

Decision 89 09 025 SEP 7 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF FRESNO )  
for an order authorizing construction) )  
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). )

ORIGINAL

Application 89-05-065  
(Filed May 30, 1989)

OPINION

The City of Fresno (City) requests authority under Public Utilities Code Sections 1201-1205 to construct two crossings at separate grades on Shaw Avenue and on Marks Avenue (Shaw-Marks Avenue Underpasses) under the tracks of The Atchison, Topeka and Santa Fe Railway Company's (AT&SF) main line in Fresno, Fresno County. Authority is also requested to construct a temporary detour grade crossing of Shaw Avenue across a shoofly track which will be required during the period of construction.

The priority list of grade separation projects for the fiscal year 1989-1990, as set forth in Decision 89-06-033, dated June 21, 1989, shows this project as Priority No. 9.

In Decision 84-03-051, dated March 21, 1984 in Application 83-02-055, the Commission granted the City authority to construct the two crossings. A new decision is required because an extensive amount of time has passed since the previous decision expired on April 20, 1987.

The project will eliminate a major east-west barrier and a complex Tee intersection at Shaw and Santa Fe Avenues. Upon completion of the grade separation work, the existing and temporary Shaw Avenue crossings will be eliminated.

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.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's exemption determination.

The site of the project has been inspected by the Commission's Safety Division Traffic Engineering staff. The staff examined the need for and safety of the proposed crossings, and recommends issuance of an ex parte order authorizing construction of the proposed grade separated crossings and temporary detour grade crossing, provided gate-type signals are installed.

The application meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to construction of a public highway across a railroad. A sketch of the project vicinity is set forth as Appendix A.

Notice of the application was published in the Commission's Daily Calendar on June 1, 1989. No protests have been received. A public hearing is not necessary.

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 Avenue Underpass requires that a temporary detour grade crossing of Shaw Avenue be constructed across a shoofly track, which will be required during the period of construction.

3. Construction of the Shaw-Marks Avenue Underpasses is

required to improve the safety of rail operations and reduce vehicular traffic delay.

4. Public safety requires that, upon completion of the Shaw-Marks Avenue Underpasses and their opening to vehicular traffic, the existing and temporary Shaw Avenue crossings be closed and physically removed.

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

6. Public safety requires that protection at the temporary detour grade crossing be two Standard No. 9 automatic gate-type signals (General Order (GO) 75-C).

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

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

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

#### Conclusions of Law

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

2. 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.

#### ORDER

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 Company'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, respectively.

2. City is also authorized to construct a temporary detour grade crossing of Shaw Avenue across a shoofly track which will be required during the period of construction.

3. Protection at the temporary detour grade crossing shall be two Standard No. 9 gate-type signals (GO 75-C).

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

5. Clearances shall be in accordance with GO 26-D.

6. Walkways shall conform to GO 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.

7. 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 crossings 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.

8. 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.

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

10. The application is granted as set forth above.

This order is effective today.

Dated SEP 7 1989, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

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

- 5 -

*Wesley Franklin*  
WESLEY FRANKLIN, Acting Executive Director

*DB*