

Decision 90 01 034 JAN 24 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Hemet, a )  
municipal corporation of the State )  
of California, for permission to )  
construct an at-grade crossing over )  
the Atchison, Topeka and Santa Fe )  
Railway Company's tracks at Kirby )  
Street in the City of Hemet, County )  
of Riverside, State of California. )

Application 87-03-034  
(Filed March 19, 1987)

Robert Henderson, Attorney at Law, for  
City of Hemet, applicant.  
John H. Ernster and R. Curtis Ballantyne,  
Attorneys at Law, for The Atchison,  
Topeka and Santa Fe Railway Company;  
and James P. Jones, for United  
Transportation Union; interested  
parties.  
Raymond Toohey, for the Transportation  
Division.

O P I N I O N

On March 19, 1987, the City of Hemet (Hemet) filed an application to construct an at-grade crossing over The Atchison, Topeka and Santa Fe Railway Company's (Railway) San Jacinto branch track at Kirby Street in Hemet.

Railway filed a protest to the application on April 22, 1987 because it believed that the proposed crossing would not meet safety requirements and that the current traffic circulation would not justify the need for a Kirby Street crossing. Railway requested the application be set for evidentiary hearing.

Subsequently, on May 27, 1987, Hemet requested that hearings be delayed until it had an opportunity to complete a traffic study and meet with representatives from the Railway.

On July 3, 1987, the United Transportation Union (Union) filed a motion to accept its late-filed protest and request for evidentiary hearings. The Union believed that existing conditions at the proposed crossing may have an adverse impact on public and railroad employee safety.

Hemet filed an amendment to its application on June 29, 1988. The amendment incorporated the results of Hemet's traffic study and proposed additional safety devices for the Kirby Street crossing, such as, center median islands in advance of the crossing gates and the use of "rubberized type of crossing in lieu of a standard wood type of crossing."

A prehearing conference was held before Administrative Law Judge (ALJ) Galvin in Los Angeles on September 16, 1988. An evidentiary hearing was set for November 29, 1988 because the railway and union represented that the issues identified in their protest were still valid. All parties to the application agreed to discuss the issues informally and attempt to resolve the issues.

At Hemet's request, the matter was taken off calendar prior to the evidentiary hearing. A second amended application was filed on August 2, 1989. As a result of this amended application, Railway and Union withdrew their protests.

The construction of the Kirby Street at-grade crossing will allow the extension of Kirby Street from an existing cul-de-sac north of the railroad tracks south to existing Kirby Street. The nearest existing public crossing to the southwest is approximately 2,960 feet away and to the northeast approximately 2,890 feet. As a condition of the Kirby Street at-grade crossing approval, Hemet will close and vacate Harvard Street at its grade crossing over the San Jacinto branch, Crossing 2X-36.15.

Four Standard No. 9 crossing warning devices, with automatic crossing gates and flashing lights for the crossing protection, together with advanced warning signs and street markings will be installed. Two of the Standard No. 9 devices will

be installed in raised center median islands, extended and tapered in advance of the crossing to prevent vehicular traffic from circumventing the signal devices and reduce the hazard of collision with fixed objects. The crossing will be improved with a rubberized type of crossing in lieu of a standard wood type of crossing. Hemet requests a variance to General Order (GO) 72 so that it may install the rubberized type of crossing.

Since Kirby Street is designated a bike route, Hemet's proposed design includes a "Bikeway" in each direction. According to the design, the bikeways will cross the tracks at an 80° angle.

The Kirby Street crossing, designed as a secondary highway, will enable residents to the south of the tracks to reduce their commute to shopping areas to the north by approximately 2 miles per round trip. A direct benefit of the crossing is the annual reduction of over 180 tons of unnecessary vehicular air pollutants. The proposed crossing is in the public interest.

Hemet represents that a grade separation is not practical because:

- a. Trains run only three days per week, each moving once in each direction for a total of six train movements per week,
- b. The affected track is part of a dead end branch line, terminating approximately three miles northeasterly of the proposed Kirby Street crossing,
- c. Railway has filed a "Notice of Intent to Abandon" the branch line with the Interstate Commerce Commission, and
- d. The relative low traffic counts for both vehicular and train traffic does not justify a \$2.8 million expenditure for a grade separation compared to a \$0.5 million expenditure for an at-grade crossing.

Hemet is the lead agency for the Kirby Street crossing under the California Environmental Quality Act of 1970 (CEQA), as

amended, Public Resources Code §§ 21000, et seq. After preparation and review of an Environmental Impact Report (EIR), Hemet issued a negative declaration with no mitigation measures and no overriding considerations. Hemet's notice of determination with a negative declaration was filed with the Riverside County Clerk on March 16, 1987; a copy of this notice is attached to the application.

Findings of Fact

1. Hemet requests authority to construct Kirby Street at grade across the railway's track in the Hemet area of Riverside County.
2. The crossing will improve traffic circulation and reduce unnecessary pollutants.
3. A grade separation is not practical for the Kirby Street crossing.
4. Public convenience and necessity require construction of the Kirby Street at-grade crossing.
5. Raised center median islands at the crossing are necessary.
6. Public safety requires that protection at the crossing be four Standard No. 9 crossing warning devices with automatic crossing gates and flashing lights.
7. The Harvard Street at-grade crossing will be closed upon the completion of the proposed Kirby Street crossing and its opening to vehicular traffic.
8. Hemet is the lead agency for this project under CEQA, as amended.
9. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Environmental Impact Report and Notice of Determination.
10. The project has no significant effect on the environment.

Conclusion of Law

The application should be granted.

O R D E R

IT IS ORDERED that:

1. The City of Hemet (Hemet) is authorized to construct an at-grade crossing over The Atchison, Topeka and Santa Fe Railway Company's (Railway) San Jacinto branch track in Hemet, Riverside County, at the Kirby Street location substantially as shown on the plans and legal description attached to the second amended application and to this order as Appendix A, to be identified as Crossing No. 2X-34.4

2. Except for a variance to utilize a rubberized type of crossing in lieu of a standard wood type of crossing, construction of the crossing shall be equal or superior to GO 72-B.

3. Clearance and walkways shall conform to GO 26-D and GO 118, respectively.

4. Protection at the crossing shall be four Standard No. 9 crossing warning devices, with automatic crossing gates and flashing lights for the crossing protection, together with advanced warning signs and street markings.

5. Construction expense of the crossing and installation cost of the automatic protection shall be borne by Hemet.

6. Maintenance of the crossing shall conform to GO 72-B. Maintenance cost of the automatic protection shall be borne by Hemet pursuant to PU Code § 1202.2.

7. Construction plans of the crossing, approved by Railway together with a copy of the agreement entered into between the parties, shall be filed with the Commission Safety Division Director prior to commencement of construction.

8. Upon completion of the Kirby Street at-grade crossing and its opening to vehicular traffic, Harvard Street shall be vacated, closed and physically removed at its crossing over the San Jacinto branch, Crossing 2X-36.15.

9. Hemet shall notify the Commission Safety Division Director in writing that the authorized work has been completed, within 30 days after completion.

10. The authorization granted in Ordering Paragraphs 1 through 9, above, shall expire if not exercised within three years from the effective date of this order.

11. The application is granted as set forth above.

This order is effective today.

Dated JAN 24 1990, at San Francisco, California.

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

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

*Wesley Franklin*

WESLEY FRANKLIN, Acting Executive Director

*pp*

LEGAL DESCRIPTION

An easement over a portion of the Atchison, Topeka and Santa Fe Railway company's right-of-way within portions of Sections 16 and 17 in Township 6 South, Range 1 West, San Bernardino Base and Meridian, State of California, being more particularly described as follows:

COMMENCING at the centerline intersection of Acacia Avenue and Kirby Street, as said intersection is shown on Parcel Map No. 13922, recorded in Parcel Map Book No. 116, Pages 79 and 80, Records of Riverside County;

Thence South  $0^{\circ} 41' 49''$  West, along said centerline of Kirby Street, a distance of 2,134.40 feet, to the centerline of the Atchison, Topeka and Santa Fe Railway Company's right-of-way;

Thence continuing South  $0^{\circ} 41' 49''$  West, along said centerline of Kirby Street, a distance of 54.57 feet, to a point on the southerly right-of-way line of the Atchison, Topeka and Santa Fe Railway;

Thence South  $67^{\circ} 04' 55''$  West, along said southerly right-of-way line, a distance of 52.97 feet, to the TRUE POINT OF BEGINNING;

Thence Northerly, along a curve concave to the West, the center of which bears South  $82^{\circ} 36' 25''$  West, having a radius of 456.00 feet, through a central angle of  $5^{\circ} 31' 30''$ , an arc distance of 43.97 feet;

Thence North  $12^{\circ} 55' 05''$  West 30.00 feet;

Thence along a tangent curve concave to the East, the center of which bears North  $77^{\circ} 04' 55''$  East, having a radius of 544.00 feet, through a central angle of  $2^{\circ} 57' 55''$ , an arc distance of 28.15 feet, to a point on the northerly right-of-way line of the Atchison, Topeka and Santa Fe Railway;

Thence North  $67^{\circ} 04' 55''$  West, along said northerly right-of-way line, a distance of 90.77 feet;

Thence Southerly, along a curve concave to the East, the center of which bears North  $82^{\circ} 36' 25''$  East, having a radius of 456.00 feet, through a central angle of  $5^{\circ} 31' 30''$ , an arc distance of 43.97 feet;

Thence South  $12^{\circ} 55' 05''$  East 30.00 feet;

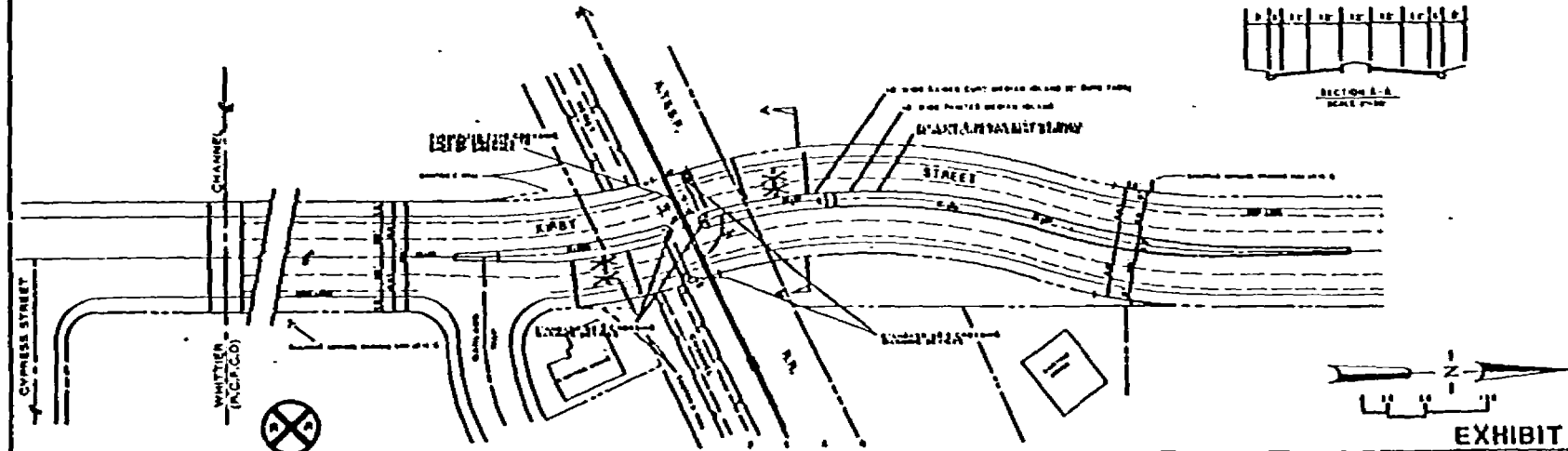
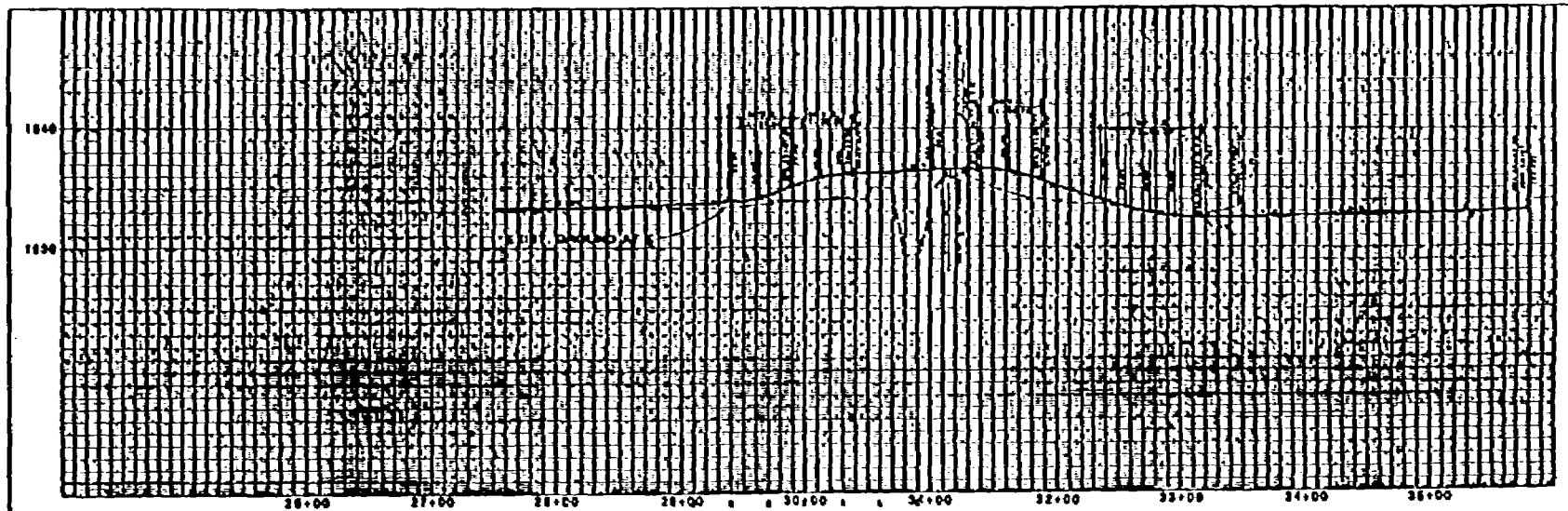
Thence Southerly, along a tangent curve concave to the West, the center of which bears South  $77^{\circ} 04' 55''$  West, having a radius of 544.00 feet, through a central angle of  $2^{\circ} 57' 55''$ , an arc distance of 28.15 feet, to a point on the Southerly right-of-way line of the Atchison, Topeka and Santa Fe Railway;

Thence South  $67^{\circ} 04' 55''$  West, along said southerly right-of-way line, a distance of 90.77 feet, to the TRUE POINT OF BEGINNING.

Containing an area of 0.20 acres, more or less.

A. 87-03-034 MLD/MFC/LDY

APPENDIX A  
Page 2



DATE: <i>7/2/58</i> BY: <i>[Signature]</i>		CHECKED: <i>[Signature]</i>	DRAWN: <i>[Signature]</i>	SCALE: <i>1"=100'</i>	<b>MARTIN &amp; ASSOCIATES</b> CONSULTING CIVIL ENGINEERS	<b>CITY OF HEMET</b> <b>PROPOSED KIRBY STREET</b> <b>RAILROAD CROSSING</b>	SHEET <b>1</b> OF 2 SHEETS
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EXHIBIT 3!



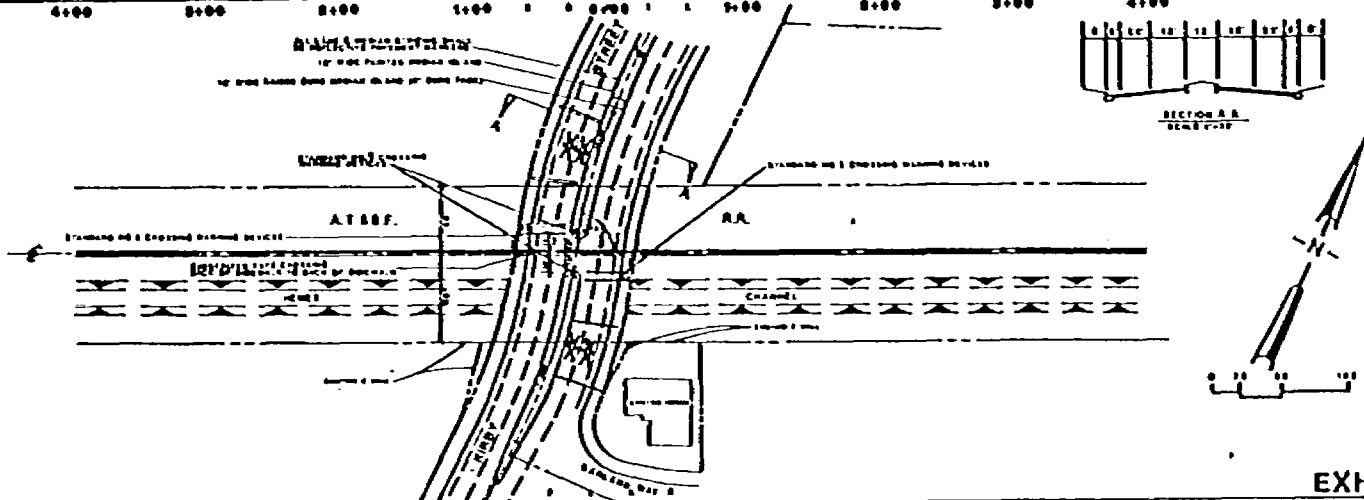
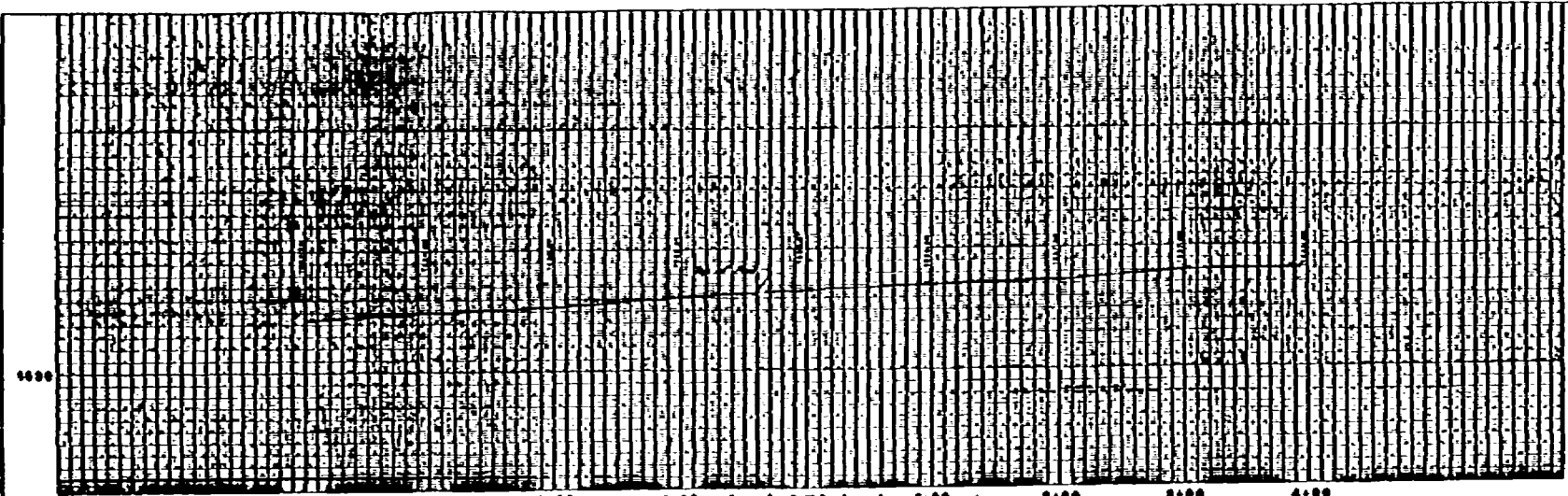


EXHIBIT 3

NO. 1	DATE	BY	SCALE	<b>MARTIN &amp; ASSOCIATES</b> CONSULTING CIVIL ENGINEERS <small>INCORPORATED IN THE STATE OF NORTH CAROLINA</small>	CITY OF HEMET PROPOSED KIBBY STREET RAILROAD CROSSING	SHEET <b>2</b> <small>OF 2 SHEETS</small>
NO. 2	DATE	BY	SCALE			