

**ORIGINAL**

Decision No. 83150

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 across  
Shoemaker Avenue in the City of  
Cerritos, County of Los Angeles,  
State of California.

Application No. 54438  
(Filed December 18, 1973)

OPINION AND ORDER DENYING REHEARING

By its application filed herein, applicant seeks an order of the Commission authorizing the construction, at grade, of an industrial drill track across Shoemaker Avenue in the City of Cerritos, County of Los Angeles.

By Interim Order, Decision No. 82840 dated May 7, 1974, the Commission denied the railroad's motion filed herein to determine that construction of the proposed drill track is a ministerial project, and therefore exempt from the Environmental Impact Report (EIR) requirements of the California Environmental Quality Act of 1970, as amended (CEQA).

Applicant filed a petition seeking rehearing of Decision No. 82840 on May 20, 1974, and a supplement to this petition on May 22, 1974. Applicant alleges, among other things, that the Commission erred in its determination that the crossing of a public street by the industrial drill track involved in this proceeding is a discretionary project.

The Commission, having again considered the applicant's argument in this regard, cannot agree. The project here in issue involves not only the construction of an industrial drill track but the crossing by that track of a public street. As the Commission clearly noted in Decision No. 82840, under Section 1201 of the Public Utilities Code the Commission may "grant or deny this request

or prescribe terms and conditions as it may deem necessary."

Furthermore, even absent the crossing of a public street, the Commission still retains the discretion under Section 765 of the Public Utilities Code to prescribe the terms and conditions it finds necessary with regard to the construction of an industrial drill track. Accordingly, the project here in issue is clearly a discretionary one, the environmental impact of which must be examined in determining whether to grant or deny the instant application.

Having considered this argument as well as each and every other allegation in the petition for rehearing and the supplement thereto, the Commission is of the opinion that good cause for rehearing of Decision No. 82840 has not been shown.

THEREFORE, IT IS ORDERED that rehearing of Decision No. 82840 is hereby denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 16<sup>th</sup> day of JULY, 1974.

Vernon L. Sturgeon  
President  
William L. Lyons, Jr.  
William L. Lyons, Jr.  
William L. Lyons, Jr.  
William L. Lyons, Jr.  
Commissioners