

ORIGINAL

Decision 84 03 061 MAR 21 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF FRESNO )  
for an order authorizing construc- )  
tion of two crossings at separated )  
grades between Shaw Avenue and )  
Marks Avenue and the tracks of The )  
Atchison, Topeka & Santa Fe )  
Railway Company, sometimes referred )  
to as the "Shaw-Marks Avenue )  
Underpasses" (P.U.C. 2-1004.2 and )  
2-1004.5) )

Application 83-02-55  
(Filed February 24, 1983)

O P I N I O N

The City of Fresno (City) requests authority to construct Shaw Avenue and Marks Avenue (Shaw-Marks Underpasses) under the tracks of The Atchison, Topeka and Santa Fe Railway Company's (AT&SF) main line in Fresno, Fresno County.

The priority list of grade separation projects for fiscal year 1982-83, as set forth in Decision 82-06-053 dated June 15, 1982 shows this project as Priority No. 10.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 21000 et seq. City has determined that the project is categorically exempt from CEQA under PR Code Section 21080.13.1/

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1/ Section 21080.13 was added to the PR Code by Chapter 58, Statutes 1982, as an urgency statute effective February 18, 1982.

The Commission is a responsible agency for this project under CEQA and has independently evaluated and assessed the lead agency's categorical exemption determination. The site of the proposed project has been inspected by the Commission staff.

The project will eliminate a major east-west barrier and a complex Tee intersection at Shaw Avenue and Santa Fe Avenue. The existing Shaw Avenue grade crossing will be eliminated upon completion of the grade separation.

Notice of the application was published in the Commission's Daily Calendar on February 28, 1983. A protest was filed on March 14, 1983 by AT&SF. By letter dated April 4, 1983, City requested time to negotiate a settlement. By letter dated November 28, 1983, the Railroad stated that it was now in general agreement and would withdraw its protest. ✓  
✓

Findings of Fact

1. City requests authority under Public Utilities Code Sections 1201-1205 to construct the Shaw-Marks Avenue Underpasses under the tracks of AT&SF's main line in Fresno, Fresno County.

2. Construction of the Shaw-Marks Avenue Underpasses is required to improve the safety of rail operations and reduce vehicular traffic delay.

3. Upon completion of the Shaw-Marks Avenue Underpasses and their opening to vehicular traffic, the existing Shaw Avenue crossing should be closed and physically removed.

4. Public convenience, necessity, and safety require construction of the Shaw-Marks Avenue Underpasses.

5. City is the lead agency for this project under CEQA, as amended.

6. The Commission is a responsible agency for this project and has independently evaluated and assessed the lead agency's categorical exemption determination.

7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

8. The activity is not covered by the requirements set forth in CEQA and, therefore, the Guidelines (14 Cal. Admin. Code - Div. 6) concerning the evaluation of projects and the preparation and review of environmental documents do not apply.

Conclusion of Law

The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Fresno (City) is authorized to construct the Shaw Avenue and the Marks Avenue Underpasses (Shaw-Marks Underpasses) under the tracks of The Atchison, Topeka and Santa Fe Railway's (AT&SF) main line in Fresno, Fresno County, at the location and substantially as shown by plans attached to the application to be identified as Crossings 2-1004.2-B and 2-1004.5-B.

2. Upon completion of the Shaw-Marks Avenue Underpasses and their opening to vehicular traffic, the existing Shaw Avenue grade crossing, Crossing 2-1004.2, shall be closed and physically removed.

3. Construction shall provide clearance in conformity with General Order 26-D.

4. Walkways shall conform to General Order 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

5. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between parties. A copy of the agreement, together with plans of the crossing approved by AT&SF, shall be filed with the Commission prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Within 30 days after completion of the work under this order, City shall notify the Commission in writing of the completion of the work authorized.

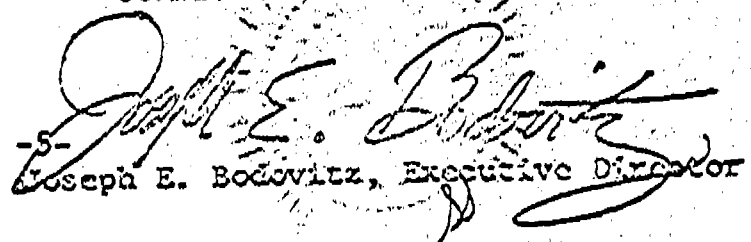
This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be removed or modified if public convenience, necessity, or safety so require.

This order becomes effective 30 days from today.

Dated MAR 21 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BACLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

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Joseph E. Bođovitz, Executive Director