

S/ELB

Decision 92 12 011 DEC 3 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Merced to)
construct a road crossing the A.T.&S.F.)
Railway at Fahréns Park (Buena Vista)
Drive) in said City of Merced, State)
of California.)

ORIGINAL

Application 90-11-022
(Filed November 15, 1990;
amended November 12, 1991)

OPINION

As part of the Fahréns Park Développement Project, The City of Merced (City) requests authority to construct Buena Vista Drive at grade across The Atchison, Topeka and Santa Fe Railway Company's (AT&SF) spur track in Merced, Merced County.

The proposed project consists of rezoning approximately 312 acres of agricultural and vacant land to develop single family homes, townhomes, patio homes, condominiums, apartments, mobile homes, a golf course, shopping center, motel, light industrial development, and a public park. Buena Vista Drive will provide access to the development from the west.

Major impacts include loss of riparian and aquatic habitat, exposure of residents to military aircraft noise and flood waters, and visual impact. Mitigation measures will include habitat replacement or restoration, Air Force Noise Suppression Program, construction of flood control structures, and landscaping.

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. After preparation and review of an Environmental Impact Report (EIR), City approved the project. On July 15, 1980, a Notice of Determination was filed with the Merced County Clerk which found that "The above-described project will 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 EIR.

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

On December 10, 1990, AT&SF filed a protest, alleging that there were omissions in the application and that proposed protection at the crossing was inadequate. City filed an amended application on November 12, 1991, to correct the deficiencies. On July 15, 1992, AT&SF withdrew its protest.

The site of the proposed project has been inspected by the Commission's Safety Division Traffic Engineering staff. The staff examined the need for and safety of the proposed construction, and recommends issuance of an ex parte order authorizing construction of the Buena Vista Drive grade crossing as requested.

Findings of Fact

1. Notice of the application and amendment were published in the Commission's Daily Calendar on November 19, 1990 and December 12, 1991, respectively. There are no unresolved protests, and a public hearing is not necessary.

2. City requests authority under Public Utilities (PU) Code Sections 1201-1205 to construct Buena Vista Drive at grade across AT&SF's spur track in Merced, Merced County.

3. The proposed crossing is required to provide access to the proposed Fahrens Park Development Project from the west (from State Route 59).

4. Public convenience and necessity require construction of the proposed railroad-highway grade crossing.

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

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

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

8. 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.

Conclusion of Law

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

O R D E R

IT IS ORDERED that:

1. The City of Merced (City) is authorized to construct Buena Vista Drive at grade across a spur track of The Atchison, Topeka and Santa Fe Railway Company (AT&SF) in Merced, Merced County, at the location and substantially as shown by plans attached to the application, to be identified as Crossing 2-1058.2-C.

2. Clearances shall be in accordance with GO 26-D. Walkways shall conform to GO 118.

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

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

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

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6. Construction plans of the crossing, approved by AT&SF, 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.

7. Within 30 days after completion of the work under this order, City shall advise the Commission's Safety Division in writing that the authorized work has been completed.

8. 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.

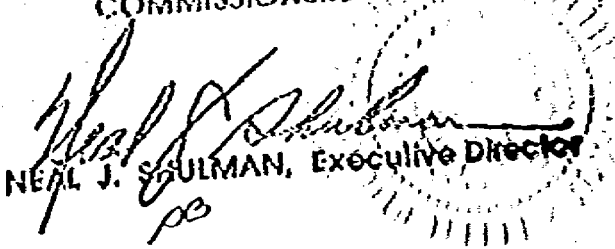
9. The application is granted as set forth above.

This order becomes effective 30 days from today.

Dated DEC 3 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SULMAN, Executive Director

