

Decision No. 218322

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the County)
of Tulare for an order rescinding condition (4))
of Decision No. 27743 dated February 11th, 1935,) Supplemental
as amended by Decision No. 28357, dated November) Application
12, 1935, and for an order relocating crossing) No. 19552
No. B-239.1 over the Southern Pacific Company's)
tracks.)

Leroy McCormick, Assistant District Attorney, Tulare
County, for Applicant.

R. S. Myers, for Southern Pacific Company.

BY THE COMMISSION:

O P I N I O N

The County of Tulare, by its Supplemental Application
No. 19552, filed July 17, 1940, requests that the crossing at grade
at the Station of Goshen Junction (Crossing No. B-239.1) remain open
and be relocated in order that it will cross the tracks of Southern
Pacific Company at right angles. (1)

A public hearing was held in this matter before Examiner
Hall in Visalia on October 2, 1940, at which time the matter was
submitted.

It was stipulated at the hearing that the entire former
record in Application No. 19552 and the record in Application No.

(1) The County of Tulare requests that the Railroad Commission
make an order rescinding Condition (4) of Decision No. 27743,
dated February 11, 1935, as amended by Decision No. 28357,
dated November 12, 1935, and permit Crossing No. B-239.1 over
Southern Pacific Company's tracks to remain permanently open
as a vehicular crossing for the use of the general public.

18101⁽²⁾ be made a part of the instant record.

In Decision No. 27743, dated February 11, 1935, the County of Tulare was authorized to reopen Crossing No. B-239.9, provided that the crossing at Goshen Junction (Crossing No. B-239.1) be closed within a reasonable time.

The former record showed that a great number of people lived east of the tracks at Goshen Junction and that with the construction of the new highway to the west of the railroad these people would move to the new location of the highway, in which event the crossing at Goshen Junction would no longer be necessary. The instant record shows, however, that these people have not moved from their location east of the railroad, nor are they likely to move, and applicant contends that the crossing is still necessary not only for their use but also for the use of some forty school children living east of the railroad to reach the school located to the west.

In order to improve the conditions at this crossing applicant requests that the crossing be relocated adjacent to its present position so that it will be at right angles to the railroad.⁽³⁾

(2) In Decision No. 25551, dated January 16, 1933, in Application No. 18101, the Division of Highways of the State of California was authorized to construct a grade separation under the tracks of Southern Pacific Company at a point about two miles south of Goshen (Crossing No. B-240.9-B), provided, however, that three adjacent grade crossings be closed, one of which was Crossing No. B-239.9, located about three-fourths of a mile south of Goshen Junction.

(3) Exhibit "A" attached to the supplemental application filed July 17, 1940, shows the proposed location of Crossing No. B-239.1, and Exhibit "B" shows its relation to adjacent crossings.

At this location five tracks are involved: the main line, three sidings, and the Hanford Branch tracks. It is proposed to protect the crossing in its new location by automatic signals.

Southern Pacific Company did not oppose the granting of the application provided it would be relieved of bearing any of the cost of construction. It was estimated by the railroad company that the cost of constructing the crossing, including two signals, would be as follows:

Preparing Track	\$1,605	(Ex. #9)
Installing Signals (All now)	3,420	(Ex. #9)
Paving	<u>840</u>	
Total	<u>\$5,865</u>	

This estimate includes an item for preparing the track to receive the pavement which results in renewing ties and ballast ahead of their normal replacement date. These costs, if the crossing were not constructed, would necessarily be borne by the railroad at some later date. The estimate for installing signals is based on using all new material and new signals. The record indicates, however, that wigwags may be removed from other locations for installation here without the necessity of buying new equipment, thereby materially reducing the cost of installation, and it is our opinion that this should be done.

The record clearly indicates that this crossing is still necessary for those people living east of the railroad to reach both the State highway and the post office; it is needed by the school children to reach the school; and that public convenience and necessity require the granting of supplemental application. The following Order will so provide.

ORDER

A public hearing having been held and the matter being under submission

IT IS HEREBY ORDERED that condition (4) of the Order in Decision No. 27743, as amended by First Supplemental Order in Decision No. 28357, be and it is hereby rescinded and of no further force and effect.

IT IS HEREBY FURTHER ORDERED that the County of Tulare is hereby authorized to relocate county road at grade over the tracks of Southern Pacific Company at Goshen Junction, Tulare County, at the location as shown by the map (Exhibit "A") attached to the supplemental application, subject to the following conditions:

- (1) The above relocated crossing is identified as Crossing No. B-239.1.
- (2) The cost of preparing the track to receive the pavement shall be borne by Southern Pacific Company. The cost of paving and installing guard rails shall be borne by applicant. The cost of maintenance of that portion of the crossing up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.
- (3) The crossing shall be constructed of a width of not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad, with grades of approach not greater than three (3) per cent, and in every way made suitable for the passage thereon of vehicles and other road traffic.
- (4) Two Standard No. 3 wigwag signals, or two Standard No. 8 flashlight signals, as specified in General Order No. 75-B of this Commission, shall be installed at the sole expense of applicant, and maintenance thereafter shall be borne by Southern Pacific Company for the protection of said relocated crossing No. B-239.1.
- (5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing and of its compliance with the conditions hereof.
- (6) The authorization herein granted shall lapse and become void if the relocation of said crossing is not completed within one (1) year from the effective date hereof, unless further time is granted by subsequent order.

- (7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, public convenience and necessity demand such action.

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

Dated at San Francisco, California, this 29th day of October, 1940.

Ray & Riley
George D. Miller
Robert H. ...
H. Baker
Justin J. Quinn
Commissioners