

Decision 82 09 037 SEP 8 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF STATE OF CALIFORNIA

Application of the CITY OF SAN)
BERNARDINO, a municipal corporation,))
San Bernardino, California, for)
an order authorizing a crossing)
at grade of Southern Pacific)
Railroad and proposed "K" Street,)
San Bernardino, California.)

Application 82-01-31
(Filed January 14, 1982)

O P I N I O N

As part of the project for development of Tract No. 11358, the City of San Bernardino (City) requests authority to construct "K" Street at grade across the tracks of Southern Pacific Transportation Company's (SPT) San Bernardino Branch Line in San Bernardino, San Bernardino County.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Sections 21000 et seq. After preparation and review of an Initial Study, City issued a Negative Declaration and approved the project. On February 6, 1981, a Notice of Determination was filed with the San Bernardino 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 independently evaluated and assessed the lead agency's Initial Study and Negative Declaration. The site of the proposed project has been inspected by the Commission staff.

The project involves development of a 95-unit condominium complex on approximately 7.12 acres located between Colton and Hillcrest Avenues, west of Interstate Freeway I-15E. The extension of "K" Street is necessary to provide access to the proposed condominium complex and to avoid increased traffic congestion on Hillcrest Avenue.

By motion filed March 5, 1982, SPT requested that it be permitted to late-file a protest to Application 82-01-31. A copy of the protest was attached to the motion. SPT's motion to permit late-filing of its protest was granted by Examiner's Ruling dated March 15, 1982.

In its protest, SPT objected to City's request that the developer, C.J.A. Corporation, be required to reimburse SPT for all costs and expenses incurred by SPT in constructing the crossing, alleging that City should be required to reimburse SPT for all such costs. The proposed automatic protection at the crossing was incorrectly described and SPT wanted assurance that the crossing would not be opened until such time as the automatic protection was

installed and operative. SPT also objected to City's request that maintenance cost for the crossing and its signals be apportioned between SPT and the Commission.

By letter of August 21, 1982 to the Commission, City agreed to the conditions set forth in SPT's protest. Accordingly, SPT withdrew its protest by motion dated May 13, 1982.

There are no unresolved protests to the application. A public hearing is not necessary.

Findings of Fact

1. City requests authority under Public Utilities (PU) Code Sections 1201-1205 to construct "K" Street at grade across the tracks of SPT's San Bernardino Branch Line in San Bernardino, San Bernardino County.

2. The proposed crossing is required to provide access to a proposed 95-unit condominium complex in the southwestern portion of San Bernardino.

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

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

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

6. The Commission is a responsible agency for this project and has independently evaluated and assessed the lead agency's Initial Study and Negative Declaration.

7. The project will have no significant impact on the environment.

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 San Bernardino (City) is authorized to construct "K" Street at grade across the tracks of Southern Pacific Transportation Company's (SPT) San Bernardino Branch Line in San Bernardino, San Bernardino County, at the location and substantially as shown by plans attached to the application, to be identified as Crossing BBR-540.5.

2. Construction of the crossing shall be equal or superior to Standard No. 1 of General Order 72-B.

3. Clearances shall conform to General Order 26-D. Walkways shall conform to General Order 118.

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

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

6. Maintenance of the crossing shall conform to General Order 72-B. Maintenance cost of the automatic protection shall be borne by City under PU Code Section 1202.2.

7. Construction plans of the crossing, approved by SPT, together with a copy of the agreement entered into between the parties, shall be filed with the Commission prior to commencing construction.

8. Within 30 days after completion, under this order, City shall advise the Commission in writing.

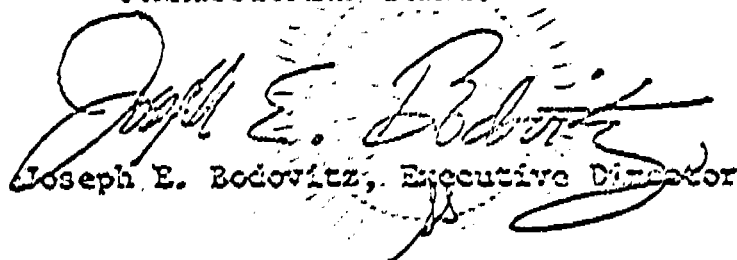
This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

This order becomes effective 30 days from today.

Dated SEP 8 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director