system, were not in the county's overall road plan, and was of the opinion that they were not needed to serve the public interest.

From the foregoing we believe that Crossing No. CF-396.4 is not safe, that it is not necessary in order to serve the public, and that the cost to bring it within the standards of General Order No. 72-3 would outweigh any benefit of keeping it open.

Findings and Conclusion

1. Crossing No. CF-396.4 is located on an unimproved east-west dirt road 1,900 feet south of Crossing No. CF-396.7.

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2. Crossing No. CF-396.7 is located on a dedicated paved county road and is protected by two Standard No. 9 automatic gates.

3. The grades of approach to Crossing No. CF-396.4 are 8.6 percent and 11.0 percent. This is much steeper than is deemed desirable by Commission General Order No. 72-B.

4. There has been no dedication or implied dedication of Crossing No. CF-396.4.

5. The county of Siskiyou has not accepted the road leading up to Crossing No. CF-396.4.

6. Members of the public use the private roads leading up to Crossing No. CF-396.4 for easy access to potato packing sheds adjacent to the railroad tracks.

7. Crossing No. CF-396.4 is not safe. It is not needed to serve the public. The cost to bring it within the standards of General Order No. 72-B outweigh any benefit of keeping it open.

We conclude that the railroad crossing located at Milepost No. CF-396.4 must be closed pursuant to our authority under Public Utilities Code Section 1202(b).

O R D E R

IT IS ORDERED that:

1. Southern Pacific Transportation Company shall physically close the crossing located at Milepost No. CF-396.4 in Macdoel, Siskiyou County.

2. The work required to be done by this order shall be completed within two months of the effective date of this order. Within thirty days after completion of said work, Southern Pacific Transportation Company shall notify the Commission in writing of such compliance.

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

Dated at Los Angeles, California, this 17th
day of SEPTEMBER, 1974.

Vernon L. Sturges
President
William J. ...
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Commissioners