

ORIGINAL

Decision No. 28323.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
THE PEOPLE OF THE STATE OF CALIFORNIA,
on relation of the Department of Public
Works, for an order authorizing the
construction of a crossing at separated
grades of the State Highway and the
tracks of the Central Pacific Railroad
and/or the Southern Pacific Railroad
near Towle, Placer County.

Application No. 17660.

Frank B. Durkee, for Department of Public Works.
Roy G. Hillebrand, for Southern Pacific Company.
J. J. Deuel, for California Farm Bureau Federation.
John Curry, for California Cattlemen's Association,
and California Wool Growers' Association.
W. P. Wing, for California Wool Growers' Association.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

In Decision No. 24261, dated November 30, 1931, in this proceeding, applicant was granted authority to construct a state highway, known as Road III-Pla-37-D, under the tracks of Southern Pacific Company near Towle, Placer County, under certain conditions which prescribe the type and method of construction, apportionment of cost of the improvement and for the closing of two adjacent crossings. On August 14, 1933, the Commission, acting upon a petition from the California Cattlemen's Association, the California Wool Growers' Association, the California Farm Bureau Federation and the Nevada County Farm Bureau, reopened this proceeding primarily for the purpose of taking testimony on the question of public necessity for the continued use of the two crossings over the railroad for

pedestrian and live stock traffic which, under said Decision No. 24261, were required to be closed upon the completion of the separation authorized in this proceeding. These two crossings are located near Southern Pacific Company's Gold Run Station, one of which is an overhead crossing, designated as A-152.0-A, and the other a grade crossing, No. A-153.9.

A further hearing was conducted by Examiner Hunter at Auburn, August 29, 1933, at the conclusion of which the matter was taken under submission.

The record shows that the two crossings referred to above have for many years constituted a part of a stock trail through this district, along which some 20,000 head of sheep and 6,000 head of cattle travel each year to the mountain range in the spring and return to the valleys in the fall. At this time considerable interest is being taken in working out a plan to provide, in so far as practicable, a separate passage-way for stock from the main traveled highway between Colfax and Donner Lake, a distance of about fifty miles. The retention of the two crossings involved herein will permit of the establishment of a separate trail for stock for a distance of about two miles, which also fits in with the major plan of stock trails through this district. This two-mile section falls within the limits of the longest stretch of main highway where no separate stock trail will be available or practical of construction if the two crossings are closed. It was shown that there are many disadvantages in driving stock along an important high speed highway such as the one involved herein, including hazard and delay to both vehicular and stock traffic, increased cost of maintaining the highway and also increased cost of moving stock. While it is true that the new state highway will afford a direct route for all classes of

traffic, which ordinarily would appear to permit of the closing of the said two crossings, we must weigh the advantages of keeping live stock off the new highway for a distance of two miles, together with affording a very small amount of pedestrian traffic to the nearby school a separate crossing over the railroad, against the disadvantages of maintaining the two crossings over the railroad. One crossing will involve the expense of maintaining a wooden overhead structure and the other the expense of maintaining a grade crossing and suitable protection, together with the attendant hazard to stock and traffic on the railroad.

After carefully considering the entire record in this proceeding it is concluded that there has been shown a public necessity for the retention of the two crossings for the use of pedestrians and live stock only, as the new highway reasonably meets the requirements of all vehicular traffic. Applicant herein has indicated that if it is relieved of all obligation to maintain any portion of the old state highway between Gold Run and Towle, shown in red on Exhibit No. 5, after the completion of the new highway between these points, it is agreeable to assuming the entire expense of constructing the new separation at Towle, amounting to \$32,220, which has been authorized in this proceeding, thereby relieving Southern Pacific Company of its agreed obligation to contribute \$4,500 toward this expenditure upon the closing of the two crossings referred to above. The Chairman of the Board of Supervisors testified that if the two crossings are allowed to remain open, the Supervisors would be willing to maintain the old state highway for stock traffic only and erect and maintain barriers to restrict travel over the overhead crossing to pedestrians and live stock. The railroad indicated that if these two crossings are to remain it would be willing to furnish the labor

in maintaining and replacing the substructure of the overhead crossing if the county furnished the materials, provided applicant relieved it of any participation in the expense of the new separation at Towle. It would appear equitable that if Southern Pacific Company is relieved of participating in the expense of constructing the new separation at Towle, it should furnish the material and labor for the maintenance of the substructure of the overhead crossing and should also revise the ringing circuits of the wigwag at the grade crossing so as to afford more advance warning of the approach of a train to the drivers of stock over this grade crossing.

The Commission will, in accordance with the above program, revise Conditions (2) and (4) of said Decision No. 24261 with the definite understanding that the county will carry out its portion of this program, otherwise a supplemental order will be issued directing the closing of these two crossings as provided for in said Decision No. 24261.

FIRST SUPPLEMENTAL ORDER

A further hearing having been held in the above entitled proceeding and the matter being now ready for decision

IT IS HEREBY ORDERED that Conditions (2) and (4) of Decision No. 24261, dated November 30, 1931, be and they are hereby revised to read as follows:

- (2) The entire expense of constructing said undergrade crossing (No. A-157.4-B), shall be borne by applicant. The expense of maintaining in a first class condition that portion of the separation commonly referred to as the superstructure, including girders, deck and track structure, shall be borne by Southern Pacific Company and the remainder by applicant.

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(4) A. The overhead crossing (No. A-152.0-A), shall be maintained in a safe condition for the use of pedestrians and live stock only. The maintenance of the roadway or deck, guard and hand rails shall be borne by the County of Placer and the remainder by Southern Pacific Company.

B. The County of Placer shall erect and maintain posts or other suitable barriers on each side of said overhead crossing (No. A-152.0-A), so as to effectively prevent the passage of vehicles over same.

C. Southern Pacific Company shall maintain a wigwag for the protection of the grade crossing (No. A-153.9), which shall be so arranged as to afford not less than ninety (90) seconds advance warning of the fastest normal train movement over the crossing.

IT IS HEREBY FURTHER ORDERED that in the event the Board of Supervisors of Placer County fails to erect and maintain barriers on each side of the said overhead crossing, so as to effectively prevent use of this overhead crossing by vehicular traffic, or fail to maintain, in a safe manner, the deck or roadway of the structure together with guard and hand rails, the above modified Conditions (2) and (4) shall be rescinded and an appropriate supplemental order issued directing the closing of said Crossings Nos. A-152.0-A and A-153.9.

IT IS HEREBY FURTHER ORDERED that except as modified above, Decision No. 24261 shall remain in full force and effect.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 11th day of September, 1933.

CP Seamy
Leon ...
W. J. ...
W. B. ...
N. S. ...
Commissioners.