

BEM

ORIGINAL

Decision No. 73093

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of THE COUNTY OF YUBA, a County)
of the State of California, for)
the construction of grade)
separation structure at the)
Southern Pacific Company railroad)
tracks at North Beale Road in the)
County of Yuba, State of California,)
at Southern Pacific Company Crossing)
C-139.3.)

Application No. 46011
(Filed December 5, 1963)

Robert K. Dower and Terence J. Keeley, of
Changaris, Trezza and Ithurnburn, for County
of Yuba, applicant.
Harold S. Lentz and John T. Kenward, for
Southern Pacific Company, protestant.
Terence J. Keeley, of Changaris, Trezza and
Ithurnburn, for Linda Property Owners'
Association; Joseph C. Easley, William E.
Sherwood and Melvin R. Dykman, for California
State Department of Public Works; G. R. Mitchell
and D. H. Brey, for Brotherhood of Locomotive
Engineers; interested parties.
John C. Gilman, Counsel, and James K. Gibson, for
the Commission staff.

OPINION AND SUPPLEMENTAL ORDER

By Decision No. 69554, issued ex parte on August 17, 1965,
in this proceeding, County of Yuba (County) was authorized to
construct North Beale Road at separated grades under the track of
Southern Pacific Company (Southern Pacific) near Marysville. The
order further provided that upon completion of the underpass
structure North Beale Road Crossing No. C-139.3 and Hammonton Road
Crossing No. C-139.0 should be abandoned and closed to public use
and travel.

On November 10, 1966, County filed with the Commission a
document entitled "Request for Stay of Effective Date and for
Rehearing to Vacate Portion of Original Order". In effect, the

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filing sought a reopening of the application for hearing, looking to a modification of Decision No. 69554 to allow the Hammonton Road crossing to remain permanently open to public use. An amendment to this pleading was filed on November 17, 1966.

By its order of November 17, 1966, the Commission ordered that Application No. 46011 be reopened for public hearing.^{1/}

Hearings were held before Examiner Bishop at Marysville on December 1 and 2, 1966 and on January 5 and April 11, 12 and 13, 1967.^{2/} By its "Supplemental and Interim Order" (Decision No. 71702), issued on December 13, 1966, the Commission, pending further order, authorized County and Southern Pacific to install facilities for an emergency vehicular crossing at Hammonton Road and authorized County, under specified conditions, to open said crossing to public use and travel on an emergency and temporary basis.

With the filing of concurrent briefs, which were due July 6, 1967, the reopened matter was taken under submission.

At the hearings 27 witnesses testified. Sixteen of these spoke on behalf of Linda Property Owners' Association, which appeared as an interested party in support of County's proposal to

^{1/} The order also enjoined County, Southern Pacific and any others involved from opening the Hammonton Road crossing to public travel or passage pending further order of the Commission. The circumstances which prompted this portion of the order are hereinafter recounted.

^{2/} No evidence was received at the session of January 5, 1967. At the request of County the matter was continued for approximately ninety days to enable County to confer with Southern Pacific with a view to reaching an agreement concerning the matter at issue. During that period the parties met, but no agreement was reached and, at the April sessions, the parties continued with their presentations.

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reopen the Hammonton crossing. Other evidence was presented by County, Southern Pacific, the State Department of Public Works (Department), the Brotherhood of Locomotive Engineers and the Commission's staff.

Soon after the filing of the application herein on December 5, 1963, the Commission issued its Decision No. 66484, in Case No. 7683, the 1964 priority list proceeding.^{3/} In that decision the proposed North Beale Road grade separation project was given 19th place on the 1964 list. In the 1965 priority list Decision No. 68345, dated December 15, 1964, in Case No. 7979, the North Beale project was No. 6 on the priority list. In the application herein and in the 1964 and 1965 priority lists, it was specified that, with the construction of the North Beale underpass and the closing of the North Beale grade crossing, the Hammonton Road crossing should also be closed.

In August 1965 agreement was entered between County and Southern Pacific, in September funds were made available from the State grade separation fund and in November agreement was entered between County and Department relative to the scope of the project and the State's contribution to its cost. Subsequently, County entered into contracts with an engineering firm and a general contractor, for the construction of the underpass. The project was to be completed by November 15, 1966, but with the possibility of extensions of time.

^{3/} Under the provisions of Sections 189-191 of the Streets and Highways Code, a priority list is furnished annually by the Commission to the Department of Public Works, listing grade crossings in the order of the urgency of their need of separation. This list is used by the Department in making allocations of the grade separation fund created by said Code sections.

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The North Beale Road underpass is located on the east side main line of Southern Pacific about a mile south of Marysville. The Hammonton Road crossing is 1,440 feet, rail distance, south of the underpass. North Beale Road is the principal highway between Marysville and Beale Air Force Base; it carries a heavy burden of traffic, particularly in the morning and evening rush hours. Hammonton Road connects with a freeway, State Sign Route 65, about a quarter mile west of the railroad, and intersects North Beale Road about three-fourths of a mile east of its crossing with Southern Pacific. A short distance east of, and parallel to the railroad Avondale Avenue connects North Beale with Hammonton. Similarly, Lind-Hurst Road lies immediately to the west of the Southern Pacific track. It extends southerly from North Beale, crosses Hammonton and continues to its junction with the freeway at Olivehurst.

The area just described is in the unincorporated community of Linda. Immediately south of Linda is Olivehurst. These communities are separated from Marysville by the Yuba River on the north; west of them lies the Feather River. Linda and Olivehurst are generally on low ground and are protected from the rivers by levees.

The county supervisor for that part of Yuba County in which Linda and Olivehurst are located testified that early in the fall of 1966, as work was progressing on the North Beale underpass, he became aware of the fact that some of the people of those communities had not realized that, with the completion of the underpass, the Hammonton crossing would be closed. Meetings were held and the Linda Merchants and Property Owners' Association was formed for the purpose of taking whatever steps might be necessary

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to keep the crossing open. A large representation of residents and merchants subsequently appeared before the County Board of Supervisors and urged that the board act to prevent the closing of the Hammonton crossing. By resolution dated November 2, 1966, the board directed the county counsel to file the necessary application with this Commission seeking appropriate modification of the outstanding order in this proceeding. This action by the board was followed by the filing, on November 10, 1966, of the pleading now in issue.

By the first of November 1966 it appeared that the North Beale underpass was practically completed.^{4/} On November 4, the contractor's barricades were removed and a ribbon-cutting ceremony was held in the underpass, after which a single caravan of cars was allowed to pass through, then the underpass was again closed to public use. At this time notice of completion had not been filed, and the project had not been accepted by the County. The record discloses that the underpass was opened again to traffic on November 7, 1966, and apparently was temporarily closed once again later in the month due to temporary flooding during heavy rain.

On November 8, 1966, employees of Southern Pacific closed the Hammonton crossing, by removing the pavement in the track area, erecting barricades and removing the automatic crossing signals. On November 15, the road commissioner was directed by the supervisors to reopen Hammonton crossing. County employees proceeded with the removal of barricades and the pouring of paving material in the crossing area. It appears, however, that the crossing was not

^{4/} At the hearing on December 1, 1966, the County road commissioner testified that as of that date the project was about 85 percent completed.

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actually reopened to public traffic. A principal obstacle to reopening at that time was an open ditch, which had been dug by the contractor across Hammonton just east of the railroad crossing. Culvert was to be installed therein as a part of the drainage facilities from the North Beale underpass.

The Commission was apprised of the activities at the Hammonton crossing and on November 17, 1966, issued its order, hereinbefore mentioned, in which, pending further order, it enjoined County of Yuba, Southern Pacific, their agents, employees, servants and persons acting under contract with them, from opening the Hammonton crossing to public use.^{5/}

On November 30, 1966, the record shows, County made a partial acceptance of the North Beale underpass project for maintenance of the traffic lanes. As of the initial date of hearing, there still remained a number of deficiencies to be corrected by the contractor. On January 16, 1967, the grade separation project was officially accepted by County and on January 19 the Commission received advice from County that the project had been completed.

With reference to the circumstances surrounding the closing of the Hammonton crossing on November 8, 1966, the assistant to Southern Pacific's chief engineer testified that he had ascertained that traffic was moving through the underpass, that he had inquired of the County whether the latter would proceed to close Hammonton, that the answer was in the negative, and that the carrier's maintenance forces were then instructed to close the crossing. He pointed out that Decision No. 69554 did not specify who was to close the crossing in question upon completion of the

^{5/} As hereinbefore mentioned, that order also reopened Application No. 46011 for public hearing.

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underpass structure. County's road commissioner testified that County would not consider the underpass structure completed until it had been accepted by County and that acceptance had not been made as of November 8. He directed attention to the fact that the contract between County and Southern Pacific provided that, upon completion of construction of the project, County should take all steps necessary to legally close and abandon the existing grade crossings at North Beale Road and Hammonton Road and that County agreed to be solely responsible for closure of the crossings.^{6/}

In its petition seeking modification of Decision No. 69554, County alleges that conditions have changed since the filing, in 1963, of Application No. 46011; that at the aforesaid meeting of November 2, 1966 before the Board of Supervisors, forty-five interested citizens and property owners spoke in favor of allowing the Hammonton crossing to remain open but no one in the audience spoke in favor of abolishing the crossing; that closure would result in denial of access to the general system of public streets; that in the past 31 years there have been only three accidents at the crossing; that greatly increased activity at Beale Air Force Base has been accompanied by daily movement of thousands of military and civilian personnel across the railroad track, traveling from and to the Base; that the only access roads will be North Beale Road and Simpson Lane, which are subject to flooding; that experience with the disastrous 1955 flood of the Yuba River shows the necessity of keeping the Hammonton Road crossing open as an evacuation route

^{6/} Early in the construction of the underpass the contractor found it necessary to close the North Beale crossing to traffic, and to detour North Beale traffic over the Hammonton crossing.

for residents of the low-lying Linda and Olivehurst districts; and that closure is opposed by the County Civil Defense group.

The 18 witnesses who testified in support of the reopening consisted of residents and property owners of West Linda and East Linda,^{7/} merchants and employees in the business district in the vicinity of the Hammonton-Lind-Hurst intersection, the Linda fire chief, the County civil defense director, a colonel from Beale Air Force Base, the County road commissioner and the aforesaid County supervisor. The evidence offered by these witnesses may be summarized as follows:

The Hammonton Road is necessary as an evacuation route for residents and business people in West Linda in times when severe storms cause flooding of that district, either from breaks in the levees or from backing up of storm waters. Hammonton Road east of the railroad crossing is on relatively high ground; it has been flooded only once in the past 46 years. Certain other exit routes, such as Erle Road, are flooded at times every winter. During the heavy floods of 1955 all routes out of the flooded area were closed except Hammonton Road. The situation in the 1964 flooding was somewhat less severe because work had begun on the Oroville Dam; also, the Feather and Yuba Rivers reached their peaks at different times. (The Yuba flows into the Feather at the southwest corner of Marysville.) While two alternating pumps have been installed in the North Beale underpass, they failed twice shortly after the underpass was opened, necessitating temporary closure because of flooding; such a failure could occur again in the future.

^{7/} West Linda designates that portion of the community located west of the railroad. East Linda is the area east of the railroad.

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Linda has a volunteer fire department, the firehouse being located in West Linda near the Hammonton crossing. Some firemen live in East Linda; in answering an alarm more time is consumed by them in reaching the firehouse via the underpass than via Hammonton. Also, the fire truck uses more time going to fires occurring in East Linda south of North Beale Road traveling via the underpass than via the Hammonton crossing. Additionally, there are greater traffic hazards via the underpass.

With the closure of Hammonton crossing persons driving from locations in East Linda to points in West Linda, who formerly used that crossing as the direct route, are now required to go north on Avondale (or on one of the parallel streets easterly thereof) and make a left turn onto North Beale Road, go through the underpass, then make another left turn onto Lind-Hurst and proceed to their destinations. During the morning and evening rush hours the traffic on North Beale Road from and to the Air Force base and Yuba Junior College is very heavy and includes approximately 50 school bus movements, necessitating lengthy waits for opportunity to execute left turns. Moreover, the manner in which the westerly approach to the underpass was constructed has resulted in impaired visibility for drivers turning easterly into North Beale Road from Lind-Hurst. Further complaint was made by resident witnesses of the circuitous movement involved in going, for example, between the intersection of Hammonton and Avondale via the underpass to the intersection of Hammonton and Lind-Hurst. The additional distance, as compared with the direct route over the Hammonton crossing, is about 3,000 feet.

Beale Air Force Base is a part of the Strategic Air Command. The "alert" crews live on the base and are ready for instant action. Another group, the war staff, also living at the

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base, must be at their posts in 15 minutes. Approximately 1,800 military and civilian personnel live off-base in the Marysville-Yuba City area. In case of an alert they must all be on the base within an hour. For some of these residing in West Linda and Olivehurst it appears that the Hammonton crossing would offer the most direct route to the base.

Some of the witnesses who are in business in the vicinity of the Hammonton Lind-Hurst intersection testified that they had experienced a decline in business since the closure of the Hammonton crossing.^{8/} The period involved was quite brief, and the indications were that some of the decline could be attributed to seasonal variations or to the particularly stormy weather which prevailed during November. The closure of the crossing, however, diverted some traffic from the district in question with the consequent loss of some business to the merchants located there.

A signal engineer of Southern Pacific, protestant, and the principal transportation engineer from the Commission's staff testified concerning conditions at the Hammonton crossing. There is impaired visibility of approaching trains for eastbound drivers; however, the visibility from westbound vehicles is fairly good. The approach grades from both east and west are rather sharp, which circumstance creates an additional hazard. Maximum authorized train speed is 60 miles per hour and some trains operate over the crossing at or near this speed. During July 1966 the peak rail traffic period of the year, the number of trains passing over the Hammonton crossing ranged from 10 to 22 trains per day.

^{8/} All of the witnesses who spoke for the Linda Property Owners' Association testified at the hearing sessions on December 1 and 2, 1966.

Since 1926, the record discloses, there have been four train-vehicle accidents at the Hammonton crossing; three of these resulted in a total of four fatalities, one resulted in five injuries, and in one accident there were no injuries or fatalities. The most recent of these accidents, a fatal one, occurred in 1961. During the same period there were, at the North Beale crossing, one fatal accident and two nonfatal, noninjury accidents. The fatality occurred in 1946.

An exhibit of record, originally introduced in Case No. 7979 (the 1965 grade separation priority list proceeding) showed that a traffic count made in 1962 reflected an average daily movement over the Hammonton crossing of 3,200 cars.^{9/} The road commissioner estimated that if the crossing were to be reopened it would carry as much traffic as it did before construction of the underpass, if not more.

There was general agreement among the witnesses for the County, Southern Pacific and the staff that if the crossing is reopened on a permanent basis, it should be protected by automatic crossing gates. The aforesaid signal engineer introduced an exhibit containing suggested circuit designs and estimated costs of installation and maintenance of the gates.

The County's resident engineer for the underpass construction project, called as a witness by Southern Pacific, testified that he had considered, when plans for the underpass were being prepared, that neither crossing would be necessary and had recommended that they both be closed. He was still of that opinion at the April 1967 hearing sessions. He based this opinion on considerations other

^{9/} The same study showed an average daily count of 7,000 cars over the North Beale crossing.

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than economic ones. The aforesaid assistant to Southern Pacific's chief engineer expressed the opinion that the Hammonton crossing is a hazardous one and that it is not necessary, since there is an underpass a short distance away. This view was also expressed by the staff engineer, with the additional reason that there is easy access to and from the underpass for persons who formerly used the Hammonton crossing. He further expressed the view that to reopen the crossing would seem to be a step in the wrong direction. He testified concerning the Commission's program, which it has conducted for many years past, directed to a reduction in grade crossing hazards and accidents through elimination of crossings by grade separation, and, where crossings are retained, by upgrading the crossing protection. He explained the workings of the State's grade crossing separation fund and introduced an exhibit which showed, among other things, the gradual decline in number of vehicle-train casualties per 10,000 vehicles during the period 1958 to 1965.

Two representatives of the Brotherhood of Locomotive Engineers testified concerning the crossing safety program of the Brotherhood and the hazardous nature of the Hammonton crossing, which they urged be left closed. One of these witnesses is a locomotive engineer on the line in question and passes over the Hammonton crossing frequently. Both witnesses suggested that, in view of the concern of the residents over the flood threat, the crossing be protected with locked gates which could be opened when an emergency arose, with protection by human flagmen during the emergency.

The idea of making the crossing accessible during emergency was further discussed by other witnesses. The resident engineer believed it would be desirable to make such provision. He questioned whether, under such circumstances, the crossing construction would

have to be of the same caliber as that for a crossing kept open permanently. The assistant to Southern Pacific's chief engineer stated that he was not opposed to provision for emergency use of the crossing; that a crossing of a lower standard than that specified in Decision No. 71702 (the aforesaid "Interim" order) would be perfectly adequate.^{10/} He proposed that material be stockpiled immediately adjacent to the crossing in the track area, where it could be shoveled into the roadbed in a few minutes in time of emergency. This arrangement, he said, would be satisfactory to his company. The type of material the witness had in mind was a gravel and cold-mix. Such crossings for emergency situations, he said, had been successfully used by Southern Pacific at other locations. He thought the duty of providing the material would be the carrier's responsibility. He admitted that after a time, the material hardens and the stockpile has to be replaced.

The Department took no position as to whether the Hammonton crossing should be reopened or remain closed. Its engineer who is in charge of reviewing the applications for projects which have secured a place on the Commission's priority list for grade separation funds described the processing of such applications. He testified that Department had entered into an agreement with the County of Yuba to allocate the sum of \$279,835 as the State's share of the cost of constructing the North Beale underpass, one condition being that two existing grade crossings should be eliminated.^{11/}

^{10/} Decision No. 71702 specifies that the crossing shall be Standard No. 2 (as set forth in General Order No. 72), or better.

^{11/} The testimony shows that the allocation of funds is actually approved and made by the California Highway Commission.

As a part of the underpass construction project, and in view of the closure of the Hammonton crossing, certain improvements were made in Avondale Avenue, the street parallel to, and easterly of the railroad. These included widening and realignment of the street, as well as improvement of the quality of pavement. An office engineer of the Department explained three diagrams showing the roads involved in the project (1) as they appeared before work was begun, (2) as they now are, and (3) as they would have appeared if the project had not contemplated the closure of the Hammonton crossing. He pointed out that under the last-named circumstance, considerably less improvement of Avondale would have been necessary, and the expenses, including the cost of additional right-of-way, would have been substantially less than were actually incurred. The Avondale improvement costs, of course, were a part of the total allocation to the project from the State's grade separation fund.

Without setting forth in detail the arguments made by the respective parties in their briefs, certain points will be mentioned. County argued that the evidence showed that conditions had so changed since 1963, when Application No. 46011 was filed, as to require the reopening of the Hammonton crossing, and that if the crossing is not reopened Yuba County will be forced to defend itself in inverse condemnation suits. Southern Pacific argued that County had failed to show the existence of changed conditions, or to show the necessity for reopening; that there is no necessity for an emergency crossing, but if such a crossing is authorized, it should not be required that the crossing pavement actually remain in place, the stockpiling of material near the crossing being deemed sufficient; that if the crossing is reopened the Commission must redefine the scope of the project, because the contributions of the parties to its cost will

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necessarily undergo revision; to this end, a further hearing, under such circumstances, will be necessary.

Department argued that the allocation of funds from the State grade separation fund was for a project to eliminate two grade crossings by the construction of a single underpass; that the purpose of Sections 181-191 of the Streets and Highways Code is to determine, finance and eliminate dangerous grade crossings; that if Decision No. 69554 is amended to vacate that portion directing that Hammonton Road be closed, the priority list will be rendered invalid, as will also the resolution appropriating the State funds for the project, the agreement between Department and County and the agreement between County and Southern Pacific; that if the decision is so amended, no further payments will be made by Department to County, and County will be asked to refund all payments previously made; and that County's request should either be dismissed or treated as an application to open a new crossing.

The Commission's staff argued that the Commission should not attempt to determine whether any acts of closure or reopening were improper; that since filing by the County of Notice of completion of the underpass structure, the Hammonton Road crossing is now in law as well as in fact a closed crossing; that the County has demonstrated a need for an emergency crossing for escape from floods, but that the staff has no position as to the details of such crossing; the degree of public need for a grade crossing at Hammonton Road cannot justify the enormous cost involved; and that the Commission should find that the Hammonton crossing is not required by public convenience and necessity.

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Discussion, Findings and Conclusions

At the hearings, counsel at various times raised the question as to whether the pleading which County filed on November 10, 1966 should be considered as a request for reopening of Application No. 46011 with a view to modification of Decision No. 69554, or as a new application to open a crossing. It is not necessary to resolve this question. The issue is simply whether public convenience, necessity and safety require the permanent reopening of the Hammonton Road crossing.

Considerable evidence was received concerning the events in the latter months of 1966 leading up to the filing of the above-mentioned pleading, the closure of the Hammonton crossing by Southern Pacific on November 8, 1966, the attempted reopening of same by County on November 15 and the issuance of the Commission's "cease and desist" order of November 17. It appeared desirable to get the facts into the record, both as background for the proper consideration of the issues before us and because of the strong local concern in the Linda and Olivehurst sections during the period when the events in question were taking place. This concern was accentuated by the fact that unusually heavy rains were experienced during November and at the time the initial hearing sessions were in progress. We are of the opinion, however, that no useful purpose would be served by attempting, at this late date, to determine whether any acts of closure or reopening of the Hammonton crossing were improper.

Early in 1963, the record shows, the residents of the Marysville area were discussing the possibility of replacing the North Beale crossing with an underpass. A panel discussion on this question was conducted in Olivehurst at a meeting, well attended by residents of that community and of Linda. At that time it was

pointed out that in order for the North Beale crossing to be included in the grade separation priority list it would be necessary to agree to the closure of the Hammonton crossing as well as that at North Beale. The record indicates that such action was generally acceptable to the Linda and Olivehurst residents as a means of obtaining the underpass.

The Commission approved the closing of the Hammonton crossing by Decision No. 69554, dated August 17, 1965, and, in order to justifiably reverse that authorization changed conditions are required to be shown. The only changed condition, on this record, is that the threat of danger of flooding is less in the Linda and Olivehurst sections than it was in 1965. This is because the Oroville Dam on the Feather River, as it has advanced toward completion, has progressively reduced the flooding threat, and the current construction of the Bullard's Bar Dam is having the same effect on the Yuba River. Construction of the Marysville Dam will further reduce the danger from flooding. These are changes which militate against the reopening of the crossing.

A deep concern was manifested by the public witnesses, nevertheless, over the possibility of the North Beal underpass becoming flooded, Hammonton having been closed, at a time when all other exit routes out of Linda and Olivehurst are also flooded.^{12/} The flooding of the underpass would occur from a failure of the pumps (as they did soon after their installation, when they were improperly adjusted) or from water entering the underpass at such a rate as to exceed the capacity of the pumps to remove it. The pumps

^{12/} By "flooding" and "flooded" is here meant the presence of water of such depth as to prevent egress by vehicles.

now are practically foolproof and the only concern should be for possible power failure. This could be forestalled, the record shows, by provision of an alternate power source. Severe flooding of Linda and Olivehurst, such as occurred in 1955, or even in 1964, does not seem likely to reoccur, in view of the continuing improvement in flood control. However, to guard against the possibility of such eventuality, and as a matter of reassurance to the residents of the area it appears reasonable to continue to provide for reopening of the Hammonton crossing under emergency conditions.

The record shows that for emergency use the pavement to be placed in the Hammonton crossing need not be of Standard No. 2 (General Order No. 72) quality, or better, as now required by the outstanding interim order. A suitable cold mix paving material can be stockpiled at the crossing and shoveled into the track area when emergency arises. At the same time the barricades can be quickly loosened, removed and later replaced. The absence of pavement in the crossing area, other than at times of emergency, should also tend to discourage unauthorized pedestrian traffic. Other conditions specified in the interim order should be retained substantially.

The cost of the paving material for stockpiling, it appears, would be nominal. The apportionment of said cost should be a matter of agreement between County and Southern Pacific. Such an arrangement should in no way disturb the agreements which have been made between County, on the one hand, and Department and Southern Pacific, respectively, on the other hand, relative to the apportionment of costs involved in the grade separation and crossing closure project.

The preponderance of evidence offered by the County and community witnesses in support of a permanent reopening of the Hammonton crossing related to the threat of future flooding. The evidence offered to support other reasons advanced for reopening was of insufficient weight to offset the desirability of closure in the interest of public safety.

We find that:

1. The North Beal Road underpass has sufficient capacity to carry the total amount of east-west traffic in the area, now and within the foreseeable future.
2. Said underpass was designed as, and now is, a reasonably convenient substitute for a crossing at Hammonton Road.
3. Except to the extent hereinafter provided, a grade crossing at Hammonton Road is not required by public convenience and necessity.
4. The expected benefit to private businesses in the vicinity of the Hammonton Road-Lind-Hurst Road intersection which may result from opening a crossing does not outweigh the lack of proven necessity.
5. County of Yuba should be authorized to reopen the Hammonton Road crossing to public use and travel only on an emergency and temporary basis under the conditions set forth in the order which follows.
6. The authority conferred by the Commission's "Temporary and Interim Order" dated December 13, 1966 (Decision No. 71702) should be canceled.

We conclude that County's request for a reopening of the Hammonton Road crossing should be denied, except as provided in the order which follows.

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Motion of Southern Pacific, filed November 28, 1966, to consolidate Application No. 46011 and Case No. 7979, above, for hearing will be denied.^{13/} Pleading filed by Southern Pacific on November 28, 1966, entitled "Motion of Southern Pacific Company to Strike and Dismiss 'Supplement to Application', and, in the Alternative, Answer to 'Supplement to Application'", insofar as it is a motion, will be denied. Motion to Strike Out Portion of Answer, filed by County on December 6, 1966, will be denied.^{14/}

IT IS ORDERED that:

1. County of Yuba is authorized to open the Hammonton Road crossing (C-139.0) to public use and travel only on an emergency and temporary basis under the conditions set forth in Appendix A hereto, which appendix by this reference is made a part hereof.
2. In the event that it is decided to reopen the Hammonton Road crossing on an emergency and temporary basis under the authority conferred by numbered paragraph 1 hereof, County of Yuba and Southern Pacific Company are authorized to install facilities for such crossing under the conditions set forth in said Appendix A.
3. Apportionment of the expense incurred in providing and maintaining the stockpile of paving material and of placing said material in, and removing it from, the crossing area shall be the subject of agreement between County of Yuba and Southern Pacific

13/ On November 28, 1966, in Case No. 7979, Southern Pacific filed its "Application and Petition to Reopen and to Modify, Alter and Amend Decision No. 68345 by Rescinding Priority No. 6 Contained Therein". Disposition of that request will be made by separate order in Case No. 7979.

14/ The "Answer" to which County's motion refers is the pleading of Southern Pacific identified in the immediately preceding sentence, considered as an answer.

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Company. Should the parties fail to agree, the Commission will apportion said costs by further order.

4. The motions to which reference is made in the last paragraph of the preceding opinion are denied.

5. The authorization contained in the Commission's Supplemental and Interim Order dated December 13, 1966 (Decision No. 71702) is canceled.

6. Except to the extent hereinabove provided, request of County of Yuba for a reopening of the Hammonton Road crossing (C-139.0) is denied.

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

Dated at San Francisco, California, this 19th day of SEPTEMBER, 1967.

[Signature]
President

[Signature]
William [Signature]
[Signature]
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Conditions Governing the Opening
Of Hammonton Road Crossing
On an Emergency Basis

1. The Board of Supervisors of Yuba County or the County Road Commissioner shall declare that an emergency exists.

2. The crossing shall be protected by a deputy sheriff or other uniformed officer during the time the barricades are removed and the crossing is open to travel.

3. The Southern Pacific Company shall be notified immediately by the County whenever the crossing may be opened.

4. The Commission shall be notified in writing within ten days of each opening of the crossing, together with the date and time opened, the duration of opening and the reason therefor.

5. The crossing shall be closed and barricaded as soon as the emergency has passed.

6. Within fifteen days after the effective date of this order Southern Pacific Company and County of Yuba shall obtain and deposit adjacent to the emergency crossing area a stockpile of cold-mix paving material in sufficient quantity to provide safe and convenient passage of two lanes of traffic over the railroad track.

7. It shall be the responsibility of County of Yuba to periodically inspect the stockpile of paving material and replace same with fresh material when the old material appears to be about to harden or become unusable.

8. After an emergency has been declared to exist, as provided in numbered paragraph 1, above, and before the crossing is opened to traffic, County of Yuba and Southern Pacific Company shall place the stockpiled paving material in the crossing area in such manner as to provide safe and convenient passage of two lanes of traffic over the railroad track.

9. After the emergency has passed and the crossing has been closed, the temporary paving material shall be removed from the crossing area and, if necessary, a fresh supply of paving material placed in the stockpile.