

Decision No. 82359**ORIGINAL**

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 construc-)
 tion at grade of an industrial drill)
 track in, upon and across County Road)
 "D" east of the City of Willows, County)
 of Glenn, State of California.)

Application No. 54424
 (Filed November 2, 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 County Road "D" near the City of Willows, County of Glenn.

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 an 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 the drill track and the new grade crossing is not a project 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. 3 (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.

Pursuant to the requirement of Rule 17.1(n)(1)(3) 2, 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 will serve a fiberglass insulation plant to be constructed by Johns-Manville Company.

An Environmental Impact Report prepared for Johns-Manville Products Corporation has been approved by the County of Glenn and Notice of Completion filed with the State Resources Agency. The draft Environmental Impact Report was circulated as required by the "Guidelines for Implementation of the California Environmental Quality Act of 1970" as amended.

The Environmental Impact Report states that this project will have a significant effect on the environment by changing land use from the present dry farming area to a manufacturing area. The public benefits to be derived indicate that the project should be approved.

The applicant, by letter to the Commission dated December 4, 1973, forwarded copies of the Environmental Impact Report approved by the County of Glenn. The applicant also supports the Environmental Impact Report.

The applicant proposes to construct a drill track at grade across County Road "D" to serve the proposed new facility with protection of the grade crossing by two Standard No. 9 automatic gates. It is also stated that a separation of grades is not

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

practicable. The applicant further states that Johns-Manville Corporation is in need of immediate track service and requests waiver of the usual 20-day waiting period. Notice of the application was published in the Commission's Calendar on November 8, 1973. No protest has been received. A public hearing is not necessary.

Findings

1. The request is in the public interest and should be granted.
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 to be identified as County Road "D" (Crossing No. AE-153.5-C).
3. Construction and maintenance cost of the industrial drill track and installation of the automatic grade crossing protection should be borne by the applicant.
4. The industry to be served requires early rail service. Authority to construct the spur track with interim protection consisting of two Standard No. 1-R signs and protection of all movements by a member of the train crew until the automatic protection can be installed is in the public interest.
5. The Commission has considered the final Environmental Impact Report in rendering the decision on this project and finds that:
 - (a) The project will change a dry farming area into a manufacturing area.
 - (b) The overall impact to the natural and cultural environment is limited.
 - (c) The project will have substantial economic benefit in the community.
 - (d) The benefits of the project outweigh any possible environmental impact.
 - (e) The planned construction is the most feasible and economical to minimize environmental impact.
 - (f) There are no known irreversible environmental changes involved in this project.

Conclusions

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. The Southern Pacific Transportation Company is authorized to construct, maintain and operate across County Road "D" near Willows in Glenn County, an industrial drill track as set forth in its application and the attached print of Sacramento Division Drawing No. S-2345, dated August 27, 1973, as revised September 5, 1973 and October 5, 1973.
2. The crossing, to be identified as Crossing No. AE-153.5-C, shall be protected by the installation of two Standard No. 9 automatic gates (General Order No. 75-C). Finished grades of approach shall conform to the existing roadway. Crossing construction shall be equal or superior to Standard No. 1 (General Order No. 72-B).
3. Clearances, including any curbs, shall conform to General Order No. 26-D. Walkways adjacent to the crossing shall conform to General Order No. 118.
4. Applicant shall bear all construction and maintenance costs of the project.
5. Applicant may construct the industrial drill track as authorized herein with interim protection by two Standard No. 1-R crossing signs with all movements over the crossing being protected by a member of the train crew for a period of six months from the date hereof or until the installation of the automatic protection if accomplished prior to the expiration of the six-month period.
6. 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.

7. The motion made herein by applicant is denied.

8. The Secretary of the Commission shall file a Notice of Determination with the Secretary for Resources and with the planning agencies of any city and county which will be affected by the project.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 22nd
day of JANUARY, 1974.

Vermon L. Sturgeon
President
William L. Squires, Jr.
John J. Martin
John J. Martin
Commissioners