

Decision No. 49869**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 the County of Tulare for a Railroad)
 Crossing over the Southern Pacific)
 Company's Railroad in Section 23,)
 Township 21 South, Range 27 East,)
 M.D.B. & M.)

Application No. 32662
 as amended

In the Matter of the Application of)
 the County of Tulare for a Railroad)
 Crossing over the Southern Pacific)
 Company's Railroad in Section 23,)
 Township 21 South, Range 27 East,)
 M.D.B. & M.)

Application No. 34528

Boris S. Stanley, for County of Tulare, applicant.
R. S. Myers, for Southern Pacific Company,
 interested party.
M. A. Getchel, for Commission staff.

O P I N I O N

The above appearances were made in Application No. 32662 filed August 11, 1951 and amended October 10, 1954. This application, as amended, requested authority to construct a railroad crossing at Henderson Avenue over the secondary main line of Southern Pacific Company's Fresno to Famosa via Exeter Line.

Public hearings on this application, as amended, were held in Porterville, California, before Examiner Rowe on January 6, 1953 and on June 2 of the same year. Oral and documentary evidence was submitted to show the need for the crossing at Henderson Avenue. The Commission staff, after a study of the matter, recommended granting this Application No. 32662, as amended, but conditioned upon the closing of Mulberry Avenue crossing.

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Reference was also made by the Commission staff to the fact that by Decision No. 37800, dated April 17, 1945 in Application No. 25939, the County applicant had been authorized to construct a grade crossing at Westfield Avenue conditioned upon the closing of Pioneer Avenue. The County of Tulare did not exercise this authority. It did, however, appear desirable to the County and to the Railroad Company that such opening and closing should also be made and the parties indicated a desire to enter into contracts to effect the request of Application No. 32662, as amended, and also that provided by said Decision No. 37800. This proposal is in accord with the area plans of the Division of Highways, Department of Public Works, for crossings of the proposed freeway as indicated by a letter addressed to the Commission by the State Highway Engineer.

In order to carry out this plan Application No. 34528 was filed requesting the same relief previously authorized by said Decision No. 37800 but which authorization had lapsed. The understanding of the parties as to both applications is stated in Application No. 34528 by the County in the following language:

"It is part of an area plan to provide safe railroad crossings at evenly distanced intervals to serve the City of Porterville and contiguous unincorporated areas by closing Pioneer and Mulberry Avenue crossings and opening the proposed Henderson Road crossing (Application No. 32662, BC-273.7) and obtaining permission to open the crossing herein applied for; said new crossings being by natural topography and existence of surrounding improvements and type of planned construction of approaches and warning devices far superior in safety and serviceability than the crossings now existing and proposed to be closed as herein alleged; that hearings before an Examiner of this Commission were held January 6, 1953 and June 2, 1953 at the City of Porterville on said Application No. 32662 and evidence, both oral and documentary, was entered relating to said Henderson Road crossing and those crossings contiguous and

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related thereto and alleged herein and said application is now under submission by your Honorable Commissioner pending an agreement between the parties therein involved on various and sundry matters and pending the filing of this application."

O R D E R

Applications therefor having been filed, the Commission being fully advised in the premises, and finding that the public interest requires the following order,

IT IS ORDERED:

(1) That the County of Tulare is authorized to construct public crossings at Henderson Avenue and Westfield Avenue over the secondary main line tracks of the Southern Pacific Company's Fresno to Famosa via Exeter Line in Section 23, Township 21 South, Range 27 East, Mount Diablo Base and Meridian at the locations more particularly outlined and in the manner delineated upon the drawings attached to the contracts entered into between applicant and said railroad company dated December 21, 1951 and March 10, 1954 and both filed with the Commission March 20, 1954 subject to and only upon the following conditions:

(a) The above crossing at Westfield Avenue shall be identified as Crossing No. BC-273.1 and that at Henderson Avenue shall be identified as Crossing No. BC-273.7;

(b) The entire expense of constructing the two crossings (No. BC-273.1 and BC-273.7), except to the extent set forth in subparagraph (d) hereof, shall be borne by applicant;

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(c) Said crossings shall each be of a minimum width of 24 feet and be constructed equal or superior to type shown as Standard No. 2 in General Order No. 72 and shall be protected by two Standard No. 8 flashing light signals of the type shown in General Order No. 75-B;

(d) The entire cost of acquiring and installing such flashing light signals shall be borne by applicant except that Southern Pacific Company shall bear fifty per cent of the cost of acquiring and installing the flashing light signals at Westfield Avenue only;

(e) The opening to the public of the crossing at Westfield Avenue (No. BC-273.1), as heretofore authorized, shall not be made unless contemporaneously therewith Pioneer Avenue (Crossing No. BC-272.8) shall be closed and the crossing at Henderson Avenue shall not be opened unless contemporaneously therewith Mulberry Avenue (Crossing No. BC-273.4) shall be closed, to vehicular traffic by the erection of fences or other proper barriers and the removal of the existing highway between said barriers at the sole cost of applicant;

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(f) The cost of maintaining said flashing light signals and those portions of said crossings to be opened located between lines two feet outside the outside rails shall be borne by Southern Pacific Company.

(2) Within thirty days thereafter applicant shall give the Commission written notice of the completion of all said construction and removal and of its compliance with the conditions hereof and of the contracts above referred to entered into by and between Southern Pacific Company and applicant, copies of which have been filed with this Commission.

(3) The authorization herein granted shall expire if not exercised within one year after the date hereof unless further time is granted by subsequent order.

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

Dated at San Francisco, California, this 30th day of March, 1954.

A. J. [Signature]
President
James J. [Signature]
Samuel P. [Signature]
John E. [Signature]
James [Signature]
Commissioners