

NOV 23 1988

Decision **88 11 041** NOV 23 1988

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Lancaster, )  
a Municipal Corporation, for )  
permission to construct an at-grade )  
crossing over the Southern Pacific )  
Transportation Company tracks at )  
Avenue L. )

Application 87-04-036  
(Filed April 20, 1987)

David R. McEwen, Attorney at Law, for the  
City of Lancaster, applicant.  
Harold S. Lentz, Attorney at Law, for  
Southern Pacific Transportation Company,  
protestant.  
Raymond R. Toohey, for the Transportation  
Division.

OPINION

The City of Lancaster (city), a municipal corporation, requests authority to construct a public street at grade across the railroad track of Southern Pacific Transportation Company (SP) as a link in the city's Avenue L. SP and the Commission staff object to the proposed construction and contend that if a crossing is authorized, the authority should be conditioned upon it being constructed at separated grades in the first instance. Hearing was held on the matter in Lancaster on April 19 and 20, 1988 and the matter submitted on briefs July 15, 1988.

The city, with an estimated 1987 population of approximately 68,000 is traversed in a north-south direction for about five miles by SP's mainline track. Eighty-five feet west of and paralleling the track at the site of the proposed crossing is the Sierra Highway. A greater portion of the city is located west of the track and Sierra Highway where most of the commercial development appears to be. Most of the residential development is going on east of the track. At present, there are six city streets

which cross the railroad track at right angles at grade within the city. Those crossings are, from north to south, Avenue G, Avenue I, Lancaster Boulevard, Avenue J, Avenue K, and Avenue M.

The proposed Avenue L crossing which is to be located between the Avenue K and M crossings is one of two planned at-grade crossings contemplated by the city as part of a planned peripheral loop or circumferential expressway, which is now between 4% and 5% completed. The other at-grade crossing - Avenue H - is to be located between Avenue G and I along the same track. No request to construct the Avenue H crossing has, as yet, been filed. The purpose of the expressway is to divert cross-town travel away from the city's central core.

Avenue L is located one mile south of Avenue K and one mile north of Avenue M and connects to the west with the Antelope Valley Freeway (Route 14). There has been no construction of Avenue L from a point approximately 2,150 feet east of the track westerly to the Sierra Highway, but Avenue L is open and paved beyond those points. The completion and the finishing of the upgrading of Avenue L is dependent upon the city's getting approval to construct the at-grade crossing requested in this application.

The proposed Avenue L crossing, when constructed, would be 120 feet wide with 6 to 8 vehicular lanes and two 8-foot wide sidewalks. Designated maximum highway speed along Avenue L would be 55 miles per hour. Highway traffic at the intersection of Avenue L and Sierra Highway, located about 100 feet west of the proposed intersection, would be controlled by a traffic signal modified to include preemption software. Crossing protection will be provided as ordered by the Commission. Traffic over the crossing is estimated to be approximately 28,000 vehicles per day by 1990 and to be approximately 46,000 vehicles within a few years thereafter.

The area close to the proposed crossing is generally vacant. The southeast and southwest quadrants are vacant. There

is a building in the northwest quadrant which was formerly a filling station and is now an auto repair shop. In the northeast quadrant is a scaffold rental business which is one-and-a-half blocks away from the railroad tracks.

There are between 44 and 55 train movements per day across the location of the proposed crossing, most of which movements occur between 6:00 p.m. and 6:00 a.m. Maximum scheduled speed of the trains is 65 miles per hour for freight trains and 70 miles per hour for passenger trains. Passenger movements are almost nonexistent. The average freight train is 6,300 feet in length and 50% of the trains will exceed 7,000 feet in length.

The city contends that its studies (Exhibit 4) clearly establish that in the absence of a crossing at Avenue L, traffic congestion at the other crossings in the city will reach the failure level in a very short period of time. Without an Avenue L crossing, the studies show that the average delay for vehicles crossing at Avenue K would increase from the current 38.8 second average delay to a 329.3 second average delay without considering delays due to trains at the crossing. The threshold for failure of an intersection, as set by the Federal Highway Administration in its highway capacity manual, is approximately 45-60 seconds of average delay.

Such delays result in a significant use of gasoline by drivers and potential gridlock of the traffic system. These delays would also have an impact on the ability of emergency vehicles such as paramedics which are located on the west side of the tracks to provide service to locations on the east side of the SP tracks:

The city contends that the existence of a grade crossing at Avenue L will not significantly increase the accident potential. Further, taking into account the risk of potential accidents due to congestion caused by the lack of a crossing at Avenue L, the at-grade crossing may in fact reduce the accident potential at the other avenues' (K and M) crossings.

The accident record of the gated crossings along a portion of the mainline is tabulated as follows:

ACCIDENT AT CROSSINGS AFTER GATES WERE INSTALLED

<u>Street Name</u>	<u>Crossing No.</u>	<u>Accidents*</u>			<u>1984 ADT**</u>	<u>Month Gated</u>
		<u>T</u>	<u>K</u>	<u>I</u>		
Avenue E	B 401.0	1	-	-	1,650	August 1965
Avenue G	B 403.0	0	-	-	510	July 1965
Avenue I	B 405.1	4	5	-	18,100	July 1960
Lancaster Bl.	B 405.5	0	-	-	7,200	Jan. 1966
Avenue J	B 406.1	1	-	1	23,900	June 1964
Avenue K	B 407.1	2	-	-	17,500	Dec. 1967
Avenue L	New					
Avenue M	B 409.1	0	-	-	8,200	May 1970
Avenue P	B 412.2	0	-	-	9,200	August 1968
Sierra Hwy.	B 412.8	1	-	1	13,800	March 1966

\* Accidents: T = total accidents  
K = killed  
I = injured

\*\* Average daily traffic count.

Maximum speeds at the crossings were not indicated.

While the city has explored the possibility of other alternatives, including the widening of existing grade crossings, these are allegedly not feasible. For example, to avoid failure of the crossings at Avenue K or Avenue M, it would be necessary to increase the number of lanes to fourteen over all (seven in each direction). This, according to Commission Staff, would not be feasible. The only way to avoid gridlock at adjacent crossings is to approve a crossing at Avenue L.

The city contends that the Avenue L crossing is essential to the safety and welfare of the citizens of Lancaster.

The city submits that since the majority of train movements occur between 6:00 p.m. and 6:00 a.m. the impact on SP's train operation over the subject track would be limited and the likelihood of SP being required to break a train at the Avenue L crossing would be remote.

The city has attempted to show that the cost of constructing a grade separation would greatly exceed the ability of the city to pay for it. It estimates that the cost of constructing a grade separation would exceed \$10,000,000, while the cost of constructing a crossing at-grade would only be approximately \$1,300,000.

While sources are available to assist local agencies in funding the cost of construction of grade separation facilities, the criteria for such funding, the city fears, are so stringent that the city would not qualify. Based on studies conducted over several years, the city estimates that the highest ranking the city could obtain on the list for grade separation funding is between 30 and 40. This would not qualify the city for funding.

The city concludes that there is no dispute among the city, the Commission Staff or SP that a crossing at Avenue L is justified. The only dispute is whether this crossing should be at-grade or separated. The city submits that the cost of constructing a grade separation far exceeds the ability of the city to pay. The at-grade crossing would relieve the burden on other crossings in the city with resultant savings in time and fuel consumption and would have a minimal impact upon SP. Failure to approve the application, so the city contends, would severely impact the ability of the city to implement its master plan and its general plan to build out.

Requiring the city to construct a separated grade exceeds the city's ability to pay for it and would limit access to the industrial area when that area is developed.

SP's position is that the application should be denied simply because the crossing involves train and vehicular volumes and speeds of such magnitude and such a substantial adverse effect on railroad operations that authorizing the crossing would contravene well established Commission and state policy which is to avoid and eliminate at-grade crossings insofar as reasonably possible.

SP points out that the proposed Avenue L crossing is only the first of two crossings of the railroad which are contemplated as part of the arterial expressway which is to comprise the peripheral loop or circumferential expressway. As testified to by a witness for the city, it is anticipated that another new expressway crossing of the railroad will be requested in the future at Avenue H. Thus if the Commission should authorize an at-grade crossing at Avenue L, it must be anticipated that it will also have to authorize an at-grade crossing at Avenue H in the future, since it is almost impossible to conceive of any circumstances at the proposed Avenue H crossing which would be any more severe than at the Avenue L location.

SP contends that opening a crossing at grade at Avenue L would result in substantial interference with and burden upon railroad operations. The area between Avenue K and M is one of the few two-mile stretches of track that is available for holding trains. Trains are presently held in this two-mile space one or two times every 24 hours for various reasons. The average train, which is 6,300 feet in length, when stopped within that two mile section would block the proposed Avenue L crossing for substantial periods of time as a result of compliance with warnings from the hot box and dragging equipment detector located in the area.

In order to comply with the 10-minute limitation on stopped trains in General Order No. 135 (GO 135), if the proposed crossing is opened at grade, a trainman from the head end of the train would have to be dropped off and the train would have to be

cut whenever a train is stopped or held at this location for as much as 10 minutes. This results from the fact that the trainman from the head end of the train who would have to be dropped off at the crossing, would require 20 minutes or more to walk from the crossing to the head end of the train. Thus, the only way to avoid violating GO 135 would be to cut the train and then recouple it whenever a train has to stop or be held at this location, since there is no specific time limit upon the time a crossing can be blocked by a standing train after being recoupled and the city has stated it is not agreeable to any variance in the time permitted in GO 135.

SP submits that while it is obvious that the crossing would be blocked for substantial periods of time and unusable by vehicular traffic for long periods if built at grade, an at-grade crossing would also be a completely unacceptable burden for the railroad, impairing its operations and greatly increasing operating times. The only solution for the railroad, SP concludes, would be for the railroad itself to either build a separation at this location or at some other nearby grade crossing in order to provide the needed space to stop and hold trains.

SP contends that, under the circumstances established by the evidence in this proceeding, railroad operations would be substantially impaired and burdened. Therefore, the city would not be entitled to an at-grade easement over railroad property for a nominal sum and such an easement could not be taken except by way of condemnation with just compensation being paid, citing City of Oakland v Schenck (1925) 197 Cal. 456. While the exact amount of compensation would be a matter for determination by the Superior Court in a condemnation action SP submits it is proper for the Commission to recognize that there would be such an additional cost when determining whether to authorize a crossing at grade or to permit only a separation to be built. In addition, SP submits that it should be clear that the cost to cure the impairment and burden

upon railroad operations would be the proper method for computing damage in a condemnation proceeding, citing City of Long Beach v Pacific Elec. Ry. Co. (1955) 44 Cal. 2d 599; People v Hayward Building Materials Co. (1963) 213 Cal. App. 2d 457.

SP deems the evidence unequivocally establishes that the cost to cure in this instance would be the cost of building a grade separation. Therefore, as admitted by one of the witnesses for the city, authorization for construction of a grade separation in the first instance would be preferable to a crossing at grade, even though neither might be built in view of the estimated expense.

SP concludes that the compensation to which the railroad would be entitled for the taking of an easement for a crossing at grade at this location would be at least the equivalent of the cost of constructing a grade separation in the first instance, since that is the cheapest and virtually only method of curing or eliminating the adverse impact upon railroad operations. Under such circumstances, SP submits that the Commission should require construction of a grade separation initially, if a crossing is to be opened at all.

SP further contends that the evidence establishes that the alternative of widening existing grade crossings would be as good a solution, if not more so, than building a new crossing at grade at Avenue L. As testified by the city's own witness, the train-vehicle accident potential would be less if the alternative of widening existing crossings rather than building a new crossing at Avenue L were adopted. Also, as testified to by that witness the amount of vehicular delay would be less if adjacent crossings were widened rather than building a new at-grade crossing at the Avenue L location. Finally, that witness estimated that excess fuel use would be less by adopting the alternative of widening adjacent crossings rather than opening a new at-grade crossing. However, the city's witness' estimates of traffic delay are actually meaningless and of no importance since they completely



ignore the potential delay that might result from the operation of trains over the new proposed at-grade crossing. In other words, the city's estimated delay times approximate those that would exist if the new crossing was grade-separated rather than at grade.

SP concludes that under the circumstances the application should be denied or, if a crossing is authorized, the authority should be conditioned upon it being constructed at separated grades in the first instance.

The staff points out that one of the major reasons for the Avenue L crossing of SP's tracks is that it is necessary for the massive commercial and industrial development envisioned and proposed by the city as indicated by various exhibits and witnesses. However, an Avenue L at-grade crossing would at best provide a temporary "band-aid" solution to a massive future traffic problem. If the city wants to proceed with an extensive urban and industrial growth program, it must now face the problems that will be created by such an intensive program and take the necessary steps to alleviate them by constructing a grade separation. The time to do this is now since the land is vacant.

Comments to the Administrative Law Judge's decision were received and their contents noted.

#### Discussion

Our rules require that an applicant for an at-grade crossing demonstrate that a separation is not practicable (cf. Rule 38(d), Rules of Practice and Procedure of this Commission). The evidence shows that the area surrounding the proposed crossing site is open, flat, and undeveloped for great distances. Sierra Highway and the track are only 85 feet apart and can be easily bridged by one structure. Interference with rail operations during construction of the overpass would be minimal or nil. This evidence shows that a highway overpass is practicable.

The evidence, in addition, strongly supports the need for a highway overpass rather than an at-grade crossing, if an Avenue L

crossing is to be constructed. The Avenue L crossing would be part of a major arterial expressway carrying a substantial volume of high speed auto and truck traffic which would intersect with a mainline railroad track on which there would be an average daily train movement of 55 trains during peak season with train speeds of 55 to 70 miles per hour. A crossing at grade would be legally blocked by railroad equipment for extended periods of time of 20 minutes or more. Furthermore, an at-grade crossing would seriously interfere with and adversely impact railroad operations which could only be overcome by SP itself building a highway overpass. These facts point to the overwhelming need for a highway overpass, should a crossing be built. These facts also make the construction and use of an at-grade crossing highly questionable from the standpoint of practicability and safety.

Applicant alleges it presently lacks money to build an Avenue L highway overpass. We do not believe a lack of finances should be a reason for authorizing the construction of a type of crossing substantially inferior to the type for which an overwhelming need has been shown.

Findings of Fact

1. The city requests authority to construct a public street at grade across the railroad tracks of SP as a link in the city's Avenue L.
2. The proposed crossing is one of two planned at-grade crossings as part of a planned peripheral loop or circumferential expressway which is now between 4% and 5% completed.
3. Designated maximum speed along the expressway will be 55 miles per hour.
4. Traffic over the crossing is estimated to be approximately 28,000 vehicles per day by 1990 and 46,000 within a few years thereafter.

5. There would be an average daily train movement across the crossing of 55 trains during peak season at speeds between 55 and 70 miles per hour.

6. The proposed at-grade crossing would be legally blocked by railroad equipment for extended periods of time of 20 minutes or more.

7. The average length of a train to cross the crossing is 6,300 feet and 50% of the trains will exceed 7,000 feet in length.

8. The area surrounding the proposed crossing site is open, flat, and undeveloped for great distances.

9. Sierra Highway and the track are 85 feet apart and can be bridged by one structure.

10. Interference with rail operations during construction of an overpass would be minimal or nil.

11. The proposed at-grade crossing will seriously interfere with and adversely impact railroad operations.

12. In order to overcome the interference which the proposed at-grade crossing would cause SP, SP itself would have to build a highway overpass.

13. The city has not shown that the construction of a highway overpass instead of an at-grade crossing is impracticable.

14. The construction and use of the proposed at-grade crossing is highly questionable from the standpoint of practicability and safety.

15. The public need would not be served by the construction of the proposed at-grade crossing.

Conclusion of Law


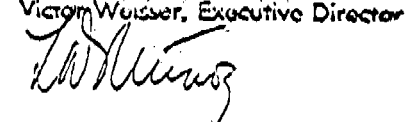
The application should be denied.

ORDER

IT IS ORDERED that Application 87-04-036 is denied.  
This order becomes effective 30 days from today.  
Dated NOV 23 1988 , at San Francisco, California.

STANLEY W. HULETT  
President  
DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

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

  
Victor Weissler, Executive Director  


is a building in the northwest quadrant which was formerly a filling station and is now an auto repair shop. In the northeast quadrant is a scaffold rental business which is one-and-a-half blocks away from the railroad tracks.

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14. The construction and use of the proposed at-grade crossing is highly questionable from the standpoint of practicability and safety.

15. The public need would not be served by the construction of the proposed at-grade crossing.

Conclusion of Law

The application should be denied.