

Ullrich

Decision 90 03 049 MAR 28 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
The City of King City for an order)
authorizing construction of a new)
Grade Crossing across the tracks of)
The Southern Pacific Transportation)
Company at San Antonio Road in the)
City of King City, County of)
Monterey.)

Application 87-07-045
(Filed July 30, 1987)

J. Dennis McQuaid, attorney at law, for
City of King City; applicant.
Douglas C. Stephenson and Leland E. Butler,
attorneys at law, for Southern Pacific
Transportation Company; protestant.
Autar S. Chhina, for Safety Division.

INTERIM OPINION

The City of King City (King City) seeks authority to construct an at-grade crossing across the railroad tracks of the Southern Pacific Transportation Company (Southern Pacific) at San Antonio Road. The application is protested by Southern Pacific.

Public hearings were held before Administrative Law Judge (ALJ) O'Leary at King City on February 22 and 23, 1989 and at San Francisco on March 20, 1989. The matter was submitted with the filing of concurrent briefs by King City and Southern Pacific on May 15, 1989. In lieu of a brief, the Safety Division submitted a letter to the ALJ advising that its position is that an at-grade crossing would be safe, provided the following automatic warning devices are installed:

- "1. One Standard No. 9-A automatic gate type signal with cantilever arm for San Antonio Road eastbound approach.

- "2. One Standard No. 9 automatic gate type signal with additional signals facing Metz Road for San Antonio Road westbound approach."

By ALJ ruling dated August 3, 1989, revised August 10, 1989, the submission was set aside and the matter reopened for the receipt of evidence with respect to the feasibility of closing the at-grade crossing located at Bitterwater Road.

Further hearing was held at King City on October 12, 1989. The matter was resubmitted on November 13, 1989 with the filing of late-filed Exhibit 24.

King City proposes the construction and related improvements of San Antonio Road south and north of its present termini as a peripheral arterial highway. As such San Antonio Road is to carry the burden of traffic generated by residential development in northwest King City and commercial development in northeast King City. San Antonio Road is an essential link in the planned circumferential roadway around King City. The peripheral road would begin in the western portion of King City at the junction of State Highway 101 at Broadway and encircle most of King City, ending in the southeast at the junction of State Highway 101 at First Street. The peripheral road is comprised of two sections which are referred to as the First Street Bypass and San Antonio Road. The project will require an at-grade crossing of Southern Pacific's main line track and single side track at a point approximately 1,700 feet northwest of the existing crossing at Bitterwater Road which is the closest existing crossing. Even though there are three existing crossings in King City, none are feasible for San Antonio Road.

San Antonio Road would serve as the primary access route and arterial highway for the recently annexed 250 acres of land owned by Spreckels Land Company (Spreckels). The construction of San Antonio Road will facilitate traffic flow through and around the City as well as provide access to the Spreckels developments.

Full safety and traffic controls will be built at the crossing. These include warning signals and crossing arms at the San Antonio Road crossing in both directions of vehicular traffic, stop signs on Metz Road, left-turn lanes on San Antonio Road and Metz Road in each direction of vehicular traffic, and right-hand deceleration and acceleration lanes on the west side of Metz Road at the intersection of San Antonio Road and Metz Road. Striping and speed control areas have been incorporated into the project to maintain an efficient flow of vehicles through the area. Due to the relatively level terrain and the lack of structure, obstructions, affecting sight distance are minimal at all street intersections and grade crossings.

Applicant is the lead agency for this project under the California Environmental Quality Act (CEQA), and has prepared an Environmental Impact Report (EIR).

A copy of the notice of determination was filed with the County of Monterey by King City (Exhibit 20).

Southern Pacific does not take a position with respect to the need for the crossing. It is protesting the application because the proposed crossing will in addition to crossing the mainline of Southern Pacific also cross an operating siding which parallels the main line. Southern Pacific alleges that a grant of the application without mitigating conditions with respect to the siding will cause severe and substantially adverse effects upon the operations of Southern Pacific.

King City presented evidence through the testimony of six witnesses and seven exhibits (1 through 7). Southern Pacific presented evidence through testimony of three witnesses and 13 exhibits (8 through 20). The evidence discloses that currently there are two north-south routes between the San Francisco Bay Area and the Los Angeles Basin, namely the Valley route and the Coast route. The Coast route is the route that traverses King City.

Currently on the coast route the following trains operate regularly through King City:

- 1 Amtrak passenger train in each direction daily,
- 1 through freight train in each direction daily, and
- 1 local freight train in each direction thrice weekly (Tuesdays, Thursdays, and Saturdays).

The operating siding extends for a distance of approximately 6,300 feet in its entirety. Approximately 2/3 of the siding (4,380 feet) is located north of the existing crossing at Bitterwater Road. After deducting the necessary distances for clearance of the north switch and Bitterwater Road, Southern Pacific has available to it 3,680 feet of continuous siding. The remaining 1/3 of the siding extends from the Bitterwater Road crossing to a point just south of the Pearl St. crossing which is the next crossing south of Bitterwater Road. The distance between Bitterwater Road and Pearl St. is approximately 2,000 feet. Should the crossing be authorized there will be two segments of siding after clearance deductions as follows: 1,886 feet from the north switch to San Antonio Road and 1,364 feet between San Antonio Road and Bitterwater Road. The portion of the siding between Bitterwater Road and Pearl St. would not be affected by the proposed crossing.

The siding is used by Southern Pacific for the passing of trains travelling in opposite directions which meet at King City on the main line. It is also used during the sugar beet season, which runs generally from early September to the end of November, by the sugar beet train operation. The sugar beet train operates daily during the sugar beet season and is in addition to the train movements described above.

Southern Pacific also requests that the proposed arterial stop sign at the intersection of San Antonio Road and Metz Road either be eliminated or converted to a signal. Southern Pacific is

concerned that an arterial stop sign will cause traffic to back up over the proposed crossing.

The uncontroverted evidence discloses that the proposed crossing will have an impact upon the operations of Southern Pacific by causing it to break and recouple trains because of the bisection of the siding. This will be necessary because it can not block crossings while using the siding.

At the October 13, 1989 hearing King City presented a resolution of the city council (Exhibit 22) which in essence resolves that it is not feasible to close the Bitterwater Crossing as an alternative to the opening of the proposed crossing. Counsel for Southern Pacific stated that the closure of the Bitterwater Road crossing would not alleviate the problems that Southern Pacific has set forth in the hearing. If the Bitterwater Road crossing were closed Southern Pacific would be agreeing to giving up 1,886 feet of usable track to the north, for an additional 300 feet it would pickup from the closure of Bitterwater. Southern Pacific avers that would be insufficient footage for the conduct of its operations. The Safety Division by advice of participation (Exhibit 21) advises that it feels there are considerable disadvantages to the closing of the crossing at Bitterwater Road involving the safety and nuisance to the residents of King City. The advice points out that should the Bitterwater Crossing be closed the rerouted traffic would have to traverse approximately five blocks through a residential area.

King City and Southern Pacific entered into an agreement (Exhibit 23) which provides the following:

- "1. SPTC modifies its opposition to the proposed at-grade crossing of San Antonio Road and further withdraws its request that a grant of the application be conditioned on construction at City's expense of 1,980 feet of track added to the existing sidetrack north of San Antonio Road plus related track relocation. SPTC's change of position is conditioned on a waiver by the

California Public Utilities Commission (hereinafter CPUC) of General Order 135 which otherwise would require stopped trains to block the proposed at-grade crossing for no more than 10 minutes per event.

- "2. The City hereby agrees to a waiver of the requirements of General Order 135 to the extent that SPTC shall be permitted to block San Antonio Road in excess of the 10-minute time requirement so that a stopped train may block the proposed at-grade crossing for periods of time not to exceed 60 minutes per event.
- "3. In the event the City, or its representatives, should ever seek through an application to the CPUC, or otherwise, to obtain a cancellation of the waiver of General Order 135, the City agrees that prior to any such application, the City will arrange with SPTC for the construction of a northerly extension of the existing siding, at City expense, by a length equal to the amount of uninterrupted siding which SPTC loses because of the construction of the at-grade crossing at San Antonio Road.
- "4. SPTC agrees that should it extend the siding for its own convenience or reasons while the waiver remains in effect, such extension will be done at SPTC's sole expense.
- "5. SPTC agrees to work with the City to provide for installation of the at-grade crossing equipment and signalization at the earliest possible time, consistent with lead times necessary for engineering and procurement of equipment.
- "6. SPTC agrees to grant an easement to the City for the proposed crossing at San Antonio Road, such easement to be at no charge to the City. The City will be responsible for reimbursing SPTC for costs of installation of the crossing. SPTC and the City hereby jointly request approval by the CPUC through an order permitting the

construction of the at-grade crossing applied for herein without the condition of extending the SPTC sidetrack, but specifically including an order granting a waiver from the requirements of General Order 135 so as to permit blocking of the San Antonio Road at-grade crossing by stopped trains for periods of time not to exceed 60 minutes per event, that is per stopped train."

On November 13, 1989, the Commission's Safety Division filed Exhibit 24, which is its response to Exhibit 23. Exhibit 24 sets forth the following:

"The request for variance from GO 135 does not indicate compliance with the requirements of Attachment "A" to GO 135, specifically the notification of any other railroads or any other public agencies within the geographic area that might be affected by the variance, including the California Highway Patrol, the sheriff, and police and fire departments. The affected agencies should be given an opportunity to respond to the requested variance from GO 135.

"The request does not specify the alternate routes available and does not address the overall impact of the proposed waiver of GO 135 on the community. The City should designate an available alternate route when the proposed crossing is blocked by a train.

"Should the variance be granted, the City should provide signage with continuous flashing yellow lights on the east and west approaches to the proposed crossing. The signs are to advise motorists to use an alternate route, by designating the appropriate street name, when a train is present at the crossing. The signage should satisfy the design and placement standards of the Manual of Uniform Traffic Control Devices for warning signs (Part 2C). A supplemental sign, reading "Standing Trains Allowed under California Public Utilities Commission Order _____" should be mounted under each warning sign."

On November 17, 1989, counsel for applicant sent letters to the Monterey County Sheriff's Office and the King City Area California Highway Patrol (CHP) notifying them of the agreement to waive the 10-minute requirement in GO 135 and allowing the crossing to be blocked for a period not to exceed 60 minutes. The letters requested that comments with respect to the proposal should be addressed to the assigned ALJ within 20 days of the letter. The letters are received in evidence as Exhibits 25 and 26, respectively. No comments were received from the Monterey County Sheriff's Office. By letter dated November 30, 1989, the CHP advised as follows:

"The proposed site is entirely within the geographical boundaries of the city and traffic delays would have no significant impact on CHP operations, which are concerned with State highways and county roads.

"My only concern regarding the waiver to General Order 135, which would allow trains to stop for up to a 60-minute period, centers on emergency vehicle response to unincorporated areas east and north of the proposed site. Notwithstanding other at-grade crossings which exist, I request that consideration be given to a reduced time frame for at-grade stoppage, which would serve to facilitate our response to adjacent unincorporated areas in the event of an emergency."

The letter from the CHP is received in evidence as Exhibit 27. Since there is no dispute concerning the need for the crossing, we only need discuss whether we should authorize the waiver of the requirements of GO 135 to the extent that Southern Pacific would be authorized to block the proposed crossing for a period of time not to exceed 60 minutes per event.

The only objection to the waiver of the 10 minute requirement was received from the CHP. Should the crossing be blocked the CHP will be able to avail itself to the crossing at Bitterwater Road, which is the crossing it would presently use in

the event of an emergency described in its letter. The area immediately surrounding the proposed crossing is entirely within the corporate boundaries of King City.

We are reluctant to grant a waiver of the 10-minute requirement on a permanent basis and will not authorize such a waiver on a permanent basis in this instance. We are unable to determine from this record nor are the parties able to advise us just how often the crossing would be blocked in excess of 10 minutes. It may be that the crossing will seldom be blocked in excess of 10 minutes. We will authorize the waiver of the 10-minute requirement on an interim basis for 18 months subject to a requirement that Southern Pacific file four reports, one on the tenth day of each quarter (the tenth day of January, April, July, and October), which sets forth the dates and times the crossing was blocked in excess of 10 minutes.

The report is to be submitted to the Commission's Safety Division and is to make reference specifically to this decision and application numbers. After review of the crossing blocking reports, the waiver may be granted on a permanent basis or the proceeding reopened for further consideration.

The ALJ's proposed decision was filed and mailed to the parties on February 13, 1990. No comments on the proposed decision have been filed.

Findings of Fact

1. King City seeks authority to construct an at-grade crossing across the railroad tracks of Southern Pacific at San Antonio Road.

2. San Antonio Road would serve as the primary access route and arterial highway for the recently annexed land owned by Spreckels.

3. The construction of San Antonio Road will facilitate traffic flow around King City and provide access to the Spreckles' developments.

4. The proposed crossing will, in addition to crossing the mainline of Southern Pacific, also cross an operating siding which parallels the main line.

5. The operating siding extends for a distance of approximately 6,300 feet in its entirety. Approximately 2/3 of the siding (4,380 feet) is located north of the existing crossing at Bitterwater Road.

6. The siding is used by Southern Pacific for the passing of trains travelling in opposite directions which meet at King City on the main line. It is also used during the sugar beet season, which runs generally from early September to the end of November.

7. The three parties to the proceeding (King City, Southern Pacific, and the Commission's Safety Division) all agree that it is not feasible to close the crossing immediately to the south (Bitterwater Road) of the proposed crossing.

8. King City and Southern Pacific have entered into an agreement wherein King City agrees to waive the requirements of GO 135 to the extent that Southern Pacific shall be permitted to block San Antonio Road for a period not to exceed 60 minutes per stopped train.

9. On November 17, 1989, counsel for applicant sent letters to the Monterey County Sheriff's Office and the King City Area California Highway Patrol notifying them of the agreement to waive the 10-minute requirement in GO 135 and allowing the crossing to be blocked for a period not to exceed 60 minutes. The letters requested that comments with respect to the proposal should be addressed to the assigned ALJ within 20 days of the letter.

10. No comments were received from the Monterey County Sheriff's Office.

11. The CHP advised as follows:

"The proposed site is entirely within the geographical boundaries of the city and traffic delays would have no significant impact on CHP operations, which are concerned with State highways and county roads.

"My only concern regarding the waiver to General Order 135, which would allow trains to stop for up to a 60-minute period, centers on emergency

vehicle response to unincorporated areas east and north of the proposed site. Notwithstanding other at-grade crossings which exist, I request that consideration be given to a reduced time frame for at-grade stoppage, which would serve to facilitate our response to adjacent unincorporated areas in the event of an emergency."

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

13. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR.

14. The project will have a significant effect on the environment; however, the adopted mitigation measures will reduce the severity of the adverse impacts to acceptable levels.

Conclusions of Law

1. The application should be granted subject to the conditions set forth in the ensuing order.

2. King City should be granted a waiver of GO 135 subject to the conditions set forth in the ensuing order.

3. The effective date of this order should be the date hereof as there is an immediate need for the authorization granted herein.

INTERIM ORDER

IT IS ORDERED that:

1. The City of King City (King City) is authorized to construct San Antonio Road at-grade across the tracks of Southern Pacific Transportation Company (Southern Pacific) at the location and substantially as shown by the plans attached to the application to be identified as Crossing E-163.1.

2. City is granted an exemption from GO 72-B to permit the installation of a rubber crossing surface at the crossing.

3. Construction of the crossing shall be in accordance with the provisions of GO 72-B except that a rubber grade crossing surface shall be installed.

4. Clearances shall conform to GO 26-D. Walkways shall conform to GO 118.

5. Protection at the crossing shall be as follows:

"1. One Standard No. 9-A automatic gate type signal with cantilever arm for San Antonio Road eastbound approach.

"2. One Standard No. 9 automatic gate type signal with additional signals facing Metz Road for San Antonio Road westbound approach."

6. Construction expense of the crossing and installation cost of the automatic protection shall be borne by King City.

7. Maintenance cost of the automatic protection shall be borne by City under PU Code § 1202.2.

8. Construction plans of the crossing, approved by Southern Pacific together with a copy of the agreement entered into between the parties, shall be filed with the Commission's Safety Division prior to commencing construction.

9. Within 30 days after completion of the work under this order, City shall notify the Commission's Safety Division in writing that the authorized work has been done. The notification shall set forth the date the crossing was opened.

10. A variance to Sections 1 and 2 of General Order 135 is granted on an interim basis for 18 months commencing on the date the crossing was opened permitting the occupancy of the crossing authorized here for periods not to exceed 60 minutes, subject to the following conditions:

- a. King City shall install signage with continuous flashing yellow lights on the west and east approaches to the crossing which will advise motorists to "Use Bitterwater Road When Train Present." The signs shall satisfy the design and

placement standards of the Manuals of Uniform Traffic Control Devices for warning signs (Part 2C).

- b. Southern Pacific shall file four reports one on the tenth day of each quarter (the tenth day of January, April, July and October), which sets forth the dates and times the crossing was blocked in excess of 10 minutes. The report is to be submitted to the Safety Division and is to make reference specifically to this decision and application numbers.

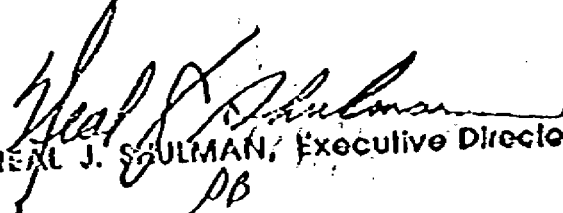
11. This authorization shall expire if not exercised within two years unless time is/extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

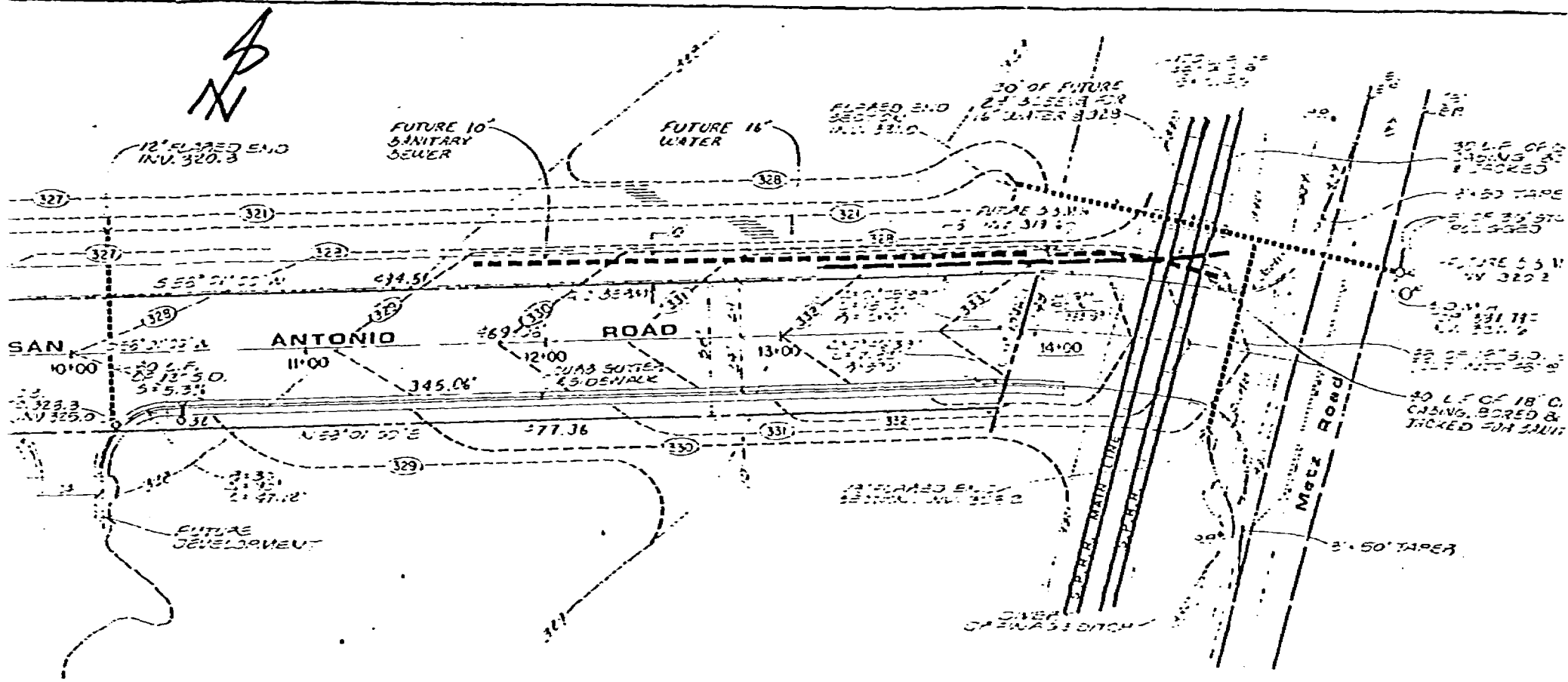
This order is effective today.

Dated MAR 28 1990, 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.


NEAL J. SULMAN, Executive Director
PB



APPENDIX A
A. 87-07-045