

ALJ/emk/iy

ORIGINAL

Decision S2 07 028 JUL 7 - 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of David O. Daily,)
Manuel Cordoza, Robert J. Carter,)
Gordon M. Jarrell, Kenyon Lewis,)
and Louie Pearl to establish a)
Farm or Private Crossing.)
(Public Utilities Code Section)
7537))

Application 57381
(Filed June 15, 1977)

FINAL OPINION

In interim Decision 93087 dated May 19, 1981, the Commission, ordered that the Darghty Road crossing in Helendale, California, was to temporarily remain open without change for a period of at least 210 days from the effective date of that order. The Commission also ordered applicants to make efforts to contact other residents of the area who are similarly affected by the Darghty Road crossing and, acting in concert, to continue to make reasonable efforts to conclude a mutually acceptable licensing agreement or, in the alternative, to either negotiate with San Bernardino County officials to accept dedication of Darghty Road and the crossing into the county road system or to obtain a license from The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) to rebuild and use Santa Fe's service road from Vista Road to Darghty Road.

By letter dated May 24, 1982 to the assigned administrative law judge (ALJ), attorneys for applicants and protestant informed the ALJ that all the parties holding property affected by the Darghty Road crossing have executed a series of licensing agreements with Santa Fe which provide for continuing use of that crossing for a period of one year from May 20, 1982.

Inasmuch as the parties involved have entered into licensing agreements with Santa Fe to use the Darghty Road crossing across the property of Santa Fe, there is no need for further action on the application by the Commission and the application should be dismissed.

Findings of Fact

1. Applicants' properties are bounded on the west by Santa Fe's right-of-way near Helendale.
2. Applicants' properties are bounded on the east by the Mojave River.
3. There is a railroad grade crossing on Darghty Road within Santa Fe's right-of-way which has existed for many years prior to the time any of the applicants purchased their property.
4. The last licensing agreement for use of the Darghty Road crossing by the then only owner of the lands lying to the west of Santa Fe's right-of-way at Helendale was executed in 1927.
5. Applicants as well as all other parties holding property affected by the Darghty Road crossing now have licensing agreements with Santa Fe to enter Santa Fe's right-of-way and to use the Darghty Road crossing.

Conclusion of Law

Inasmuch as applicants and Santa Fe have been able to successfully negotiate licensing agreements for entry upon and crossing of Santa Fe's right-of-way at Darghty Road, the application to establish a farm or private crossing is moot and the application should be dismissed.

FINAL ORDER

IT IS ORDERED that the application of David O. Daily, Manuel Cordoza, Robert J. Carter, Gordon M. Jarrell, Kenyon Lewis, and Louie Pearl, to establish a farm or private crossing under Public Utilities Code Section 7537, is dismissed.

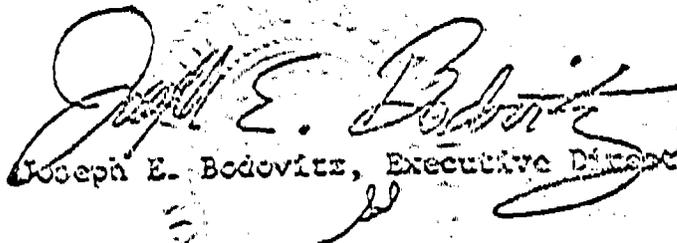
This order becomes effective 30 days from today.

Dated JUL 7 1982, at San Francisco, California.

RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

Commissioner John E. Bryson,
being necessarily absent, did
not participate.

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


Joseph E. Bodovitz, Executive Director