

170-17

March 4, 1924.

Mr. W. K. Etter, General Mgr.,
Santa Fe Railway Company,
Kerckhoff Building,
Los Angeles, California.

My dear Mr. Etter:

I am waiting for the survey showing cut and fill of the Solana Beach switch. I will be able to give you a definite offer for the grading then and hope to see you get to work on this at an early date.

You will find by the records that there is more freight going into Solana Beach than Cardiff, Del Mar and Encinitas combined.

We have eight or ten new houses there and five or six more under contract at the present time.

Yours very truly,

EF:KLM

March 25, 1924.

Mr. W. K. Etter, Gen'l Mgr.,
Santa Fe Railway Company,
Los Angeles, California.

My dear Mr. Etter:

Enclosed find letter from the Auditor which is explanatory. This is a surprise to me.

I never signed any agreement to my knowledge, to pay for such installation. There has always been a road crossing there, or within a couple hundred feet of the present location, and under all the circumstances it seems to me this should be waived, no matter what the Railroad Commission may have determined. I was not a party to it and we have put over \$3,000 into the grounds and depot. Can you help us out?

By installing this crossing you have abandoned a more dangerous one 200 feet to the south and there had to be a crossing there anyway to take care of that rapidly growing country.

Yours very truly,

EF:KLM

The Atchison, Topeka and Santa Fe Railway Company

COAST LINES

Los Angeles, California

April 7th, 1924.

File 29272.

Mr. Ed. Fletcher,
Fletcher Building,
San Diego, Calif.

My dear Mr. Fletcher:

I have yours of March 25th and am returning enclosure received therewith, being letter from our Auditor with reference to bill against you covering installation of automatic flagman and road crossing, Solana Beach.

An investigation of my file on the subject discloses the following facts:

On November 29th, 1922, you wrote Mr. Hibbard expressing your desire to make a grade crossing over our line at Solana Beach. Answer was made that it would be necessary to take the matter up with the Railroad Commission. On December 27th, 1922, letter was received from you asking that this company write a letter indicating its acquiescence to the crossing, such letter to be presented to the Board of Supervisors of San Diego County. Reply was made to you on January 2nd, last year, that the Railroad Commission was opposed to approval of grade crossings by railroads in advance of submission of requests therefor - that when the Commission received application of the Board of Supervisors petitioning for the crossing it would, no doubt, address us, asking whether or not the crossing was objectionable, and we would then state our position.

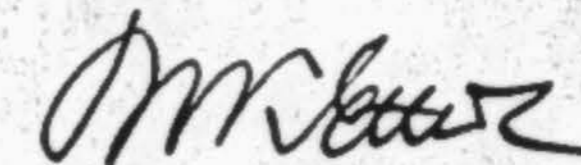
The next heard was Superintendent Tuttle's letter of March 15th, 1923, sending copies of application to the Railroad Commission for the crossing, Mr. Tuttle stating that this was the crossing desired by you and that the application was prepared and signed in the name of the Board of Supervisors of San Diego County. The enclosures were returned to Mr. Tuttle with the advice that it did not seem proper that our company should be made a party to the application.

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The Railroad Commission, through our Law Department, on April 6th, last year, asked our position with respect to the proposed crossing and reply was made on April 13th that we would not oppose the installation provided we were relieved from any and all expense in connection therewith. The Commission granted the crossing, the Order prescribing that the expense of installation thereof, including automatic flagman protection, which the Decision stipulated must be provided, was to be borne by the applicant.

This company certainly was not the applicant for the crossing. The steps leading up to the Order issued by the Commission, as outlined above, all indicated that we were not a party to it and, inasmuch as you were the original applicant, through the Board of Supervisors, it appears to me entirely proper that you should pay our bill. It was necessary, of course, for us to put in the flagman because that was one of the dictates of the Railroad Commission, but that body expressly stated where the expense thereof was to lodge and I believe, on reflection, you will agree with me that we should not be saddled with the expense of protecting this grade crossing.

Yours truly,



enc.

June 18, 1924.

Mr. W. K. Etter, Gen'l Mgr.,
Santa Fe Railway Co.,
Kerckhoff Bldg.,
Los Angeles, Calif.

My dear Mr. Etter:

Enclosed find copy of letter I have written

Mr. Jones, re: installing the automatic flagman at
Solana Beach. Anything you can do in this matter will
be appreciated.

Yours very truly,

MF:KLM

8
The Atchison, Topeka and Santa Fe Railway Company

W. K. ETTER,
General Manager
J. R. HITCHCOCK,
Assistant General Manager

COAST LINES

Los Angeles, California

W. H. BREWER,
Assistant to General Manager
C. E. HILL,
Assistant to General Manager

20th June, 1924.
File 29272.

Mr. Ed Fletcher,
Fletcher Building,
San Diego, Calif.

My dear Mr. Fletcher:

I have your letter of June 18th, with copy of yours of the
same date to our Auditor, Mr. Jones, in regard to the bill which
has been rendered against you for the cost of the automatic flagman
at the crossing at Solana Beach in the amount of \$1136.72.

I think you have in your file my letter to you of April 7th ^{attached}
which fully sets out all of the facts in connection with the case.
I was not here when the negotiations were originally carried on,
but it is my understanding that the crossing as it originally
existed was satisfactory, and, in fact, better than the new cross-
ing in so far as we were concerned, because the view was somewhat
better and an automatic flagman was not necessary.

You wanted the crossing changed for the purpose of aiding
you in the development of your property and, accordingly, had ap-
plication made to the State Railroad Commission for the change.
We did not oppose it. I do not know what opportunity you had to
appear before the Commission when they considered the matter, nor
do I know whether or not you would have made any protest had you
appeared before them, but in view of your very great desire to
have the crossing moved isn't it fair to presume that you would
not have entered any protest against what they proposed? You un-
doubtedly had a copy of the order issued by the Commission and
made no effort to enter a protest against its provision before the
work was undertaken.

I think I can appreciate your angle of the matter, but it seems
to me that a bargain is a bargain and, once made, should be carried
out along the lines of the original understanding.

Yours very truly,

W. K. Etter

July 1, 1924.

Mr. W. K. Etter, Gen. Manager,
Santa Fe Railway,
Los Angeles, California.

My dear Mr. Etter:

Answering yours of June 20th re bill of \$1136.72
for automatic flagman.

I read your letter of April 7th carefully and the
facts as stated in said letter are correct with one or
two modifications, as follows:

I am not a railroad man, and in your letter of
April 13th you ask to be relieved of any expense in rela-
tion thereto, and the only expense that a common layman
could think of was in the building of the new approaches
on proper grade satisfactory to the Santa Fe and the County.
I had no idea that the railroad or the commission would ask
for something entirely new which did not exist at the old
crossing such as an automatic signal. I did assume the
responsibility voluntarily and paid nearly \$300 to make
the fills and grade on the new crossing putting it in
much better condition than the old.

I was not present at any hearings of the
railroad commission and I never received from the railroad
commission a copy of the decision which called for the
installation of the automatic flagman. The fact is that the
Santa Fe was a party to this change of grade crossing
and the fact remains that the Santa Fe Railway immediately
proceeded to install a new automatic flagman.

If you expected me to pay the bill, would not the
nice thing have been for the Santa Fe to have first written
me a letter stating that they were going to put me to this
expense before going ahead and buying this flagman and then
sending me a bill for it? I had no knowledge whatever but
what I had fulfilled my contract in every particular by the
grading and surfacing of the new right-of-way crossing until
six or eight months later when you sent me a bill for this
automatic flagman.

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Now let us discuss the equities of the case. Mr. Hibbard personally examined the location and selected the new crossing and site for the depot, claiming that the old crossing was not the best and that the new location was the best owing to the break in the grade both ways. This statement is easily checked up by your records.

The Santa Fe were legally obligated to maintain that railroad crossing. Without expense to you we graded a much better crossing at our own expense. We spent between three and four thousand dollars on the Solana Beach depot. It is true, but you can and have capitalized that amount. The new automatic flagman and grading at the new Solana Beach crossing which is only three or four hundred feet away from the old you can capitalize -- we can't.

If the depot had been placed three or four hundred feet further south adjoining the old crossing you would have had to pay eventually for the grading of a new crossing and the installation of an automatic flagman as Solana Beach developed.

I am writing this full letter of explanation for the reason that I do not want to be accused of side-stepping any moral or legal obligation, but I wish to assure you that at no time did anyone ever inform me that I would have to pay for some new installation or its amount, and any common layman has a right to presume that if he builds a new grade crossing in every particular as good or better than the old one, that is the limit of any demands that ought to be put upon him, and when it comes to buying a new piece of furniture, making new conditions to be added to the present, it seems to me like it is rubbing it in, and to demand that I should pay for a new automatic flagman is somewhat taking advantage of me and my ignorance.

I don't write this in any spirit of animosity, but it is intended as a letter just as between friends. I don't believe the Santa Fe Railway ever had any idea that the railroad commission would order an automatic flagman installed when you asked to be relieved from any and all expenses in connection therewith. I do feel under the circumstances that the Santa Fe should not ask us to buy any equipment for the Santa Fe Railway which the Santa Fe Railway will and can capitalize.

I will not dwell on the success of our enterprise at Solana Beach except to say that it is the fastest growth of any town ever recorded between Del Mar and Oceanside.

Page Three

We have rendered a service to the Santa Fe. I do appreciate the cooperation of the Santa Fe Railway and I am frank to admit that I feel they are rubbing it in if they insist upon no buying an automatic flagman under the circumstances.

Mr. Hibbard, if he were alive, would tell you that he wanted that depot changed owing to the fact that there was a big sump hole on the east side of the Santa Fe Railroad at the old crossing where all the water collected in the winter, and it was Mr. Hibbard who was as anxious or more than I, to make that change on account of the bad location 400 feet to the south and the swamp hole just east of the old crossing.

Yours very truly,

EF:AH

cc - Mr. Engel

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The Atchison, Topeka and Santa Fe Railway Company

W. K. ETTER,
Assistant General Manager
J. R. MITCHCOCK,
Assistant General Manager

COAST LINES

Los Angeles, California

W. H. BREWER,
Assistant to General Manager
C. E. HILL,
Assistant to General Manager

At Wickenburg, Arizona,
5th July, 1924.

File 29272.

Mr. Ed Fletcher,
Fletcher Building,
San Diego, Calif.

Dear Mr. Fletcher:

I have your letter of July 1st, in regard to the bill for the automatic flagman at the new crossing at Solana Beach.

Like you, I, too, am conducting this correspondence in a friendly way and not with any idea of creating antagonism or being unfair.

In the last paragraph of the first page of your letter you call attention to the manner of handling, which you think would have been the nice thing for the Santa Fe to have done. I quite agree with you that it would have been so had the Santa Fe been the applicant for the change in this grade crossing. However, we were not the applicant; you and the County Commissioners were, and when the Railroad Commission asked us if we had any objections, we told them that we did not have. We could not any better foresee what the Commission would order in than you -- we were not at the hearing if one was held, and were not responsible for your failing to be notified that one would be held, and we were absolutely innocent parties. I am anxious that you realize that the Santa Fe was merely trying to do what you wanted to do and that it is not responsible in any way for any of the dealings with or before the Commission, and that anything which you now think should not have occurred was not anything for which the Santa Fe was or is responsible.

I will arrange to take care of the cost of the wigwag, but I must frankly state that I do not think it is fair nor that the spirit and understanding of the original deal is being complied with.

Yours very truly,



cc - Mr. Engel

July 12, 1924.

File 29272.

Mr. W. K. Etter, Gen. Manager,
Santa Fe Railway,
Los Angeles, California.

My dear Mr. Etter:

I acknowledge receipt of yours of July 5th, and in reply would say that I wish to take exception to the last paragraph of your letter, and feel hurt that you should make such a statement under all the circumstances.

Mr. Hibbard, your former general manager, came to San Diego. I took him out for a ride, stopped at Solana Beach, told him I had taken an option on the property, was going to create a townsite, and wanted his advice and all the assistance I could get from the Santa Fe that it was possible to get. The question of the location of the depot immediately came up, and on looking the ground over, he selected the new site for the depot at or near its present location for the following reasons:

First: It was the summit with the grade breaking both ways.

Second: There was a pond with water a foot to two feet deep opposite the old railroad crossing four to five hundred feet further south, which both Mr. Hibbard and I wished to avoid.

I offered to do the grading free of cost for the new crossing. Mr. Hibbard accepted the offer. No mention was made by Mr. Hibbard or any Santa Fe official at any time that I would have to pay for the installation of a new flagman.

The grading for the new crossing cost Mr. Treanor, Mr. Henshaw and me, the owners of the tract, between three and four hundred dollars. If we had ever known that we were expected to pay for the installation of a flagman costing between twelve and thirteen hundred, plus the

cost of grading, we would never have gone to that expense for conditions for the benefits did not warrant us to pay that additional expenditure.

I was not a party to the hearing before the Railroad Commission. I do not know what papers the Santa Fe Railroad filed with the Railroad Commission. I was not notified by any Santa Fe official nor the Railroad Commission that I was to pay for the installation of the flagman, and it is a cinch that if we had not changed the location of the crossing across the right-of-way the Santa Fe would have been compelled to put in the flagman at their own expense eventually at the old location which the Santa Fe has maintained for twenty odd years.

My recollection is that the Railroad Commission approved the change of location of the right-of-way crossing last fall, but I did not see a copy of the Railroad Commission's decision nor was I notified of the fact that any further liability had been placed on us. The Santa Fe Railway without consulting us or without notifying us that we were to pay any such amount for a flagman, proceeded at their own expense to install said flagman and six or eight months later sent us a bill for twelve hundred odd dollars, which came out of a clear sky.

My understanding in my talk with Mr. Hibbard was that all I would have to do would be to make the approaches on both sides of the Santa Fe satisfactory to the Santa Fe at the new crossing, the Santa Fe to put in hot asphalt and gravel between the rails. This agreement was lived up to. I recognized a moral obligation as well as a legal one. But my contention is that under all the conditions it would not have been equitable even if we had known the facts as they exist today for the Santa Fe to have forced us to install the electric flagman, having gone to the expense of three or four thousand dollars as we did at Solana Beach in grading, building, etc. for the privilege of having a new crossing to take the place of an old one of twenty years' standing a few hundred feet away, for with the development of Solana Beach, which was bound to come owing to its location and a two mile level stretch. In a short space of time you would have had to have re-graded your old crossing over your entire right-of-way 200 feet wide, and installed an automatic flagman in any event with a far less favorable location than exists today, and you have the advantage of having wiped out the old crossing forever.

I feel that your letter to the Railroad Commission refusing to pay for that automatic flagman was an injustice to us and that the courteous thing to have done at the time

should have been to have sent us a copy of the letter to the Railroad Commission or notifying us what we were running into, and it looks to me like we were taken advantage of by not being notified of the necessity of adding new equipment - this automatic flagman - before a change of right-of-way could be secured. I assume that it was an unintentional oversight that we were not notified, but I am amazed that the Santa Fe Railway would go ahead and install this flagman without first notifying us that they looked to us for the cost thereof.

Your insistence that we pay for the cost of this flagman to my mind is taking advantage of our ignorance. You state, "I will arrange to take care of the cost of the wigwag, but I must frankly state that I do not think it is fair nor that the spirit and understanding of the original deal is being complied with."

I made the arrangements for this crossing with Mr. Hibbard. I feel that I have complied to the letter with that arrangement made with Mr. Hibbard, but I cannot let you make the statement that I have not been fair or lived up to the spirit of our agreement. Therefore I ask that you appoint someone, we will do likewise, and those two select a third, and sometime in the near future in Los Angeles you and I can each present our point of view, each one taking a half hour in which to present the case, and the decision of the three arbitrators to be final and accepted by both parties.

I don't see how this question can be settled in fairness to either party until I get a clean bill of health from you.

I have sent a copy of this letter to Mr. Engel and asked him to use his good offices to see that this miserable controversy is settled with credit to both of us.

You have not sized me up right if you think that you can charge off to profit and lose your claim against me and expect me to pay no further attention to the last paragraph of your letter of July 5th. I regret exceedingly that this controversy has arisen. It is my desire to be on most friendly terms with you personally and the interests you represent, but the only way to be able to work together is thru absolute confidence in each other and frankness as well.

Yours very truly,

EF:AH

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The Atchison, Topeka and Santa Fe Railway Company

COAST LINES

Los Angeles, California

W. E. ETTER,
General Manager
J. R. HITCHCOCK,
Assistant General Manager

W. H. BREWER,
Assistant to General Manager
C. E. HILL,
Assistant to General Manager

At San Francisco, California,
16th July, 1924.

File 89272.

Mr. Ed Fletcher,
Fletcher Building,
San Diego, California.

My dear Mr. Fletcher:

I have your letter of July 12th, in regard to the matter of crossing bell at Selana Beach, and note that you want to appoint a board of arbitrators to dispose of the matter and also note the closing remarks of your letter in regard to confidence and frankness.

In so far as I am concerned, the matter is disposed of, and I have already notified you that the bill will be cancelled and we will take on the expense of the bell. I, of course, do not know what your conversation was with Mr. Hibbard, except as my file indicates, and which generally coincides with everything that you have said, except as to the bell.

It occurs to me that the trouble in this case is that you are leaning on the thought that we should have done certain things, which, in reality, you should have done but which you overlooked. I would like to point out that in this case you were the applicant to have the crossing moved, we took no action in the matter except to reply to an inquiry which we had from the Railroad Commission asking whether or not we had any objections, and we advised them we had no objections to the crossing being moved provided we were relieved of the expense as had been agreed upon. I assumed, of course, that the Railroad Commission gave you a copy of the order, as it is their custom to provide those making applications with copies of their orders, and I therefore do not feel that you are on good grounds in thinking that we should have called your attention to the provisions of the order. This is the meat of the whole thing, and I do not think you intend to convey the idea that it was our duty to have called your attention to the requirements of the order which was brought out upon your own application. Of course, had we known that you had not informed yourself in regard to the requirements of the order, we would have been very glad to have extended to you the courtesy of calling attention to the provisions thereof.

In so far as the frankness is concerned, I do not think you can say that I have not been frank; in fact, perhaps I have been too frank, but have only tried to express to you my thoughts in the case without the intention of conveying the idea that I had any thought of unscrupulous tactics having been used.

Yours very truly,



August 7, 1924.

Mr. W. K. Etter, General Manager,
A. T. & S. F. Railway Co.,
Los Angeles, California.

File 29272

My dear Mr. Etter:

I am in receipt of yours of July 16th, re Solana Beach controversy in the matter of paying for the automatic flagman.

In your letter of the 16th you say, "I assumed, of course, that the Railroad Commission gave you a copy of the order, as it is their custom to provide those making applications with copies of their orders, and I therefore do not feel that you are on good grounds in thinking that we should have called your attention to the provisions of the order. This is the meat of the whole thing, and I do not think you intend to convey the idea that it was our duty to have called your attention to the provisions of the order which was brought out upon your own application."

In answer will say it was not my application. Attached hereto is copy of decision No. 12033 of the State Railroad Commission which reads as follows:

"Application No. 8879, In the matter of the application of San Diego County, California and The Atchison, Topeka & Santa Fe Railway Company to abolish an existing road crossing, and to establish a new road crossing over the Atchison, Topeka & Santa Fe Railway Company, tracks mile post 241 plus 4527, San Diego County, California."

The order is fully explanatory. I was never a party to this application before the State Railroad Commission of California and simply followed out the instructions of the Santa Fe Railroad, at their request going before the Board of Supervisors, as the state law compels the San Diego County Board of Supervisors to be a party to any proceeding of this kind. The fact that I was never a party to the application before the Railroad Commission explains why I was not notified of this automatic flagman expense.

I call your attention to my letter of February 26, 1923 to Mr. R. H. Tuttle, which read as follows:

"My dear Mr. Tuttle:

The Santa Fe made application, copy of which is herewith enclosed for a grade crossing. It was sent to the Railroad Commission. The Railroad Commission returned it here and asked that the Board of Supervisors approve it. Enclosed find their approval. This is being sent you in quadruplicate.

Will you kindly rush this for us?

With kindest regards, I am
Sincerely yours,
ED FLETCHER"

Mr. Tuttle did not answer the above. On March 10th, 1923 I wrote him as follows:

"My dear Mr. Tuttle:

Our map of Solana Beach has been accepted by the Board of Supervisors, and we want to commence grading at the crossing immediately. The roads are constructed, we are putting in the water system, and I believe the Standard Oil Company and the Union Oil Company will both build there immediately on our property.

Will you please authorize your representative there to allow us to commence grading the right of way at the place on the new subdivision?

Your early attention to this will be greatly appreciated.

Yours very truly,
ED FLETCHER"

On March 15, 1923, File 102, Mr. Tuttle answered as follows:

"Dear Sir:

Referring to your letter of March 10th: I have forwarded the application for the grade crossing to our General Manager and have recommended that the application be approved and forwarded to the State Railroad Commission.

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I have no doubt that the approval of the Commission will be received, in due course, and see no objection therefore to your proceeding with the grading of the plaza.

Yours truly,
R. H. TUTTLE"

This certainly should be fully explanatory.

I do not want you to feel that I am provoked at you for taking the attitude you have in this matter. What I am trying to do is to convince you first of my sincerity and second of the injustice of asking me to pay for the cost of the automatic flagman.

What I objected to in your letter of June 20th, 1924 were the following words:

"It seems to me that a bargain is a bargain, and once made should be carried out along the lines of original understanding."

In other words, it is an inference that I am a piker and I want to convince you that I am not, therefore I have spent hours in checking up my correspondence and I want to show you that the original understanding was fully lived up to by me, the following being the evidence.

I have explained to you how, one afternoon, I took Mr. Hibbard on the ground along in October, 1922. The location for the new right of way was tentatively selected by Mr. Hibbard. He authorized Mr. Tuttle to go into the matter with me in detail and on November 6, 1922 I wrote the following letter:

"My dear Mr. Hibbard:

I am sending, thru the courtesy of Mr. Tuttle, maps of Solana Beach, two miles north of Del Mar.

This property will be in the Santa Fe Irrigation District, and will get water from Lake Hodges. This Mr. Hodges has promised.

We are now sub-dividing the property, building the roads and will install a complete water system. This land adjoins the land owned by Mr. Collins, the Purchasing Agent of the Santa Fe. He personally will be very much benefited as well.

It is the natural location for a station, and owing to the fact that there are 10,000 or 12,000 acres of irrigated lands under the Lake Hodges system that will naturally gravitate to this townsite instead of going two miles farther to Del Mar, I ask at this time that a flag station be established, and that a crossing be installed.

We have tentatively shown on the map the crossing which is at present in use, and we have located the proposed station, as you will notice 300 or 400 feet to the north, however, we do not care where that crossing is, but we do care to have the present location of the Selana station, proposed on the map, as the location where a station will eventually be built and if you care to make the crossing adjacent to the proposed station, we will be glad immediately to do the grading and at any site you may select, in case you desire to change the crossing. It would seem to me that the crossing ought to be close to the depot, and I hope that you will move the railroad crossing to our point of proposed station location. The station location has been selected at the present site as there is no grade at that point and a straight view in all directions.

The tentative maps are herewith attached.

Yours sincerely,

ED FLETCHER"

You will see that we were only asking for a flag station and my agreement was to do the grading and nothing else. The following answer I received from Mr. Hibbard November 9, 1922, File 29272:

"My dear Colonel:

Yours of November 6th (120-17) at hand. Mr. Tuttle has also written Mr. Hitchcock, under date of the 7th, regarding the propositions mentioned in your letter.

As stated to you while on the ground some weeks ago, we are willing to establish a flag stop for probably one train in each direction daily at the point which we visited. These details will be worked out by Mr. Hitchcock and I do not anticipate any trouble in reaching a satisfactory solution of the matter.

Yours very truly,

I. L. HIBBARD"

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Mr. Etter, I never agreed to do anything but the grading. I lived up in full to my obligation and there is no other agreement of any kind or description, excepting that which is embodied in the two letters above written.

During the spring of 1923 I took up with you the matter of a small depot at Solana Beach, and certainly appreciate your active interest and cooperation in the matter. To you belongs the credit of getting the depot.

I am writing this letter in the most friendly spirit. I am persistent about this matter because I want your confidence and respect. I do not want you to feel that I am a piker. I have never directly nor indirectly obligated myself in any way whatsoever to pay any expense excepting the cost of grading the right of way. That grading of the new right of way was done without any expense to the Santa Fe and several hundred dollars in addition were spent in levelling the grounds for the depot, as well.

Your bill of \$1136.72 for the cost of installation of the automatic flagman at Solana Beach, is not an obligation that I ever heard of, directly or indirectly, or assumed at any time. It is an expense that you can capitalize and I cannot. It is an expense that you incurred without my knowledge or consent and six months later sent me a bill for it. What I want is a clean bill of health and I hope you will give it to me.

With kind personal regards, I am

Yours sincerely,

EF:KLM

cc Engel }
Treasurer } Blind
Heuser }
Kearney }

6
The Atchison, Topeka and Santa Fe Railway Company

W. E. HYTER,
General Manager
J. R. HITCHCOCK,
Assistant General Manager

COAST LINES

Los Angeles, California

W. H. BREWER,
Assistant to General Manager
C. E. HILL,
Assistant to General Manager

28th August, 1924.

File 29272.

Mr. Ed Fletcher,
Fletcher Building,
San Diego, Calif.

My dear Mr. Fletcher:

I have delayed replying to your letter of August 7th in regard to the Solana Beach crossing matter until I could go into the file further.

I really dislike to have any more correspondence about the matter, believing it to be unnecessary, but since you have gone to the extent that you have, I think it only right that I should point out to you that in addition to the communications quoted in your letter, our file discloses the following:

On November 29, 1922, you wrote Mr. Hibbard saying that you were ready to go ahead with the grading of the crossing at Solana Beach and asked with whom you should arrange the details. Under date of December 4, 1922, Mr. Hibbard replied that under the laws of the State it would be necessary for you to secure permission of the Railroad Commission to install a grade crossing and suggesting that you get in touch with Mr. Tuttle's office at San Bernardino, as he or his Division Engineer might be able to render you assistance in the preparation of prints, etc.

On December 13th you acknowledged receipt of this letter, and on December 27, 1922, you asked Mr. Hibbard for a letter that you could show to the Supervisors to state that we would consent to the moving of the crossing, and on January 2, 1923, Mr. Hibbard replied to you stating that the Railroad Commission is opposed to the approval of grade crossings in advance of submission of requests therefor, and that when the Commission received application from the Board of Supervisors the Commission would address us with a view of ascertaining our position, and, if not objectionable, would issue an ex-parte order, and further stating that when we received this communication from the Commission we would do our part.

You then wrote Mr. Tuttle under date of February 26, 1923, as quoted in your letter, but apparently you made an error in stating that the Santa Fe has made application to the Commission because we had not made the application.

-2-

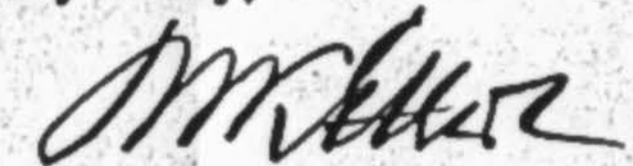
Mr. Tuttle under date of March 15, 1923, submitted to this office the application which you sent to him with your letter of February 26th and stated in his letter that the application had been prepared and signed by the Board of Supervisors of San Diego County. This office then, under date of March 20th, returned the file to Mr. Tuttle, calling his attention to the fact that we were not making the application to the Commission and that it should be made by the County authorities. Mr. Tuttle must have returned the application to you because we heard nothing more from it until April 6th, when our Legal Department received a communication from the Railroad Commission wanting to know whether or not we opposed the application. The Commission, in turn, was advised that we would not oppose it but that we wished to be relieved from any and all expense in connection therewith.

The decision, a copy of which you have, in the first sentence reads: "Board of Supervisors of the County of San Diego, State of California, having on April 4th, 1923, filed with the Commission an application for permission" etc., I think shows conclusively who made and filed the application.

I also find that early in May 1923 you wrote Mr. Tuttle that the California Railroad Commission had wired you that your application for public highway crossing near Solana Beach was approved, effective May 9th, and which, to me, would indicate that you had advice of the issuance of the order.

Under all of these circumstances it still seems to me that you had it within your own hands to know what the provisions of the order were.

Yours very truly,



Ed Fletcher Papers

1870-1955

MSS.81

Box: 7 Folder: 11

General Correspondence - Etter, W.K.



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