

S/RRT/lc

Decision 90 10 069 OCT 24 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of
the County of Orange to: 1) construct
Stonehill Drive, a public street,
across the railroad tracks of The
Atchison, Topeka and Santa Fe Railway
Company, by constructing a 96-foot wide
by 237-foot long prestressed concrete
overhead crossing, and 2) place a
temporary at-grade crossing within
the limits of the project site to
facilitate a simpler method of
construction; in the City of San Juan
Capistrano, County of Orange.

Application 90-06-043
(Filed June 19, 1990)

O P I N I O N

The County of Orange (County) requests authority to construct a grade separation of Stonehill Drive over the tracks of The Atchison, Topeka and Santa Fe Railway Company's (AT&SF) San Diego subdivision mainline, in the City of San Juan Capistrano, Orange County.

The overhead would connect with a proposed new bridge over San Juan Creek 1/6 mile west of the tracks. The Stonehill Drive overhead and bridge would provide alternate access between Dana Point and the San Diego Freeway (I-5), now provided by Pacific Coast Highway to the south and Del Obispo Street through downtown San Juan Capistrano to the north. The alternate access will improve traffic circulation and reduce traffic impacts on residential streets adjacent to existing freeway access routes.

County requested authority to use an existing private grade crossing during construction of the overhead, as it is the sole access into the area between the creek and the railroad. County already has a license to use the crossing in its construction and maintenance agreement with AT&SF.

Under its agreement with County AT&SF will provide flagging as crossing protection during the hours of

construction. The Commission can order protection of a hazardous private railroad crossing even though the crossing is used by local landowners, their families, employees, and those having business on the property, rather than the general public (18 CPUC 2nd 526).

The private crossing has been inspected by the Commission's Safety Division Traffic Engineering Section staff. It does not have automatic protection. The crossing is on a dirt lane into a nursery and a landscaping business. Vehicles can only reach the crossing through a private residential driveway marked with "No Trespassing" signs. It appears to have little vehicular use. However, there is significant use by the public of the railroad over the crossing. The AT&SF San Diego subdivision tracks are the route of Amtrak's *San Diegans*, the 16 intercity passenger trains per day operated by the National Passenger Railroad Corporation.

The Stonehill Drive overhead project retains one option for elimination of this crossing, and creates a second. At an estimated incremental construction cost of \$100,000 the overhead as finally designed spans 51 feet between its west abutment and pier. This retains the option of constructing a road underneath, parallel and west of the tracks, which could connect an established arterial street with the area reached by the private crossing. Stonehill Drive was also designed with an elevated roadway embankment between the overhead and its San Juan Creek bridge. This creates the option of accessing this area from Stonehill Drive itself, should the area be filled and developed.

The staff believes, and we concur, that closure of the private crossing at a time following completion of the construction project would best serve public safety. Because of the increased use of the crossing during construction of the overhead its protection by flagging will be made a requirement of this authority.

After Stonehill Drive is complete this crossing could be made unnecessary with the construction of alternate access as described above. We urge all concerned parties to work together on closing this crossing, and we will require County to report of progress towards this goal.

County is the lead agency for this project under California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 21000, et seq. County's Environmental Management Agency issued a Negative Declaration and on October 25, 1988, filed a Notice of Determination with the County Clerk which found that "the project will not have a significant effect on the environment."

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's Negative Declaration and Notice of Determination.

The site of the proposed project has been inspected by Safety Division Traffic Engineering Section staff. The staff examined the need for and the safety of the proposed overhead. The staff recommends that the new overhead be approved.

The application was found to be in compliance under the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure which relates to the construction of public highways across railroads. Drawings of the overhead are shown in the appendix.

Notice of the application was published in the Commission's Daily calendar on June 25, 1990. No protests have been received. A public hearing is not necessary.

Findings of Fact

1. County requests authority under Public Utilities Code Sections 1201-1205 to construct Stonehill Drive grade separation over the tracks of AT&SF's San Diego subdivision, City of San Juan Capistrano, Orange County.
2. The Stonehill Drive grade separation will, with its bridge over San Juan Creek, will improve traffic circulation and reduce traffic impacts on residential streets adjacent to existing access routes between Dana Point and I-5.
3. Public convenience, necessity and safety require construction of the proposed grade separation.

4. During construction a private grade crossing will be used by construction forces working on the overhead to access the area between the tracks and San Juan Creek.

5. Public safety requires that the private crossing be protected by a flagman during the hours of construction.

6. Closure of the private crossing at a time following completion of construction would best serve public safety.

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

8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Negative Declaration and Notice of Determination.

9. This project will not have a significant effect on the environment.

Conclusions of Law

1. The Commission can order protection of a private crossing.

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

ORDER

IT IS ORDERED:

1. The County of Orange (County), is authorized to construct the Stonehill Drive grade separation over the tracks of The Atchison, Topeka and Santa Fe Railway Company's (AT&SF) San Diego subdivision mainline, City of San Juan Capistrano, Orange County, at the location and substantially as shown by plans attached to the application and Appendix A of this order, to be identified as Crossing 2-199.3-A.

2. Clearances shall be in accordance with General Order (GO) 26-D.

3. 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.

4. During the hours of construction the existing protection of two Standard No 1-C (GO 75-C) private crossing signs for the private crossing at milepost 199.46 shall be augmented by flagging.

5. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement, together with plans approved by AT&SF, shall be filed with the Commission's Safety Division 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, County shall notify the Commission's Safety Division staff in writing that the authorized work has been completed.

7. One year after completion of construction County shall file a report with the Commission's Safety Division on progress towards closure of the private crossing.

8. 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 revoked or modified if public convenience, necessity or safety so require.

9. The application is granted as set forth above.

This order becomes effective 30 days from today.

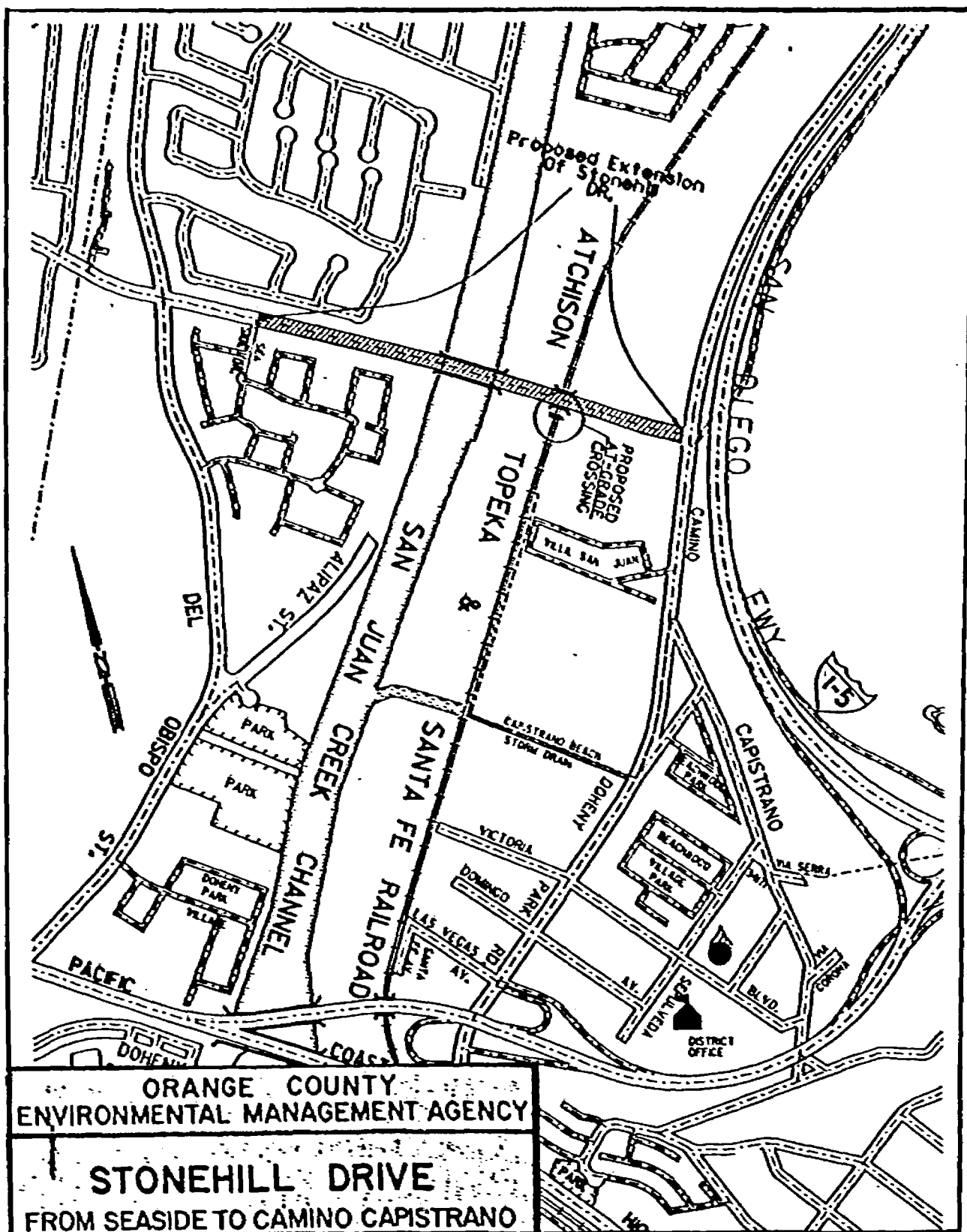
Dated OCT 24 1990 at San Francisco, California.

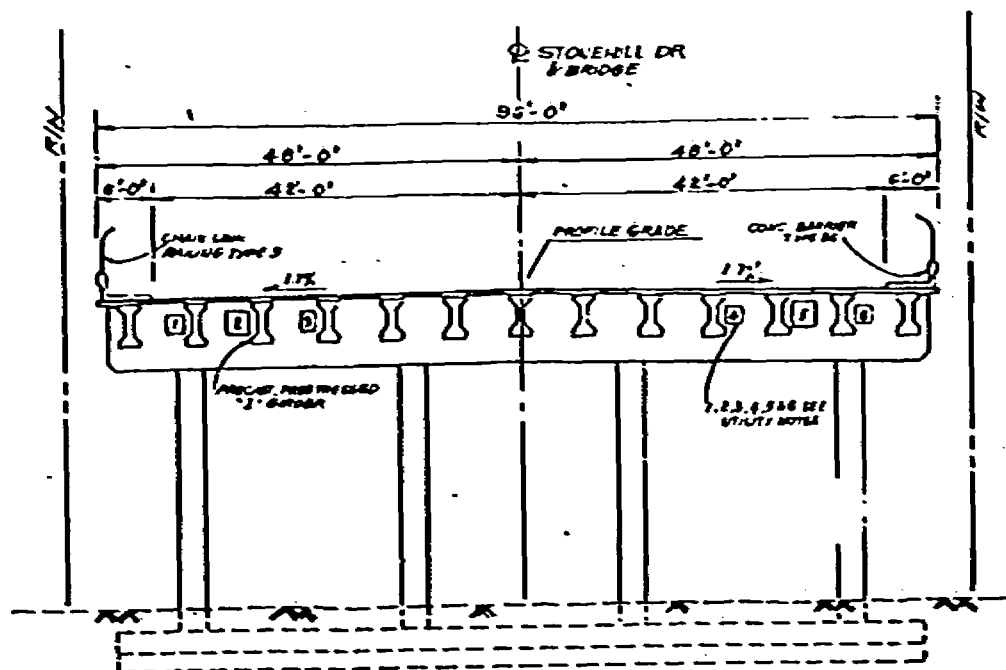
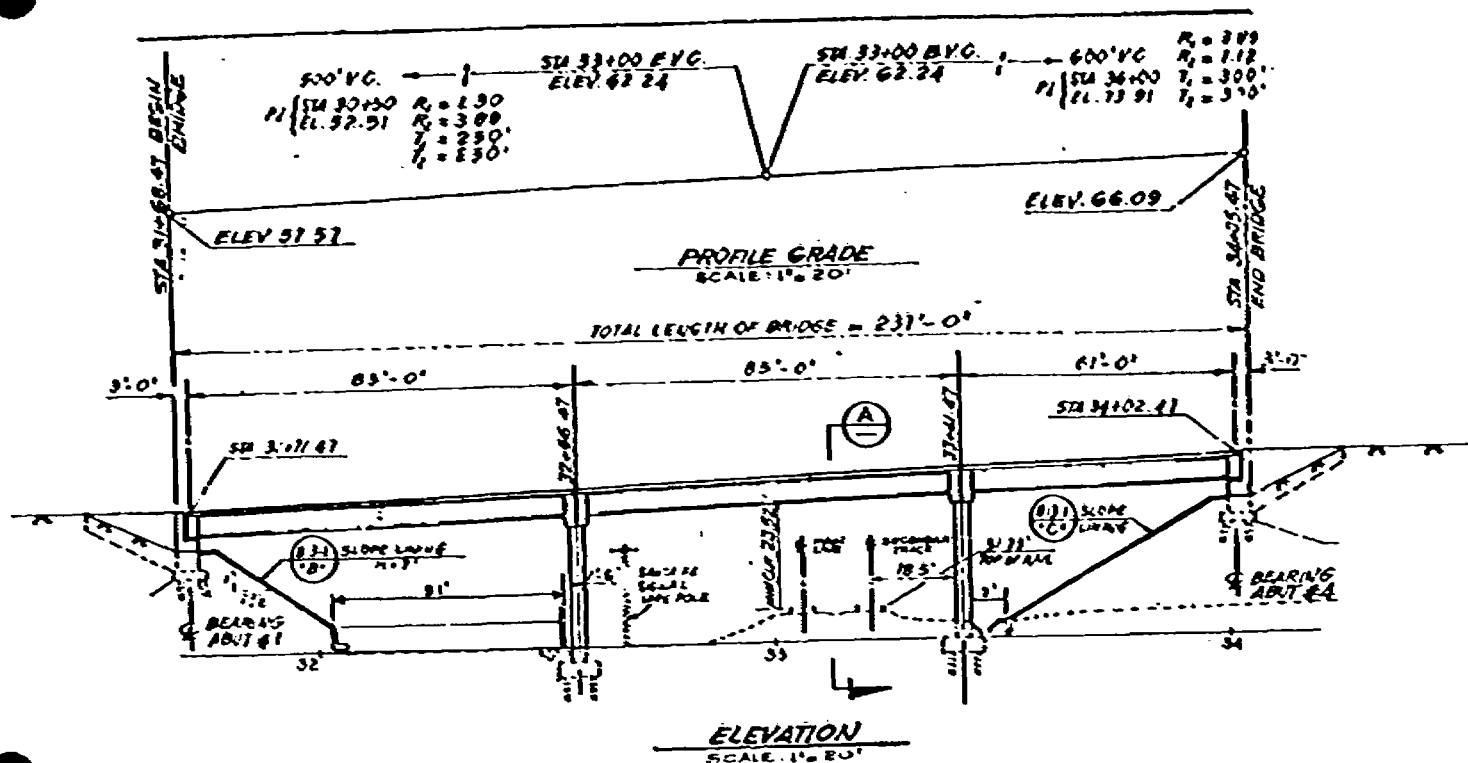
G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners

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

Neal J. Shulman
NEAL J. SHULMAN, Executive Director
PB

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.





TYPICAL SECTION (A)
SCALE: 1" = 10'