

ORIGINAL

Decision No. 81860

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
SOUTHERN PACIFIC TRANSPORTATION
COMPANY for an order authorizing
the construction at grade of an
industrial drill track in, upon and
through Zerker Road in the City of
Lerdo, County of Kern, State of
California.

Application No. 54123
(Filed June 25, 1973)

O P I N I O N

Applicant railroad seeks an order of the Commission authorizing the construction, at grade, of an industrial drill track across Zerker Road in the city of Lerdo, county of Kern.

By a motion filed pursuant to Rule 17.1(e) of the Commission's Rules of Practice and Procedure, applicant seeks an order from the Commission that the construction of the industrial drill track is included under the categorical exemptions established in the Guidelines issued by the California Resources Agency.

The motion will be denied. The construction of a drill track and a new grade crossing are not projects included in the categorical exemptions set forth in the Guidelines. Section 15116 of the Guidelines^{1/} provides that the Commission shall list those specific activities under its jurisdiction which fall within each class of exemptions with the caveat that these lists must be consistent with both the letter and the intent expressed in the classes.

^{1/} Guidelines, Art. 8 (Categorical Exemptions)
15116. Application to Public Agencies. The classes listed in this article are broadly drawn, as are the examples given with each. Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each class, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes.

In promulgating Rule 17.1 we gave specific attention to the matter of grade crossings. The specific categorical exemptions listed in Rule 17.1(m) do not make any reference to the construction of drill tracks or grade crossings. Rather, the reference to grade crossings is limited to alterations of existing crossings.^{2/}

The effect of the motion, if granted, would be to add a new categorical exemption. It is not within our power to add to, or delete from, the list of categorical exemptions.^{3/} Specific procedures are outlined in the Guidelines for the amendment of the list of categorical exemptions.^{4/}

Pursuant to the requirement of Rule 17.1(n)(1)B3, the staff examined the site of the proposed drill track and crossing and submitted its report thereon. According to the staff report, the proposed construction lies within an established industrial area and is designed to serve a new food processing plant. The proposed construction will tend to alleviate vehicle emissions in the area through the use of rail service for shipping rather than truck service. Any additional noise that may be created will not be a significant factor since the railroad's mainline is in the immediate vicinity of Zerker Road, and there is a cottonseed processing plant on the opposite side of Zerker Road. Vehicular traffic will experience very little inconvenience by the proposed crossing.

^{2/} Rule 17.1(m), (1)A.5, 6, 7 and (1)B.2.

^{3/} Section 21086, Public Resources Code; Guidelines Sections 15014 and 15051.

^{4/} Guidelines Sections 15115, 15116; Rule 17.1(m)2.

Applicant states that it is desired to construct said trackage and crossing to serve Belridge Farms; that because of the existing grade conditions at the project location, installation of an overhead or undergrade crossing is not practicable; that the rail facilities are necessary to support the operation of Belridge Farms' business; and that the nonavailability of track facilities for the packinghouse would seriously affect the industry's operations and would cause irreparable damage and injury to the industry.

A copy of a Common Use Agreement entered into between applicant and the county of Kern, dated January 30, 1973, was filed with the application. Said agreement contains the county's consent for applicant to construct, maintain, and operate said trackage across Zerker Road. The agreement also provides for the applicant to assume all construction and maintenance costs.

Notice of the application was published in the Commission's Daily Calendar on June 27, 1973. No protest has been received. A public hearing is not necessary.

Findings

1. The request is in the public interest and the Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

2. Applicant should be authorized to construct an industrial drill track, at grade, at the location and in accordance with the plan set forth in the application.

3. Construction and maintenance of the drill track, crossing, and installation of the protection have been agreed upon between applicant and the county of Kern as set forth in the Common Use Agreement dated January 30, 1973.

We conclude that the application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. Southern Pacific Transportation Company is authorized to construct, maintain, and operate across Zerker Road in the city of Lerdo, county of Kern, an industrial drill track as set forth in its application and the attached San Joaquin Division Drawing No. B-14662 dated March 22, 1973.

2. The crossing, to be identified as Crossing No. B-300.41-C, shall be protected by the installation of two Standard No. 9 Flashing Light Signals with automatic gates (General Order No. 75-C). Width of the crossing shall be not less than 45 feet. Finished grades of approach shall conform to the existing roadway. Crossing construction shall be equal or superior to Standard No. 2 (General Order No. 72-B). Clearance, including any curbs, shall conform to General Order No. 26-D. Walkways adjacent to the crossing shall conform to General Order No. 118.

3. Applicant shall bear all construction and maintenance costs of the project as provided in its Common Use Agreement with the county of Kern, dated January 30, 1973.

4. Within thirty days after completion, pursuant to this order, applicant shall so advise the Commission in writing. This authorization shall expire if not exercised within two years unless time be extended or if the above conditions are not complied with. This authorization may be revoked or modified if public convenience, necessity, or safety so require.

5. The motion made herein by applicant is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 12th
day of SEPTEMBER, 1973.

William S. Sweeney President
Vernon L. Sturgeon
James H. ...
... Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.