

ORIGINAL

75490

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the status, operation, safety, maintenance, use and protection or closing of the crossings at grade of Regio Avenue, Descanso Avenue, and Caballero Avenue, and the tracks of Southern Pacific Company in the City of Buena Park, State of California.

Case No. 8760
(Filed January 30, 1968)

Application of Southern Pacific Company for an order authorizing the construction at grade of an industrial spur track across Descanso Avenue in the City of Buena Park, County of Orange, State of California

Application No. 49607
(Filed August 16, 1967)

In the matter of the application of SOUTHERN PACIFIC COMPANY for an order authorizing the construction at grade of an industrial drill track and an industrial spur track across Caballero Boulevard in the City of Buena Park, County of Orange, State of California.

Application No. 50076
(Filed March 7, 1968)

- Randolph Karr and E. C. Martin, for Southern Pacific Company, applicant in Applications Nos. 49607 and 50076; respondent in Case No. 8760.
- Ronald H. Bevins and Forest Yaberg, for City of Buena Park, respondent in Case No. 8760.
- G. R. Mitchell, for Brotherhood of Locomotive Engineers, interested party.
- Elinore C. Morgan, Counsel, for the Commission staff.

O P I N I O N

These proceedings pertain to street crossings at grade of tracks of the Southern Pacific Company (S.P.Co.) within an industrial park area of said company in the City of Buena Park. The crossings are those which are identified as Milepost 504.3-C(BK), BK-504.2-C and BK-503.9-C. They are referred to hereinafter as the Caballero Boulevard, Descanso Avenue and Regio Avenue crossings, respectively.^{1/}

Case No. 8760 was instituted on the Commission's own motion into the status, operation, safety, maintenance, use and protection or closing of the aforesaid crossings for the purpose of determining (1) whether or not the public health, safety and welfare require relocation, widening, closing or other reconstruction or alteration of said crossings, or require installation and maintenance of additional or improved protective devices at said crossings, (2) whether, if any of the above changes should be accomplished, on what terms and under what conditions they should be accomplished, and to make such apportionment of costs among the affected parties as may appear just and reasonable, (3) whether or not respondent S.P.Co. has violated Section 1201, Public Utilities Code, by constructing a grade crossing at Caballero Avenue without authority, (4) whether respondent S.P.Co. should be ordered to cease and desist from all unlawful operations and practices, and (5) whether any other order or orders that may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

^{1/} A sketch of the involved area is attached hereto as Appendix "A".

By Application No. 49607 the S.P.Co. requested authority to establish a crossing of its tracks at grade across Descanso Avenue. The crossing was authorized by Decision No. 73144, dated September 26, 1967. The authority was granted subject to further consideration of the crossing protection to be provided at said crossing.

By Application No. 50076, the S.P.Co. requests authority to construct an industrial drill track and an industrial spur track across Caballero Boulevard. The sought authority is intended to apply to the crossing at Milepost 504.3-C(BK), which crossing has been constructed already, has been in use for several years, and is a subject of the Commission's investigation in Case No. 8760.

Public hearings on these matters were held on a consolidated record before Examiner Abernathy at Los Angeles on May 7 and 8, 1968. Evidence was presented by an assistant transportation engineer of the Commission's staff, by an assistant engineer and a public projects engineer for the S.P.Co., and by the Director of Public Works for the City of Buena Park. The proceedings were taken under submission with the filing of briefs on August 12, 1968, and are ready for decision.

The record in these matters shows that there are three main questions to be resolved in disposing of the issues involved. These are:

- a. Whether authorization from the Commission should be granted for the crossing of Caballero Boulevard.
- b. Whether present protection of the crossings at Caballero Boulevard, Descanso Avenue and Regio Avenue should be upgraded, and

- c. How the costs of upgrading the crossing protection at any one or all of these crossings should be apportioned in the event such upgrading is necessary.

Whether authorization from the Commission should be granted for the crossing of Caballero Boulevard

Section 1201 of the Public Utilities Code provides, in part, as follows:

"No public road, highway, or street shall be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway, or street at grade ... without having first secured the permission of the Commission ..."

It is the position of the Commission's staff that the crossing of Caballero Boulevard was constructed in violation of the foregoing provisions of the Public Utilities Code in that prior authorization therefor was not obtained from the Commission. The staff asserts that (a) the S.P.Co. should either cease operations over the crossing until the crossing is authorized by the Commission, or (b) the crossing should be now authorized, the S.P.Co. be found to have violated Section 1201 by constructing the crossing without authority, and the company be adjured to cease and desist from all such unlawful operations and practices.

On the other hand, the position of the S.P.Co. is that at the time that the crossing of the two tracks was constructed, Caballero Boulevard was not a public road, highway or street within the meaning of Section 1201, and hence, prior authorization from the Commission for the crossing was not required. Although the company seeks authority for the crossing in Application No. 50076,

it asserts that its action in filing said application should not be construed as an admission of its having violated Section 1201. It states that the application was filed in compliance with a directive from the Commission's Secretary, and that it did not wish to be held in contempt of a Commission order.^{2/}

Principal factual circumstances which the record shows as bearing on this question are as follows:

- a. Caballero Boulevard is a street in an area known as "Southern Pacific Industrial District Buena Park". Southern Pacific Company is the developer of the district.
- b. A proposed street easement deed covering Caballero Boulevard from Valley View Avenue to and including an extension of Regio Avenue was tendered by the S.P. Co. to the City of Buena Park on August 13, 1962.
- c. On September 18, 1962, the City of Buena Park informed the S.P. Co. that the deed could not be accepted until certain conditions therein were deleted.
- d. Caballero Boulevard, from Valley View Avenue eastward to an extension of Regio Avenue, was physically in place by November, 1962.
- e. The drill track crossing of Caballero Boulevard, to serve the Noland Paper Co., was constructed in December, 1963.
- f. The spur track crossing of Caballero Boulevard, to serve the Kelly Tire Co., was constructed in March, 1964.
- g. The Noland Paper Co. and the Kelly Tire Co. occupied their respective buildings and commenced operations therein in 1964.
- h. A street easement deed covering Caballero Boulevard from Valley View Avenue to and including an extension of Regio Avenue was accepted by the City of Buena Park from the S.P. Co. on August 11, 1964.

^{2/} By letter dated September 20, 1967, the S.P. Co. was informed by the Commission's secretary that "inasmuch as we have no record of the filing of an application or of rendering a decision authorizing construction of a crossing, it will be necessary for the Southern Pacific Company to file an application for authority for this public crossing."

The contention of the S.P. Co. that Caballero Boulevard was not a public road or street at the time the crossings thereof were constructed, and hence prior authorization of the Commission for the crossings was not required, is based mainly on the fact that the company's offer of the street easement deed was not accepted by the City of Buena Park until August 11, 1964 - - after the crossings were in place. The company alleges that until that time it retained control, and the right of control, over Caballero Boulevard, and that hence, Caballero Boulevard was a private roadway or street.

The Commission's staff asserts that the fact that the City of Buena Park did not accept the S.P. Co's. dedication offer until August 11, 1964, is not material to the issue; that the Commission has previously determined that the lack of dedication, formal or implied, is not a bar to the exercise of the jurisdiction given to it by Section 1202 of the Public Utilities Code;^{3/} that the essential considerations in this instance are the offer of dedication and an absence of evidence that the company had restricted the public's usage of the street since the time that the street had been constructed.

The decisions to which the staff refers as authority for its statement that lack of dedication, formal or implied, is not a bar to the Commission's jurisdiction relate to Section 1202.

3/ Re Investigation Southern Pacific Co. crossings in Red Bluff, Dec. No. 65811, 61 Cal. P.U.C. 265; Dec. No. 66131, 61 Cal. P.U.C. 506; Re Investigation of Pacific Electric Crossing of 24th Street, Los Angeles, Dec. No. 64579; Re Investigation Millergrove Ave. Crossing, The Atchison, Topeka and Santa Fe Railway Company, Dec. No. 53162.

Section 1202 defines the Commission's powers to apportion costs of crossing protection, amongst other things, in connection with railroad crossings of "a public or publicly used road or highway" or vice versa (emphasis supplied). The cited decisions deal with crossings which the Commission found to be "publicly used". However, at this point we are not concerned in this matter with the Commission's powers under Section 1202 of the Public Utilities Code. What we are concerned with is whether a violation of the prohibitions of Section 1201 occurred by reason of the construction of rail crossings of a public road, highway or street without prior Commission authority. The critical question in this regard is whether Caballero Boulevard was, in fact, a public road, highway or street when the crossings thereof were effected.

If Caballero Boulevard was a public road or street when the crossings were effected, an acceptance by the public of the S.P. Co's. offer of dedication must have occurred prior to December, 1963, when the drill track crossing to serve the Noland Paper Co. was constructed, or prior to March, 1964, when the spur track crossing to serve the Kelly Tire Co. was constructed. It is well settled that to effect a dedication of land by a private owner for public use, there must be an unequivocal offer of dedication by the owner, and an acceptance of the offer by the public. Acceptance by the public of an offer of dedication may be by formal official action or inferred from the fact of public use. To constitute an acceptance by public use, the public use must have continued sufficiently long to show clearly that the public has recognized the offer of dedication and has confirmed its right to use the property.

It appears that staff is of the belief that the absence of evidence of restriction of public usage of Caballero Boulevard after the street was constructed demonstrates that there was such public usage of the street as to constitute a public acceptance of the offer of dedication. It may be logical to assume that public usage of Caballero Boulevard occurred from the time the road or street was opened to the time that the S.P. Co's. offer of dedication was accepted by the City of Buena Park. However, it has not been shown that this assumption is valid and in the absence of affirmative evidence concerning the extent and character of such usage, we cannot find that the usage was such that Caballero Boulevard attained the status of a public road or street by public acceptance prior to the construction of the rail crossings thereof. Since this record does not show that Caballero Boulevard was a public road when the crossings were constructed, we cannot conclude that the construction of said crossings without Commission authority constituted a violation (or violations) of Section 1201 of the Public Utilities Code.

Notwithstanding our conclusions that the record does not show that the construction of the Caballero crossings was accomplished in violation of Section 1201, we cannot be heedless of the actualities of the situation now before us. Caballero Boulevard is now a public road or street. On this point the record is clear. Irrespective of whether Caballero Boulevard attained its present status before or after the rail crossings thereof were constructed, the salient fact is that railroad crossings of a public street or public street crossings of the tracks of a railroad have been effectuated without compliance with the provisions of Section 1201.

C. 8760, A. 49607, A. 50076 SW/NB *

Action we might take would be either to compel the closing of the railroad crossings over the street or the street crossings of the railroad until the requirements of Section 1201 have been met. However, it appears that either course at this time would be quite detrimental to the segment of the public that would be affected thereby. As shown in Appendix "A", a closing of the rail crossing would cut off rail service to the Nolan Paper Co., the Kelly Tire Co. and J. C. Penney Co., all of which are substantial industries in the City of Buena Park. On the other hand, a closure of Caballero Boulevard, even on a temporary basis, would seriously interfere with the public's use of what is being developed as a principal street in Buena Park.^{4/}

In the circumstances paramount consideration should be given to the needs of the public. We are of the opinion and find that public convenience and necessity require the uninterrupted use both of the rail crossings of Caballero Boulevard and the crossing of Caballero Boulevard of said rail crossings. In order to avoid further question concerning the propriety of the crossing, it will be authorized by granting Application No. 50076. In other respects further inquiry into the establishment of the crossing does not appear necessary. This aspect of the matter will be closed.

Whether present protection of the crossings
at Caballero Boulevard, Descanso Avenue
and Regio Avenue should be upgraded

At present each of these crossings is protected by two Standard No. 1 reflectorized signs (General Order No. 75-B).

^{4/} The record shows that in 1967 Caballero Boulevard was extended eastward, that it is now a through street between Valley View Avenue and Knott Street, and that it has been designated as a collector street within the City of Buena Park.

C. 8760, A. 49607, A. 50076 SW/NB *

The Commission engineer recommended that the protection of the crossings be upgraded by replacement of the signs by Standard No. 8 flashing light signals. The engineer stated that the upgrading is needed because of the growth that is taking place both in the industrial area involved and in the environs thereof. He asserted, moreover, that there is substantial highway vehicle and train traffic across all of the crossings and that at two of the crossings (Regio Avenue and Caballero Boulevard) the visibility of the railroad track from the highways is restricted. He presented the following data as support for his recommendations:

Crossing Name:	Regio Ave.	Descanso Ave.	Caballero Blvd.
Crossing Number:	<u>BK-503.9-C</u>	<u>BK-504.2-C</u>	<u>MP-504.3-C(BK)</u>

I. Crossing Data

1. Number of tracks	2 spurs 1 drill	1 spur	1 spur 1 drill
2. Width of crossing (along tracks)	66 feet	130 feet	54 feet
3. Width of street approaches	54 feet	54 feet	54 feet
4. Maximum approach grade	1 percent	0 percent	0 percent
5. Illumination	None	None	None
6. Existing protection devices	2 No. 1 signs reflectorized	2 No. 1 signs reflectorized	2 No. 1 signs reflectorized
7. Maximum permitted train speed	10 miles per hour	10 miles per hour	10 miles per hour
8. Maximum permitted vehicle speed	Not posted	Not posted	Not posted
9. Visibility 100 feet from track in each direction	Restricted	Unrestricted	Restricted

II. Highway Vehicle and Train Use

1. Highway Vehicles per day (Feb. 1968)	1190	350	1435
2. Number of train moves per day	10	2	8

The recommendations of the Commission engineer concerning the upgrading of the protection at the three crossings were opposed by the S.P. Co. According to a public projects engineer for the company, the trains move across the crossings at speeds no greater than eight miles an hour, and for such movements adequate crossing protection is provided by the present reflectorized signs. Factors which the company's witness said he considered in arriving at this conclusion include the type of highway vehicular traffic using the crossings, the speeds of the vehicles, the probability of change in the vehicle speeds in the foreseeable future, the train traffic across the crossings, the crossing procedure employed in the train crossings, and various conditions that would affect the motorist, such as conditions at grade and visibility. The witness for the company asserted, moreover, that the installation of flashing light signals would not effectively upgrade the protection of the crossings. He said that experience over the State shows that the installation of flashing light signals has a beneficial effect which rapidly deteriorates as motorists become accustomed to the signals and tend to ignore them. This circumstance, he said, would be particularly true within the industrial area involved herein, inasmuch as many of the same people would be traversing the area repeatedly.

Another factor which the witness for the S.P. Co. said that he considered in his recommendation that the present reflectorized signs be retained is the backlog of uncompleted crossing protection installations underneath which the company is presently laboring. Because of difficulties which the company is experiencing in obtaining employees and equipment to meet present needs, it

would be more than a year before flashing light signals could be installed at the crossings involved herein.^{5/} As an alternative to the installation of flashing light signals (in the event that the Commission concludes that an upgrading of the protection at the Caballero, Descanso and Regio crossings is necessary), the public works engineer for the S.P.Co. recommended that the protection which is afforded by the reflectorized crossing signs be augmented by requiring the company to bring its trains to a stop and flagging the highway traffic to a stop before the trains proceed through each crossing.

In considering the respective recommendations of the Commission engineer and of the engineer for the S.P.Co., we note that each witness apparently was of the view that the same level of protection should apply at each of the crossings involved - that the Commission engineer would have flashing light signals installed at each of the crossings whereas the S.P.Co. witness deems the present reflectorized signs adequate for each crossing. We also note, however, that the record shows substantial differences among the crossings. It appears that from practically every standpoint the hazards at the Caballero Boulevard and Regio Avenue crossings are materially greater than at the Descanso Avenue crossing. Highway vehicular traffic across the Caballero and Regio crossings is more than three times that across Descanso. Train traffic is four or more times more. Visibility of the railroad tracks from Caballero Boulevard and Regio Avenue is restricted; from Descanso Avenue it is

^{5/} The Commission engineer proposed that the S.P.Co. be required to install the recommended signals within six months after the effective date of the Commission's order in this matter. However, in its brief the Commission's staff suggested that this time be extended to 12 months.

not.^{6/} Caballero Boulevard and Regio Avenue both are higher grade streets than Descanso Avenue in that they are included within the select system of streets of the City of Buena Park, whereas Descanso Avenue is classified as only a local street and is not so included.^{7/ 8/}

In view of the greater hazards at the Caballero and Regio crossings and of the volume and nature of the traffic along those streets, we are of the opinion that a higher level of crossing protection should be established at said crossings than that provided by the present reflectorized signs. It appears that increased protection would result from installation of the flashing light signals recommended by the Commission engineer or from adoption of the proposal of the S.P. Co. engineer that the company's trains

^{6/} The designation of visibility as "restricted" means that less than 400 feet of the rail track on one side or both sides of the street crossing is visible from a point on the street 100 feet from the center line of the railroad track.

^{7/} Evidence concerning the classification of the three streets was submitted by the witness for the City of Buena Park.

^{8/} To qualify for inclusion in the select system of streets, a street must meet one or more of the following tests:

- (1) It shall provide an important traffic connection to a route in the state highway system.
- (2) It shall be an important traffic lateral between two or more routes in the state highway system.
- (3) It shall afford substantial traffic relief to one or more routes in the state highway system.

(Section 186.4 Streets and Highways Code.)

be stopped and highway traffic flagged before the trains proceed through the crossing.^{9/} However, the practice recommended by the S.P. Co. engineer admittedly is of variable effectiveness, inasmuch as it depends on the individual doing the flagging. Moreover, it results in increased work hazards for the company employee acting as flagman. In the circumstances surrounding the Caballero and Regio crossings, it appears that the practice may be acceptable as a temporary expedient, but that a permanent solution dictates automated crossing protection. We find that present needs of public safety require the installation and maintenance of flashing light signals at said crossings as recommended by the Commission engineer.

On the other hand it appears that there is no present need for change in the protection which is being provided at the Descanso Avenue crossing. In the authorization of said crossing, Decision No. 73144 required that the S.P. Co. not only install reflectorized signs, but that it also, in using said crossing, first bring its trains to a stop and then protect traffic on the avenue by a member of the train crew acting as a flagman. Inasmuch as there are only two train movements a day across the Descanso crossing and the usage of the crossing by highway vehicles is substantially less than the corresponding usage of the Caballero and Regio crossings, it appears that the present protection is sufficient. The recommendation of the Commission engineer that

^{9/} In concluding that increased protection would result from installation of flashing light signals, we do not accept the views of the S.P. Co. engineer that the protection of flashing light signals equates with that of reflectorized signs.

flashing light signals be now installed at the Descanso Avenue crossing was made mainly in anticipation of future developments in the area. As such developments occur, the level of the crossing protection at Descanso Avenue can be reconsidered and acted upon as it then appears appropriate. We conclude that in the meantime the present protection should be retained.

How the costs of upgrading the crossing protection at the Caballero and Regio crossings should be apportioned

The Commission engineer recommended that the costs of installing flashing light signals at the crossing at Regio Avenue be apportioned equally between the S.P.Co. and the City of Buena Park. He recommended that all of the installation costs of flashing light signals at the crossing at Caballero Boulevard be apportioned to the S.P.Co. His recommendation in the latter respect was based on his assumption that the S.P.Co. should be considered the moving party in connection with the Caballero crossing, inasmuch as the S.P.Co. filed Application No. 50076, seeking authority for said crossing. Maintenance costs of the signals, he said, should be divided in the same proportion as the installation costs, in accordance with Section 1202.2 of the Public Utilities Code.

The City of Buena Park, at the Caballero crossing, asserted that all of said costs should be borne by the S.P. Co. as initiating party in Application No. 50076.

We find that the installation of flashing light signals, at Regio crossing, will constitute an upgrading of present protection. In accordance with prior practice in matters of this kind, the installation costs should be divided equally between the S.P. Co. and the City of Buena Park. We find that at the Caballero crossing, in consideration of the unusual circumstances involved, it is equitable for the installation cost to be borne by Southern Pacific Company. The maintenance costs of the signals should be divided correspondingly, as provided by Section 1202.2 of the Public Utilities Code.

Findings of Fact

1. Caballero Boulevard, Regio Avenue and Descanso Avenue are located in the "Southern Pacific Industrial District", developed by Southern Pacific Company.

2. A proposed street easement deed covering Caballero Boulevard from Valley View Avenue to and including an extension of Regio Avenue was tendered by the S.P. Co. to the City of Buena Park on August 13, 1962.

3. On September 18, 1962, the City of Buena Park informed the S.P. Co. that the deed could not be accepted until certain conditions therein were deleted.

4. Caballero Boulevard, from Valley View Avenue eastward to an extension of Regio Avenue, was physically in place by November, 1962.

5. The drill track crossing of Caballero Boulevard, to serve the Noland Paper Co., was constructed in December, 1963.

6. The spur track crossing of Caballero Boulevard, to serve the Kelly Tire Co., was constructed in March, 1964.

7. The Noland Paper Co. and the Kelly Tire Co. occupied their respective buildings and commenced operations therein in 1964.

8. A street easement deed covering Caballero Boulevard from Valley View Avenue to and including an extension of Regio Avenue was accepted by the City of Buena Park from the S.P. Co. on August 11, 1964.

9. The evidence relative to the character and extent of public usage of Caballero Boulevard prior to either December 1963, or March, 1964, does not establish that said boulevard attained the status of a public road, highway or street through public use prior to the construction of the railroad crossings of Caballero Boulevard.

10. Irrespective of whether Caballero Boulevard was a public road, highway or street prior to acceptance by the City of Buena Park of the street easement deed covering Caballero Boulevard between Valley View Avenue and Regio Avenue from the S.P. Co. on August 11, 1964, Caballero Boulevard now is a public road, highway or street.

11. Neither the railroad crossings of Caballero Boulevard nor the crossings of the railroad by Caballero Boulevard have been authorized by the Commission.

12. The railroad drill track and spur track which cross Caballero Boulevard serve important industries in the City of Buena Park. Caballero Boulevard is extensively used by the public.

13. Public convenience and necessity require the uninterrupted use of the railroad crossings of Caballero Boulevard and of the crossings of the railroad tracks by Caballero Boulevard.

14. The railroad crossings of Descanso Avenue, Caballero Boulevard and Regio Avenue are each protected at present by two Standard No. 1 reflectorized signs (General Order No. 75-B). In addition, trains crossing Descanso Avenue are required to stop and traffic on Descanso Avenue is required to be flagged before the trains proceed over the crossing.

15. The volume of highway and train traffic across the Caballero and Regio crossings is much greater than the corresponding traffic across the Descanso crossing.

16. Public safety requires a higher level of crossing protection at the Caballero and Regio crossings than at the Descanso crossing.

17. Public safety requires the installation and maintenance of two Standard No. 8 flashing light signals (General Order No. 75-B) at each of the Caballero and Regio crossings. Pending the installation of said signals, trains undertaking to cross said crossings should first stop and highway traffic should be flagged before the trains proceed across the crossings.

18. Public safety does not require a change in the present level of crossing protection at Descanso Avenue.

19. The upgrading of the crossing protection at Regio Avenue by the installation of flashing light signals is of such kind that the cost thereof should be divided equally between the S.P. Co. and the City of Buena Park.

20. The installation of flashing light signals at Caballero Avenue should be borne by the railroad.

Conclusions

1. The S.P. Co. should be authorized to continue in effect said railroad crossing of a drill track and a spur track across Caballero Boulevard at Milepost 504.3-C(BK).

2. The S.P. Co. should install two Standard No. 8 flashing light signals (General Order No. 75-B) at the crossing at Milepost 504.3-C(BK) and at the crossing of its tracks at Regio Avenue (Crossing No. BK-503.9-C). Pending the installation of said flashing light signals, the S.P. Co. should bring its trains to a stop, and should flag highway traffic on Caballero Boulevard and Regio Avenue, before allowing its trains to proceed across the railroad crossings at Caballero Boulevard and Regio Avenue.

3. The cost of installing the grade crossing protection at the Caballero Boulevard crossing should be borne by the railroad, and at the Regio Avenue crossing should be apportioned equally between the S.P. Co. and the City of Buena Park.

4. The maintenance costs of the grade crossing protection should be borne by the railroad at the Caballero Boulevard crossing and should be apportioned equally between the S.P. Co. and the City of Buena Park at the Regio Avenue crossing, pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. The Southern Pacific Company is authorized to continue in effect its drill track and spur track crossings of Caballero Boulevard in the City of Buena Park, at the location described in Application No. 50076, to be identified as Crossing No. BK-504.3-C. Construction of said crossing shall be equal or superior to Standard No. 2 of General Order No. 72, without superelevation and of a width to conform to the portion of the avenue now graded, with tops of rails flush with the roadway and with grades of approach not exceeding two percent. Southern Pacific Company shall bear the entire construction and maintenance expense of the crossing.

2. The Southern Pacific Company shall install two Standard No. 8 flashing light signals (General Order No. 75-B) at Crossing No. BK 504.3-C at Caballero Avenue and at Crossing No. BK-503.9-C at Regio Avenue, in the City of Buena Park. Until said flashing light signals are installed and are operative, the Southern Pacific Company shall observe the following rule in connection with the movement of its trains (or any component thereof) across said crossings:

No train, engine, motor or car shall be operated over crossing No. BK-504.3-C or crossing No. BK-503.9-C unless said train, engine, motor or car shall be first brought to a stop and traffic on the highway (Caballero Boulevard or Regio Avenue, as the case may be) protected by a member of the train crew or other competent employee acting as a flagman.

3. The cost of installing the grade-crossing protection pursuant to the above paragraph No. 2 shall be apportioned 50 percent

to the City of Buena Park at the Regio Avenue crossing, and shall be borne by the railroad at the Caballero Avenue crossing.

4. The maintenance cost of said grade-crossing protection shall be apportioned 50 percent to the Southern Pacific Company and 50 percent to the City of Buena Park at the Regio Avenue crossing and shall be borne by the railroad at the Caballero Avenue crossing, pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

5. Within thirty days after completion of the work herein specified, the Southern Pacific Company shall notify the Commission in writing that said work has been completed.

6. The installation of the signals, as herein specified, shall be completed within one year after the effective date of this order.

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

Dated at San Francisco, California, this 25th day of MARCH, 1969.

President

Augustine

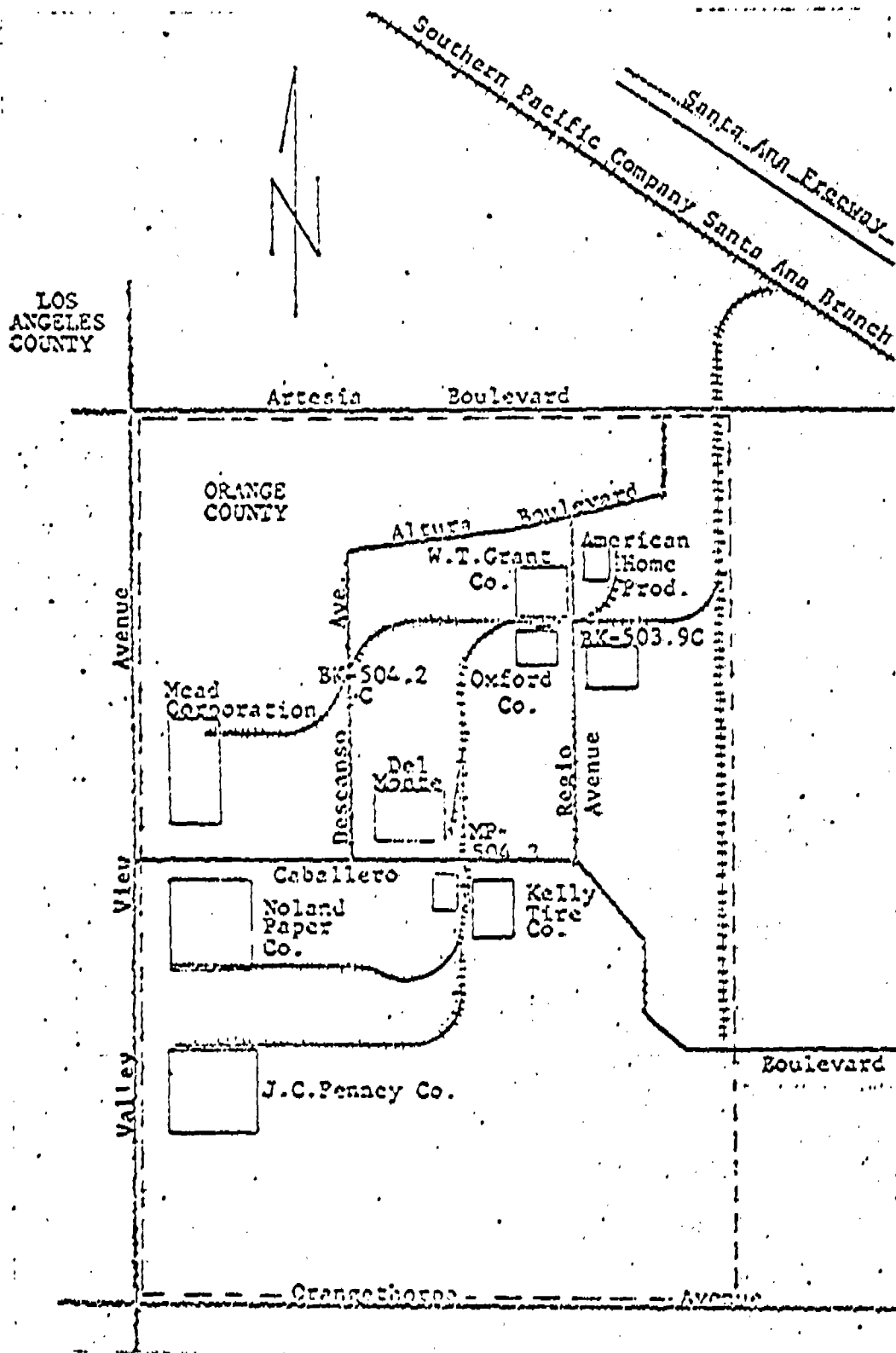
Commissioners

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner William Swann, Jr.

-21- Present but not participating.

INDUSTRIAL AREA
SOUTHERN PACIFIC COMPANY



Scale 1"=1000'