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Decision No. 87757 AUG 23 1977 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the CITY OF SAN CLEMENTE to abolish an existing pedestrian underpass and, in place thereof, to construct a pedestrian at-grade crossing over the right-of-way of The Atchison, Topeka, and Santa Fe Railway Company.	Application No. 55451 (Filed January 17, 1975)

Knapp, Stevens, Grossman & Marsh, by Wyman C. Knapp and William M. Ramseyer, Attorneys at Law, for applicant.
Thomas A. Lance, Attorney at Law, for The Atchison, Topeka, and Santa Fe Railway Company, respondent.
Melvin R. Dykman, Attorney at Law, for State of California, Department of Transportation, Division of Mass Transit, interested party.
William J. Jennings, Attorney at Law, for the Commission staff.

O P I N I O N

The city of San Clemente seeks to abolish (fill in) an 8½-foot-wide pedestrian tunnel under the right-of-way of The Atchison, Topeka, and Santa Fe Railway Company (Santa Fe) between Avenida Victoria and the entrance to the municipal pier and adjacent beach areas (Crossing 8 of record), and to replace it with either (1) a protected at-grade pedestrian crossing; or (2) a protected combination pedestrian and limited access vehicular at-grade crossing at the same site. Under either proposal

applicant would bear the expense of construction, and the cost of protective devices and their installation. A drawing showing the pier front area and the principal crossing places involved is attached hereto as Appendix A. The tunnel is shown as Figure 1.

Applicant's second alternative is its main proposal.[1/] In the event this proposal is authorized, applicant would permanently close another crossing adjacent to the San Clemente lifeguard headquarters building at the end of Avenida Del Mar known as the lifeguard crossing (Crossing 7 of record, Appendix A, Figure 4).[2/] That crossing is located approximately 500 feet northwesterly of the present and proposed crossings at the pier entrance. The lifeguard crossing is a 25-foot-wide private at-grade crossing providing the only vehicular access to the lifeguard headquarters building, the pier, and adjacent beach areas. It is used by many thousands of motor vehicles and pedestrians.

Thirteen days of public hearing were held before Administrative Law Judge Norman Haley between June 30, 1975 and January 14, 1977. The application was opposed by Santa Fe, the State of California, Department of Transportation, Division of Mass Transit (Caltrans), and the Commission staff. Altogether,

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1/ Applicant's first alternative proposal for a pedestrian at-grade crossing is similar to a proposal previously denied by Decision No. 75795, 69 CPUC 558 (1969).

2/ The lifeguard crossing is pursuant to a private crossing agreement between the city and Santa Fe dated May 27, 1968 (Exhibit 1, Appendix C).

32 witnesses testified and 47 exhibits were numbered (44 received). The matter was submitted[3] on May 2, 1977, the due date for concurrent briefs.

Presentation of Applicant

It is applicant's position that the pedestrian tunnel, constructed 50 years ago, is obsolete, inadequate, does not meet the needs of the city, has undesirable features, and is a source of blight and a major deterrent to redevelopment and upgrading of the pier front area. Applicant contends that any pedestrian crossing which involves a substantial change in elevation,[4] such as the present tunnel, whether accomplished by stairs or ramps, presents a health hazard to elderly persons and persons suffering from cardiac conditions or related diseases. Applicant contends that the tunnel is located in a high crime area, and that some citizens are afraid to go down in it. Assertedly, the tunnel is an attractive nuisance for the use by undesirable elements to congregate unobserved by police patrols passing at street level.

3/ The matter was originally submitted in 1975 after six days of hearing. A decision draft which would have granted the city's second alternative for a protected combination pedestrian and vehicular at-grade crossing in lieu of the tunnel and the lifeguard crossing reached the Commission's public agenda of May 18, 1976, but was withdrawn. At the request of the city the matter was reopened on July 19, 1976 for further hearing relative to alternative proposals to a protected at-grade crossing of the Santa Fe track for pedestrians and motor vehicles. A copy of the original decision draft was introduced by the city as Exhibit 29.

4/ The difference in elevation between an existing landing (raised) platform) on Avenida Victoria and the bottom of the tunnel is approximately 18 feet. On the ocean side there is another elevation change of approximately 8 feet. A person making a round trip through the tunnel, therefore, is required to make a combined climb equivalent to approximately 26 vertical feet.

Applicant contends that either of its alternative proposals would obviate the need for thousands of pedestrians to cross the track at grade above the tunnel at the Amtrak passenger depot (Appendix A, Figure 2), where there is easy short-cut access to the beach and pier through a hole cut in the fence by persons unknown, in spite of repeated efforts by the city to keep the fence repaired. This crossing is known as the "hole-in-the-fence" at-grade crossing (Appendix A, Figure 3). It is the position of the city that continuous major use of this at-grade crossing place is due to the inadequacy and undesirability of the tunnel located only a few feet away. Applicant believes that a protected at-grade crossing would narrow or restrict possible legal exposure from injury or damage. Applicant asserts that either of its two alternative proposals would adequately protect the public health and safety.

Evidence on behalf of San Clemente was presented through a consulting civil engineer, the city's director of marine safety, the chief of police, a member of the city council, the mayor, two city managers, the city's senior planner and environmental assessor, a volunteer worker in the lifeguard department, a resident traffic engineer, a resident surfer, and one other resident. In addition, nine other residents testified on their own behalf in favor of an at-grade crossing at the pier entrance.

The consulting engineer for the city introduced and explained a study report (Exhibits 1, 2, 3, and 4) which he prepared following detailed investigations of the crossing problems. The consulting engineer focused his investigation on crossing conditions and facilities at the pier entrance and at the lifeguard crossing where the changes are proposed. However, he also investigated crossing conditions at other places and

areas along the railroad right-of-way within San Clemente where pedestrians or pedestrians and vehicles cross the track. The railroad track involved is the Santa Fe's Coast Line, Fourth District, single-track main line between Los Angeles and San Diego. Within the city limits of San Clemente there are approximately six miles of this track located along the beach of the Pacific Ocean immediately below the sea cliffs and canyon openings.

The witness identified 14 crossing places and areas as "authorized crossings". He said that this term does not mean that all of the crossings have been authorized by the Commission. He explained that the term was used to identify places where improvements had been constructed so it appeared that somebody had assumed authority for funneling people down to the beach. Brief descriptions of the places and areas investigated by the engineer in San Clemente where pedestrians, or pedestrians and motor vehicles, cross the railroad are contained in Appendix B hereof.

The consulting engineer explained that in addition there are numerous other crossing places or areas in the city where many people reach and cross the track from adjacent or nearby city parking lots and streets, from interminable numbers of access paths and stairways leading from houses, apartments, and condominiums and there are vast open areas affording pedestrians ready access to the beach over the railroad right-of-way. He said the individual pedestrian having occasion to cross the track is required to rely solely on his awareness of a possible train movement.

Among other things, Exhibits 1, 3, and 4 show that the actual tunnel at the pier entrance is 8 feet high, 8½ feet wide, and 22 feet long. The inland end of the tunnel is approximately 65 feet from Avenida Victoria, which parallels the track at that location. On both ends of the tunnel are wider passageways (open cut approaches). The consulting engineer stated that since the tunnel was constructed about 1927, San Clemente has had a significant increase in its percentage of older and retired persons. He said that the present configuration of the tunnel does not lend itself to convenient use by older people, or beach users in general. To reach the pier entrance from Avenida Victoria it is necessary to ascend five steps to the raised platform, descend 19 steps on one of two narrow stairways that curve down through an approximate 45 degrees to a landing, and turn 90 degrees and descend another 14 (wider) stairs to the bottom of the open cut leading to the tunnel. On the ocean side of the tunnel there are another 17 steps leading up from the open cut to the pier entrance.

The testimony discloses that the tunnel, stairways, and elevation changes constitute an absolute barrier to persons in wheelchairs, and either an absolute barrier, or a substantially imposing barrier and hazard to many others who are young, elderly, feeble, physically handicapped, or who desire to carry infants, baby strollers, beach umbrellas, fishing poles, barbecue equipment, surfboards, or other large or unwieldy items. The consulting engineer stated that it is difficult for a person who is physically handicapped, or one who is carrying large, unwieldy items, to make use of the tunnel while others are also using the walkway. He said many pedestrians, therefore, avoid possible conflict by crossing the track at grade at other locations,

including the hole-in-the-fence. The consulting engineer stated that this opening provides one of the principal means of access to the beach and pier. He said no way has been found to force people to utilize the tunnel instead of the short-cut route.[5/] None of the grade crossing places in the pier front area, including lifeguard Crossing 7, are equipped with train-activated warning devices.

The director of marine safety testified he has observed that both children and adults walk all over the track at the pier entrance, and that large groups of people go through the hole-in-the-fence. He stated that he had no knowledge of who takes the fence down for pedestrians to gain access to the beach at the pier entrance. He said that when the fence is repaired it lasts usually no longer than one day before it is down again. He said that when he observes a hole in the fence he calls the city maintenance people who work out of the same building that he does. The director of marine safety was of the opinion that if the tunnel is eliminated and the proposed grade crossing authorized no additional area would be created for people to cross the track, and they would have no more access to the track than they presently have.

5/ According to the consulting engineer ordinary bolt cutters will readily sever chain link fencing. He was asked by counsel for Caltrans whether a six-foot-high fence made of two- or three-inch diameter pipe on one-foot centers with horizontal steel crossbars at two-foot intervals could be expected to keep people from cutting through to the beach. The witness said a jail-like structure of that type would make it difficult to get through, but that the view of the beach and ocean would be obstructed and cluttered. No cost estimate for such a fence structure was placed on the record.

The consulting engineer, the mayor, and the director of marine safety testified that after any significant rain the tunnel floods to a depth of from two to three feet. It remains impassable until external pumps are brought in. The mayor said that the condition is unhealthy. Apparently not all of the water can be removed by pumping. Assertedly, the base of the tunnel can be below sea level at times. In any event the present drain does not work satisfactorily. Any new drain or sump pump installation would have to be protected with tide gates to keep out ocean water. The record shows there is a high water detector on the Santa Fe track not far from the tunnel.

The consulting engineer asserted that there is a continuing hazard to people down in the open cut approaches to the tunnel from possible train derailment or spillage of lading. He said he found no record of the tunnel having been inspected for structural soundness. He stated that an at-grade crossing would eliminate these hazards, as well as wet weather flooding of the tunnel. The witness concluded that either of the alternative at-grade crossing proposals would provide a high degree of safety for pedestrians, and would provide a more convenient and ready access to the municipal pier and adjoining beach areas for the public generally. This would include pedestrians who use the tunnel, as well as many who are unable or undesirous of using it. The consulting engineer explained that an at-grade crossing would permit continuous surveillance from the vantage point of lifeguard Tower Zero on the pier (Appendix A, Figure 6) from which there is a broad view of the area, from which all types of situations could be acted upon, and which would permit more speedy and efficient aid in the case of emergency.

The consulting engineer was of the opinion that current building requirements[6] would cause reconstruction of the tunnel approaches to make the tunnel accessible by ramps or walkways[7] inordinately costly and otherwise unfeasible. It also was his opinion that the obstacle of negotiating ramps or walkways, if installed, would continue to cause persons to cross the track at unprotected places in the pier area by cutting holes in the fence.

6/ California Government Code Sections 4450, et seq., as amended in 1971, reads in part, as follows:

> "(A)ll...structures, sidewalks, curbs and related facilities, constructed in this state by the use of state, county or municipal funds...shall be accessible to and usable by, the physically handicapped. All buildings, structures, and related facilities shall adhere to the American Standards Association Specifications A 117.1-1961 for making buildings and facilities accessible to, and usable by, the physically handicapped."

The American Standards Association is now the American National Standards Institute (ANSI).

7/ ANSI standards for pedestrian walkways and ramps require maximum allowable grades of 5 and 8.3 percent, respectively. A grade of 8.3 percent is equal to 1 foot of slope in 12 feet. A walkway is a pathway not requiring curbs and handrails. The steeper ramp must have curbs and handrails. The consulting engineer said that a straight ramp from Avenida Victoria to the tunnel would require a grade of approximately 15 percent.

A number of witnesses testified concerning undesirable circumstances and conditions experienced in and around the pier entrance tunnel. The chief of police testified concerning incidents of crime and crime factors. The witness described what he termed the "bowl area" which is a high crime area of several square blocks in which the tunnel is located. The witness said he reviewed police records for ten years prior to 1975 and found a total of 921 calls that he had received from the bowl area. He broke these down into categories.[8/] He said the records did not specify whether any of the crimes occurred specifically in the tunnel itself. He stated, however, that a particularly high incidence of crime occurs in the vicinity of the pier entrance. He recalled one armed robbery and one rape. He outlined special procedures that have been utilized to patrol the area. According to the chief of police and the member of the city council, the police department pays particular attention to the bowl area and patrols it the best possible way with available officers.

The chief of police stated that if the Commission were to approve the application it would be of assistance to him and his staff because officers could see what is going on toward the pier entrance and in the immediate area of the pier. He stated that the pier area is a logical place for the congregation of young adults and that the tunnel serves as a site for the distribution of illegal drugs. He said people can meet in the tunnel and make

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8/ The categories were: assault (both felony and misdemeanor), narcotics, drunk in public, liquor law violations, suspicious vehicle calls, malicious mischief, larceny (both petty and grand), armed robbery, lewd conduct, indecent exposure, child molesting, rape, and disturbing the peace. Altogether, 266 arrests were made and 192 citations issued.

their buys or make plans to meet some other place. The witness stated that people desiring to go to the beach sometimes cannot get through to the tunnel because groups of other people will be sitting on the steps and sidewalk with their surfboards. He said persons also congregate on the tunnel stairs leading down from Avenida Victoria. The chief of police was of the opinion that the establishment of the proposed at-grade crossing would improve the safety position of the people who have occasion to go to the beach.

The member of the city council testified that the city council has considered every possible means of crossing the track to the pier, and keeps coming back to the fact that the tunnel is not solving the city's problems, and that an at-grade crossing would be the most advantageous way to get to the pier and adjacent beach.

The member of the city council and other resident witnesses testified that the tunnel does not meet their needs. They are afraid to go down in it, not only because of the stairs and elevation changes, but because undesirable persons loiter around the facility, and because oral abuse often accompanies a trip through the tunnel. When the tunnel is congested it is difficult and dangerous to maneuver through with a surfboard or fishing pole. One witness injured another pedestrian with a surfboard entering the tunnel and had to pay for the accident. He said upon occasion he has banged his surfboard against the sides of the tunnel. Conditions at the tunnel cause these witnesses and members of their families to use unprotected at-grade crossing places in the immediate area, as well as other San Clemente beach areas, which require crossing the track at places described in Appendix B, among others. In general, these witnesses expressed

the view that the Commission should authorize an at-grade crossing at the pier entrance that would not require anyone to walk further than directly across the track, without ramps or the necessity for lateral movements.

Exhibit 1 contains the results of a pedestrian count made by the lifeguard department from January 25 to April 27, 1975. This count identifies the number of persons crossing the track to the beach and pier (one way) between the pedestrian tunnel and Linda Lane, as follows:[9/]

Crossing Location	Crossing No. (Appendix B)	Number of Pedestrians	Percent of Total
Pier Entrance Tunnel	8	28,482	57
Hole-in-the-Fence	8	10,205	21
Lifeguard Crossing	7	5,084	10
Condominium Crossing	Between 6 & 7	736	2
Linda Lane	6	5,085	10
	Total	49,592	100

9/ The hole-in-the-fence at-grade crossing was closed (repaired) a few days during the count. The record does not show to what extent the lifeguard crossing sliding gates may have been closed during the count.

The consulting engineer pointed out that during the period of the tabulation 16,025 persons (approximately 33 percent[10]) avoided the underpass and crossed the Santa Fe track at grade at the several unauthorized points in the area.[11] He stated that if an average of 262 persons per day avoid the underpass during the winter months, the number of persons utilizing unauthorized crossings in the area can only increase in the summer. He stated that unauthorized use of such crossings by pedestrians, where there is no train-activated warning or protection, constitutes a safety problem of major proportions.

Some estimate of the total numbers of pedestrian crossings through the major crossing places in a year can be arrived at by multiplying by four the approximate three-month winter figures representing one-way crossings, and doubling the products on the assumption that most pedestrians would return to the inland side through the same crossing. The resulting figures would be: pier entrance tunnel, 222,820; hole-in-the-fence at-grade crossing, 81,640; and lifeguard crossing, 40,672. These figures include no allowance for the substantial increase in numbers of beach goers during the approximate three-month summer period.

10/ In calculating the approximate 33 percent, the engineer did not include pedestrians who crossed the track at grade at Linda Lane, located about 800 feet northwest of the lifeguard crossing.

11/ The director of marine safety testified concerning the procedures utilized in making the counts. He said the counts were taken from the beach side of the track of pedestrians going to the beach. Those leaving the beach were not counted. To arrive at estimates of the total crossings made, the above figures would have to be doubled. During the tally period the lifeguard department did not attempt to prevent people from making unauthorized grade crossings. The lifeguard department assertedly does not have personnel or authority to prevent people from crossing the track at unauthorized places.

The city's consulting engineer explained that the lifeguard crossing at the end of Avenida Del Mar is physically available to city parking lots a short distance inland (Appendix A). Beach users have the option of walking 300 yards to the pier entrance tunnel, or 100 yards to the lifeguard crossing, where they can walk across the track to the beach. Handicapped persons who cannot use the tunnel must cross at this location in the pier front area.

Lifeguard Crossing 7 provides the only vehicular access to the pier, the lifeguard headquarters building, and adjacent beach areas. It is used by vehicles providing lifeguard, fire, police, ambulance, and maintenance services; vehicles transporting boats and equipment to and from the pier; vehicles transporting laundry and supplies for concessionaires and others; trucks transporting 55-foot-long piling; Dempster Dumpster rubbish trucks; buses transporting handicapped children; buses transporting students and members of groups (with gear) attending scheduled classes and contests relative to activities and safety in the marine environment;[12/] and by private automobiles of lifeguard station employees and volunteers.

12/ There are a number of programs which have series of classes or sessions located at and near the lifeguard headquarters building. The junior lifeguard program has 45 sessions a year. Young people attend from as far as Santa Cruz. Frequently they are accompanied by adults. Sometimes parents deliver or pick up children at the inland side of the track. In such cases the track is crossed both ways on foot.

The director of marine safety testified that about 50 vehicles a day use the lifeguard crossing. He said that there are more in the summer than the winter. This equates to 18,250 vehicles a year. Since every vehicle must return through this one vehicular crossing there are about 36,500 vehicle crossings a year.

Prior to June 1976, lifeguard Crossing 7 was equipped with sliding, wheeled, electrically powered gates on both sides of the track that functioned only part of the time. When the gates were closed some pedestrians gained access to the railroad right-of-way through a gap between a piece of fence and the sea-cliff nearby (Appendix A, Figure 5). By walking northwesterly about 300 feet to the end of the fence along the ocean side of the track pedestrians arrive at the beach near the condominium crossing (Appendix A, Figure 6). The record shows that motorcycles also go through the gap at the seacliff.

When the crossing gates were operating they could be opened by the radio dispatcher in the lifeguard headquarters building pushing a button at the signal of an automobile engine being speeded up or an automobile horn being blown. Supposedly, the sliding gates also could have been opened and closed by an activator (radio transmitter) installed in some vehicles. In any event it was up to the vehicle driver seeking to cross the track to determine if a train was approaching. This was because (1) the operation of the gates was not overridden by track circuitry, meaning that the gates would open whether a train was approaching or not; (2) there is poor visibility in four quadrants, with only 585 feet maximum visibility to the northwest due to track curvature and obstructions; and (3) the radio dispatcher in the lifeguard headquarters building who pushed the

button could not see the crossing from his work location which he could not leave. The dispatcher is totally involved in handling all communications relating to safety in the marine environment along 11 miles of beach from the San Diego County line to Three Arch Bay. Among other things, this includes working with 55 emergency radios and 35 trunk lines on a switchboard. In any event, no one at the headquarters building can see if a train is approaching from the northwest even if he goes outside of the building.

Added to the problems enumerated above was the fact that the mechanical and electrical components of the gates malfunctioned notoriously. To a large extent the gates were out of operation altogether, and were hand-pulled to an open or partly open position (photo Exhibits 8 and 47). When the gates did operate they could trap vehicles on the track between them. The volunteer worker in the lifeguard department testified that upon one occasion, after the gates had opened, she drove onto the track from the inland side only to have the gate on the ocean side close in front of her. A train approached from the northwest. She put the car in reverse and gunned the motor; however, her vehicle was struck by the train causing $750 damage. Another incident of a vehicle being trapped by the gates was recounted by the Santa Fe Coast Lines signal engineer. In 1975 he witnessed the driver of a laundry truck get the vehicle trapped on the track between the two gates in closed positions for an interval of between 30 and 45 seconds. Fortunately, this incident occurred shortly after an Amtrak train had passed.

Beginning in June 1976, the gates at Crossing 7 became completely inoperative and remained so until at least the last day of hearing in January 1977. The gates are one-of-a-kind and it may take months to obtain repair parts after a breakdown. The record shows one or more of the rolling wheels have been badly damaged and a large hole has been cut in the chain link fencing covering one of the inland gates. Because the sliding gates have never worked reliably and could not be operated safely, it clearly is safer to have them resting in an open position than to have them operating. The director of marine safety urged that his department not have primary responsibility for operation of any type of railroad crossing gates. He does expect his employees to be able to open gates for lifeguard emergency vehicles, ambulances, and certain other vehicles, in the event gates are in operation.

An average of about 16 trains pass through San Clemente each 24 hours. Ten of the trains are Amtrak passenger trains, four of which stop at the San Clemente depot located at the pier entrance tunnel. Four of the freight trains pass through in the evening or at night. Published time schedules show that the speed limit for all trains operating through San Clemente is 40 mph. That speed limit is required by San Clemente Ordinance 544 (1970).

Exhibit 1 shows that since 1960 there have been five train accidents in San Clemente resulting in four deaths. These accidents involved three pedestrians, one motorist, and one bicyclist. The record also shows that there was another pedestrian accident on the track between Crossings 6 and 7, resulting in death, and the automobile referred to above that was struck by a train at lifeguard Crossing 7. According to the record,

there have been no accidents involving pedestrians crossing the track at the hole-in-the-fence grade crossing at the pier entrance or at Crossing 7. All but one of the accidents occurred at crossing places where there is no train-activated warning or protection.

Detailed conceptual plans and profiles of the two alternative proposed at-grade crossings are contained in Exhibits 3 and 4. Those exhibits show that the proposed pedestrian crossing would be 14 feet wide, and that the proposed adjacent vehicular crossing would be 24 feet wide. The second alternative proposal, therefore, would have a combined crossing width of 38 feet. Under either proposal, the crossing would be protected by four sets of standard No. 8 flashing lights and bells (General Order No. 75-C). The pedestrian crossing would be equipped with automatic gates that would swing closed parallel to the track, about 24 feet from the center line of the track. This setback would provide areas for pedestrians remaining inside the gates to wait until the gates reopened. The timing of the swinging gates would be staggered. The consulting engineer also recommended alternative protection to the swinging gates consisting of standard No. 9 drop gates, flashing lights, and bells. In case these are authorized he recommended that the gates have curtains of anodized aluminum or other material attached to make a flexible but more complete barrier. When in an open (raised) position, the curtain material would hang draped to the gate arms.

The vehicular crossing would be equipped with automatic sliding gates approximately 11 feet from center line of track on the inland side, and approximately 20 feet from center line of track on the ocean side. The gates for the vehicular crossing

would remain in a closed position until activated by a control mechanism, such as a push button, a radio signaling device, or an audio signaling device. This control would be overridden by train-activated circuits to prohibit a vehicle from crossing the track when a train is approaching. The witness also recommended alternative protection to the sliding vehicular gates consisting of drop gates, a variation of No. 9's, which would remain in a down (closed) position unless activated by a control mechanism. The vehicular drop gates also would be overridden by train-activated circuits so that they could not be activated to an open position when a train is approaching.

In connection with the city's first alternative proposal for a pedestrian at-grade crossing (Exhibit 3) the consulting engineer estimated costs in 1975 for construction of the walkway, demolition of the landings and stairways, and installation of the necessary fencing and handrails to be $24,000. The costs for the railroad controls and swing gates would be approximately $27,000, for a total project cost of $51,000. For the second alternative proposal (Exhibit 4) he estimated the cost of the combination pedestrian and limited access vehicular at-grade crossing to be $48,000. The costs for the controls, gates, and signaling devices would be approximately $29,000, for a total project cost of $77,000.

The city's senior planner and environmental assessor testified that he reviewed the environmental assessment (Exhibit 16) furnished by the consulting engineering firm, reviewed the consulting engineer's study (Exhibits 1 through 4), and made a field check to determine if the proposed project would have any environmental impact on the area. He said he had had prior experience in preparing approximately 60 environmental impact reports and 100 negative declarations. He reached

the conclusion that the proposed project would not be environmentally significant. He prepared a negative declaration for the city and had it posted for the required 30-day period. He said there were no protests, and that the negative declaration, therefore, is effective as to the city's proposal.

The record shows that there are a number of protected public at-grade crossings on the Santa Fe main line between the south city limits of Santa Ana and the north city limits of Oceanside. This includes Crossing 2 in San Clemente. Five of these grade crossings are within the city of San Juan Capistrano, adjacent to San Clemente on the north. All are automatically protected with flashing-light signals and gates. It is the city's position that since a number of these at-grade crossings were authorized by the Commission in recent years, or improvements such as drop gates were authorized, they provide precedent for authorization of the sought at-grade crossing at the pier entrance.

Counsel for applicant introduced a petition that had been circulated by volunteers, containing approximately 3,000 signatures and addresses of city residents in favor of a protected at-grade crossing at the pier entrance (Exhibit 20).[13] Counsel also introduced a two-page Resolution of Approval and Permit of the California Coastal Zone Conservation Commission, South Coast Regional Commission, executed August 4, 1975,

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13/ The petition was captioned as follows: "For the safety, health and well being of the Users of the San Clemente Beach and Pier, we, the undersigned, petition the PUC to grant an electronically-protected at-grade crossing for the benefit of all citizens, particularly the Young, the Elderly and the Physically Handicapped who are not now able to use these facilities."

extending a previously approved permit for modification of the municipal pier entrance at the end of Avenida Del Mar and Avenida Victoria (Exhibit 15).[14/]

Presentation of Opposing Parties

Santa Fe, Caltrans, and the staff presented evidence in opposition to the city's proposals for an at-grade crossing to replace the tunnel and the lifeguard crossing. Evidence on behalf of the opposing parties was presented by the Santa Fe Coast Lines architect, a Santa Fe assistant architect, the Santa Fe Coast Lines signal engineer, a pipeline official, a handicapped resident, a law clerk, the chief of the Rail Transit Branch, Division of Mass Transit, Department of Transportation (Caltrans engineer), an associate transportation engineer (staff), a senior transportation operations supervisor (staff), and the supervisor of the traffic engineering section (staff). Santa Fe also called the city's consulting engineer.

14/ The permit (No. P-10-19-73-2123) states that there are no conditions imposed pursuant to Public Resources Code Section 27403. The first page of the permit contains the following findings: "The South Coast Conservation Commission finds that the proposed development: A. Will not have a substantial adverse environmental or ecological effect. B. Is consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302. C. Is subject to the following other resultant statutory provisions and policies: City of San Clemente ordinances. D. Is consistent with the aforesaid other statutory provisions and policies in that: approval in concept has been issued. E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission: application, site map, plot plan and approval in concept."

Five witnesses familiar with railroad operations and/or crossing safety testified in opposition to elimination of the pier entrance tunnel. It was their opinion that the present tunnel is safer for all of the pedestrians who use it than if it were replaced with any kind of a protected at-grade crossing. It is alleged that the tunnel appears to be a safe and adequate structure, and that the main problem with it is the undesirability of the approaches.

The five witnesses each support one or more schemes which would maintain the existing crossing at separated grades. These suggestions each would involve some modifications of the approaches to the tunnel. Each suggestion would include removal of the raised platform on Avenida Victoria, and would incorporate new or improved stairs in addition to one other method of access. In general, the tunnel approach modification schemes would include (1) removing the raised platform and repairing the stairs; (2) a series of up to 12 switchback ramps on the inland side (about 270 feet of ramps); (3) curlicue ramps; (4) a recurving elliptical ramp on the inland side in conjunction with a U-shaped ramp on the ocean side (about 300 feet of ramps); (5) a moving sidewalk ramp of 15 percent grade on the inland side; and (6) elevator towers in each of the open cut approaches to the tunnel.

One advantage of removing the raised platform on Avenida Victoria is that the elevation differential on the inland side would be reduced by about five vertical feet. Another advantage would be that the view toward the tunnel would be somewhat improved, which would be of assistance to police patrols. The advantage of ramps would be that persons in wheelchairs who would be physically able to negotiate the ramps, or who would have motorized units or attendants, could

reach the pier from Avenida Victoria. The advantage of a moving sidewalk ramp or elevator towers would be that persons using such facilities could avoid the substantial ascents and descents involved.

The Santa Fe assistant architect demonstrated that the structure of the present tunnel could be preserved by using a recurving elliptical ramp on the inland side, in conjunction with a U-shaped ramp on the ocean side, and employing a maximum pedestrian ramp grade of 8.3 percent. However, there would be 300 feet of ramps with alternative stairs also available.15/ This means that a handicapped person making a round trip would have to traverse 600 feet of ramps involving a combined climb equivalent to about 21 vertical feet. This is three times the shortcut distance via the hole-in-the-fence at-grade crossing of about 200 feet roundtrip.

The record shows that it is very likely that handicapped persons using ramps would have to share them with young people on skateboards and other wheeled vehicles. The record does not show that ramp surfaces could be made rough enough or that other measures could be taken to prevent this kind of use.

15/ The city's consulting engineer testified that if ramps were constructed they should have a slope no greater than five percent, and otherwise conform to ANSI standards for pedestrian walkways (as contrasted to standards for ramps). This would require raising the tunnel roof. He said that once the tunnel structure was violated it would not be safe to repair because of its age. If such construction involved raising the railroad as much as 27 inches the track would have to be graded in each direction between 1,000 and 2,000 feet.

It was not demonstrated whether the use of a moving sidewalk ramp with a slope of 15 percent would be safe for persons in wheelchairs, or for other handicapped persons, who might attempt to use it without the assistance of attendants. Another problem is that at the beach location involved such a device would be exposed to salt air and sand and the latter would be tracked (deposited) on the moving belts. No life expectancy for such a device was forecast for the environment involved.

Disadvantages of elevators in the open cut approaches to the tunnel are that the elevators themselves might not be large enough to accommodate all the people with beach equipment who would require use of elevators in the summer; that there would still be the problem of congested passageways with people banging surfboards, fishing poles, etc., against the structures and each other; and undesirable elements would still be able to congregate in and around the facilities and have places to hide. The elevator towers would eliminate entirely one of the small stairways on the inland side of the tunnel, and reduce to approximately one-half the width of the open cuts and main stairways at both ends. This could substantially increase tunnel congestion during periods of peak use of those facilities.

The tunnel approach modification suggestions of the opposing parties assertedly would eliminate some places for undesirable persons to hide, but also would create new hiding places.

Witnesses for the opposing parties testified concerning the installation of sliding, swinging, or drop-type gates proposed by the city's consulting engineer. It was their testimony that even though it was proposed that gates

be installed a substantial distance from the track, it would be undesirable to have any kind of a complete closure where pedestrians or vehicles could be detained in established marshalling areas between gates installed on both sides of the track. Assertedly, wind and dust from passing trains could disorient pedestrians inside the area. It also was stated that falling cargo or material hanging from a train, such as broken steel cargo straps, could be hazardous to anyone standing nearby.

Although drop gates are used to control motor vehicles, it was asserted that they are not satisfactory devices to control pedestrians. Pedestrians at a crossing are far more mobile than motor vehicles and can walk around, climb under, or lift up drop gates. It was pointed out that drop gates are never installed across exit routes. Assertedly, the proposed sliding or swinging gates easily could be held open or vandalized. No evidence was produced to show that there are any Santa Fe crossings with similar protective devices, except the sliding gates at lifeguard Crossing 7, and similar gates at another private crossing at the Contra Costa sewage disposal plant which is used by one truck two or three times a week. Assertedly, sliding gates are designed for parking lots and industrial applications in buildings. They have small, inexpensive motors and are not designed as railroad fail-safe crossing devices.

The Coast Lines signal engineer said he was aware there are vast open areas in San Clemente where people cross the track and walk on it at will. The director of marine safety has seen children playing on about four miles of track in the city. Except at Crossing 2 at Senda de la Playa, there is no publicly used crossing place in San Clemente equipped with train-activated warning or protection. The staff associate engineer said he has

seen people walking on the railroad right-of-way. It was his opinion that people would continue to walk on the track north and south of the pier entrance even if the city's proposal for an at-grade crossing were authorized.

Witnesses for opposing parties offered suggestions concerning changes to lifeguard Crossing 7. It is the position of the opposing parties that the existing private crossing agreement between the city and Santa Fe should be observed and the existing gates should be kept locked, both to pedestrians and motor vehicles, except that handicapped persons and authorized personnel and vehicles should be permitted access to this crossing. They recommend that Crossing 7 remain where it is.

The Caltrans engineer referred to the steep grades on Avenida Victoria leading to the inland approach to the tunnel. He said he had not seen anyone confined to a wheelchair in that area. He was of the opinion it would not be feasible for handicapped persons to negotiate those hills without the assistance of being driven to the tunnel area, unless they use motorized wheelchairs. He said that the grade on Avenida Del Mar leading down to lifeguard Crossing 7 is more gradual and can be negotiated satisfactorily by persons in ordinary wheelchairs.

Various possibilities were offered by the opposing parties for improving protection at lifeguard Crossing 7. It was suggested that a human flagman be placed at the crossing during periods when the gates are out of operation. When the gates are working it was proposed that a simple doorbell be installed to signal need for entrance. No suggestion was made as to responsibility for opening and closing the gates. It was suggested that the present gates could be modified for operation

by card keys or radio transmitters, with the operation being overridden by train-activated circuits. Another possibility was to have a locked gate at the junction of Avenidas Del Mar and Victoria (Appendix A), with a sign directing pedestrians to the tunnel. Also included in that suggestion would be a locked marshalling area on the beach side of the track large enough to accommodate the largest truck using the crossing. Another suggestion was for the city to install No. 9 drop gates[16/] controlled by card keys, in addition to locked gates back from the crossing. Assertedly, No. 9's are necessary because locked gates provide no warning of approaching trains, and also because locked gates tend to be left open. It was suggested in addition that median barriers and one-way tire spikes be installed at the crossing.

The city's director of marine safety said that installations of No. 9 drop gates controlled by card keys would be satisfactory if the lifeguard department also could open the gates for lifeguard emergency vehicles and ambulances going in both directions. He said marshalling areas and locked gates would be too slow for the city's needs because emergency vehicles must cross the track as fast as possible except, of course, when a train is approaching. He also stated that there is not enough room on the beach side for a marshalling area to

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16/ These drop gates would remain in a closed (down) position all of the time unless they were actuated to open. The opening action would be overridden by train-activated circuits.

hold the largest truck equipment, including the truck tractors. Appendix A, in conjunction with photo Exhibit 47, demonstrate that there is insufficient room on the beach side for any practical vehicular marshalling area.

The director of marine safety and the city's consulting engineer were of the opinion that if lifeguard Crossing 7 were closed to pedestrians generally, as suggested by the opposing parties, additional pedestrian traffic through the tunnel, including more surfboards, would create problems. The consulting engineer pointed out that people must walk inboard of the tunnel walls so that they do not scrape against them. This restricts the practical use of the 8½-foot tunnel width. He was in doubt whether the tunnel could adequately handle all of the pedestrian traffic in the area on a busy summer day if lifeguard Crossing 7 was closed to all pedestrians except authorized persons.

The Caltrans engineer explained plans his organization has for improving passenger train service between Los Angeles and San Diego. As explained in Exhibit 34, Caltrans hopes to obtain funds sufficient to straighten out curves, raise super-elevations, and install chain link fencing along both sides of much of the six-mile alignment in the city. Efforts may be made toward increasing train speeds from the present 40 mph to as high as 90 mph. The Caltrans witness referred to the need for more crossing places if the railroad is fenced.

Caltrans Exhibit 34 contains plans to have the railroad completely removed from the beach and relocated on one of several possible inland bypass routes. Level 3 improvements, paragraph 5,[17/] pages 25 and 27 of Exhibit 34, portray alternate routes a, b, and c. Level 4 improvements, page 32, show the beach railroad route relocated to a nearly straight inland alignment running between Irvine Station at Culver Road, Orange County, and a point near San Onofre, San Diego County.

17/ Paragraph 5 reads as follows:

"5. Realignment Around San Clemente. There are three locational alternatives for a realignment around San Clemente. However, it should be noted that these realignments are not for the purpose of gaining speed, but rather to enhance the beach property along the present alignment.

"The three alignments are as follows:

"a. A study (at the City of San Clemente's request) conducted by the Atchison, Topeka and Santa Fe Railway to realign the route from MP 216, approximately 7 miles south of San Onofre, to MP 189 in El Toro.

"b. An alternate study by AT & SF for a realignment, also from MP 216, to continue through San Juan Capistrano and join the present alignment at about MP 195 in that city.

"c. An alignment proposed by the Study Team, to run from San Onofre to Gallivan, from MP 209.5 to MP 191.5."

It is the position of the city that any of the alternatives in Exhibit 34 for relocating the railroad to an inland alignment would remove the controversy with respect to the matters at issue here.

Discussion

The record shows that San Clemente has been confronted for many years with vexatious problems relative to the pier entrance tunnel. About one-third of the pedestrians in the area involved avoid the 8-1/2-foot-wide tunnel, which has a number of undesirable features, and cross the track at grade at several locations where there is no train-activated warning or protection. As the result, San Clemente, Santa Fe, and the public are faced with very serious safety problems.

It is the position of the city that the tunnel does not meet its needs. For years the San Clemente city council has considered all possible ways of getting people from Avenida Victoria to the beach and pier, and keeps coming back to an at-grade crossing as the best possible solution.

It is the position of the opposing parties that the tunnel itself is a safe structure and that all the city needs to do is fix the approaches and close off all at-grade crossing access in the area to pedestrians (with the exception of handicapped persons at the lifeguard crossing). Santa Fe and the staff made it clear that the possibilities they offered for modifying the tunnel approaches were not proposals or recommendations, but were suggestions the city might adopt to solve its problems. Staff witnesses testified that neither the staff nor the railroad is obligated to design crossings for anyone. The only recommendation of Santa Fe and the staff is that the application be denied. Applicant's two alternative proposals for an

at-grade crossing are the only firm proposals for change on this record.

None of the tunnel approach modification schemes of the opposing parties would require authority from this Commission as long as the tunnel structure itself would not be violated. Agreement only would have to be reached between the city and Santa Fe who each own some of the land. The city makes no proposals in this proceeding to modify either the tunnel or the approaches. The city finds serious problems with all tunnel approach modification suggestions of the opposing parties. It was not demonstrated on this record that any of those possibilities would constitute entirely practical solutions to the city's problems.

In 1930, about three years after the tunnel was built, the population of San Clemente was 667. Today it is approximately 20,000. Population in Orange County and surrounding counties has increased substantially in recent years. We notice that Interstate 5 goes directly through San Clemente with a number of off-ramps in both directions. This places San Clemente within easy driving distance of a number of southern California population centers. During the off-season period of about nine months, the beach, ocean, and pier have less usage than during summer. The tunnel is not crowded. It was during an off-season period in the winter and spring of 1975 that the above pedestrian beach access tally was made. The record demonstrates, however, that with the coming of summer, conditions relating to the public use of the beach and pier change dramatically. This is normal vacation time and, climatically, the most advantageous time to enjoy recreation facilities in the environment of the beach, pier, and ocean. Additional thousands of people visit San Clemente in the

summer. The figures in the pedestrian beach access tally substantially understate those which the summer period would reveal. The record shows that this would be particularly true on certain summer holiday weekends. Public use of San Clemente beach facilities are likely to increase in the future. The proposed pedestrian at-grade crossing, which would be wider than the present tunnel, would help alleviate problems in the pier front area resulting from large summer crowds.

Handicapped people who cannot use the tunnel must use lifeguard Crossing 7. So do thousands of pedestrians, many of whom originate at the city parking lot which is substantially closer to Crossing 7 than to tunnel Crossing 8. All vehicles must now use Crossing 7. That crossing handles about 36,500 vehicle crossings, and at least 40,600 pedestrian crossings in a year. Unless we authorize a vehicular at-grade crossing at the pier entrance, as sought, the vehicular at-grade crossing will have to stay where it is. There is no grade separation crossing (present or proposed) that will handle motor vehicles. Proposals of opposing parties to close off Crossing 7 and the hole-in-the-fence at-grade crossing at the pier entrance, and require most future pedestrians in the area to go through the one 8½-foot-wide tunnel, are unrealistic. Such an arrangement might work most of nine months of the year, other than summer. However, future summer crowds must be considered and accommodated. Furthermore, to close off all pedestrian access in the area except the tunnel means that when the tunnel is flooded and impassable following winter storms, there would be no access to the beach and pier for pedestrians generally unless, of course, the lifeguard crossing was pressed back into public service.

Natural terrain conditions, elevation differences, geometric design problems, proximity of the railroad to the shoreline, hydraulic problems, building requirements calling for pedestrian ramps with maximum slope of 8.3 percent, and cost considerations demonstrate on this record there probably is no feasible way to construct a new underpass or overpass for pedestrians or pedestrians and vehicles in the vicinity of the pier entrance.

Applicant has demonstrated that additional public pedestrian crossing capacity is needed in the pier front area. Based on the record there are only two practical ways San Clemente's present and future needs for pedestrian beach and pier traffic and vehicular traffic in the area involved can be accommodated. One way is to grant the city's proposed combination pedestrian and limited access vehicular at-grade crossing in lieu of the present pedestrian tunnel subject to closing of the lifeguard at-grade crossing. The other way would be to deny that portion of applicant's request to abolish the tunnel, and to grant its request for the proposed combination pedestrian and vehicular at-grade crossing at another location, such as the site of the present lifeguard at-grade crossing.

Advantages of authorizing the sought pedestrian and limited access vehicular at-grade crossing at the present site of lifeguard Crossing 7 are: (1) the tunnel would continue in service for all those pedestrians who now use it in spite of its drawbacks; (2) additional public pedestrian crossing capacity would be created for summer crowds; (3) the city parking lot is much closer to lifeguard Crossing 7 than to tunnel Crossing 8; (4) there is a more gradual approach to Crossing 7 on Avenida Del Mar than there is to Crossing 8 on Avenida Victoria, which would benefit handicapped persons, including persons with

ailments such as cardiac conditions; and (5) a broader stretch of public beach would be made more easily accessible with less congestion than if all pedestrians were required to funnel through one pier entrance crossing.

In spite of the undesirable features of tunnel Crossing 8, it is still used by about two-thirds of the pedestrians in the area. The record does not show that the city should be authorized to demolish the tunnel at this time. The undesirable features of the tunnel approaches and the existence of the hole-in-the-fence at-grade crossing at the Amtrak depot are matters the city will have to deal with in connection with redevelopment of the area.

Based on all of the evidence we conclude that the city should be authorized to construct a protected combination pedestrian and limited access vehicular at-grade crossing at the approximate site of lifeguard Crossing 7.

Although we are concerned in this proceeding principally with conditions along about 800 feet of track (Appendix A), the record shows that extremely serious safety problems exist along most of the six miles of beach in San Clemente. The safety problems at the pier entrance, at lifeguard Crossing 7, and all along the beach could be eliminated permanently, of course, if the railroad were relocated to an inland alignment as shown in Caltrans Exhibit 34, discussed above. The railroad is located between the population and the six-mile-long recreation beach, and separates the beach from the population. There are four

authorized public crossing places. Along the remainder of the beach the railroad now constitutes mostly an inconvenient obstacle to most people who have to climb over the roadbed and track. To the extent that future upgrading of the right-of-way might restrict pedestrian access across it, the more the railroad would become a barrier between the population and the recreation beach. The most important use of the beach is for recreation. This attraction cannot be relocated. The parties to this proceeding should continue to explore all possible ways for accomplishing relocation of the railroad to an inland alignment, including ways for obtaining necessary subsidy funds.

Findings

1. The city of San Clemente seeks to abolish an 8½-foot-wide pedestrian tunnel under the Santa Fe right-of-way (Exhibits 1 and 2, Crossing 8) between Avenida Victoria and the entrance to the municipal pier and adjacent beach areas, and to replace it with either (1) a protected at-grade pedestrian crossing, or (2) a protected combination at-grade pedestrian crossing and a limited access vehicular at-grade crossing at the same site.

2. Applicant proposes to pay all grade crossing construction costs, including the costs of protective devices, and the costs of installing those devices.

3. In the event the second alternative proposal in Finding 1 is authorized, applicant also proposes to permanently close the lifeguard crossing (Appendices A and B, Crossing 7), located approximately 500 feet northwesterly of the proposed at-grade crossing.

4. The railroad track involved is the Santa Fe Coast Line, Fourth District, single-track main line between Los Angeles and San Diego.

5. The pedestrian tunnel at the pier entrance which was constructed about 1927 is inadequate and undesirable.

6. Because of elevation differences, a person making a round trip through the tunnel is required to make a combined climb equivalent to 26 vertical feet.

7. Tunnel Crossing 8 and its approaches constitute an absolute physical barrier to persons in wheelchairs, and either an absolute barrier, or a substantially imposing barrier and hazard to many others who are young, elderly, feeble, physically handicapped, or who desire to carry infants, baby strollers, beach umbrellas, fishing poles, barbecue equipment, surfboards, or other large or unwieldy items.

8. The pedestrian tunnel is located near the center of a high crime area of several square blocks known as the bowl area. Special police measures initiated by the city in the bowl area, including the immediate vicinity of the tunnel, do not produce desired results.

9. The record shows that some people are afraid to use the tunnel because of the crime problem, and also because they have encountered undesirable loiterers in and around the tunnel.

10. An at-grade crossing would be of assistance to police because it would permit a clear view from patrol cars on Avenida Victoria to the pier.

11. Major use by pedestrians of the hole-in-the-fence at-grade crossing at the pier entrance is due to the inadequacy and undesirability of the 8½-foot-wide tunnel located only a few feet away.

12. It has not been possible for the city by the use of chain link fencing to force all pedestrians to use the pedestrian tunnel, nor to prevent pedestrians from cutting holes in fencing or gates, digging around the fence, and otherwise gaining access to the railroad right-of-way, beach, and pier at unauthorized places in the vicinity of the pier entrance and the lifeguard headquarters building.

13. There are a number of public at-grade crossings on this Santa Fe main line between Santa Ana and Oceanside. Five of these are in the city of San Juan Capistrano, and one is in San Clemente. All of these at-grade crossings are equipped with drop gates, flashing lights, and bells.

14. There are many unprotected open areas in San Clemente where people cross the Santa Fe track at grade, and walk on it at will.

15. Approximately 16 trains pass through San Clemente each 24 hours.

16. Since 1960 there have been seven train accidents along the six miles of track in San Clemente resulting in five deaths. All but one of those accidents occurred at places where there is no train-activated warning or protection. No pedestrians were killed or injured at lifeguard Crossing 7 or at the hole-in-the-fence at-grade crossing. One vehicle was damaged substantially following collision with a train at Crossing 7.

17. Timetables show that the maximum speed of all freight and passenger trains operating through the city is 40 mph. This is in compliance with San Clemente Ordinance 544 (1970).

18. Natural terrain conditions, elevation differences, geometric design problems, proximity of the railroad to the shoreline, hydraulic problems, building requirements calling for pedestrian ramps with maximum slope of 8.3 percent, and cost considerations demonstrate that there probably is no feasible way to construct a new underpass or overpass for pedestrians and/or vehicles in the vicinity of the pier entrance.

19. The suggestions made by opposing parties relative to what they believe the city could do to alleviate problems in the vicinity of the tunnel and the lifeguard crossing did not constitute proposals or recommendations of those parties.

20. None of the tunnel approach modification suggestions of the opposing parties would require authority from this Commission, as long as the structure of the present tunnel would not be violated.

21. The only firm proposals on this record to change crossing facilities at the pier entrance and to permanently close the lifeguard crossing are the city's two alternative at-grade crossing proposals. The city's conceptual plans and profiles for protected at-grade crossings are contained in Exhibits 3 and 4.

22. The 8½-foot-wide pedestrian tunnel handles about two-thirds of the pedestrian crossings in the pier front area in spite of highly undesirable features. The record does not show that the tunnel is structurally unsafe.

23. If all at-grade access across the track in the pier front area were closed to pedestrians generally, including lifeguard Crossing 7, the one 8½-foot-wide tunnel probably would not provide adequate public pedestrian crossing capacity to handle future summer crowds. Neither would there be any place nearby for pedestrians to cross the track when the tunnel is flooded and impassable, unless lifeguard Crossing 7 were pressed back into public service.

24. It was not demonstrated on this record that there is a practical alternative to construction of a public pedestrian at-grade crossing to meet the city's needs for increased crossing capacity in the pier front area, in addition to the one 8½-foot-wide tunnel. This is necessary to accommodate all those pedestrians who physically cannot use the tunnel, those who are afraid to use it, and those who otherwise do not desire to use it, as well as to provide for future increased use of beach and pier facilities, particularly in the summer.

25. Lifeguard Crossing 7 at the end of Avenida Del Mar has no train-activated warning or protection. It provides the only vehicular access to the pier, the lifeguard headquarters building, and adjacent beach areas. It is used by vehicles providing lifeguard, fire, police, ambulance, and maintenance services; vehicles transporting boats and equipment to and from the pier; vehicles transporting laundry and supplies for concessionaires and others; trucks transporting 55-foot-long piling; Dempster Dumpster rubbish trucks; buses transporting handicapped children; buses transporting students and members of groups (with gear) attending scheduled classes and contests relative to activities and safety in the marine environment, and by private automobiles of lifeguard station employees and volunteers. There are about 36,500 vehicle

crossings a year. The vehicle crossings are ordinarily for specific business purposes related to the pier, concessionaires, beach facilities and beach maintenance, public safety, and employment and activities at the lifeguard headquarters building. The city can control vehicular use of this crossing as a private crossing.

26. Lifeguard Crossing 7 handles at least 40,600 pedestrian crossings in a year. The city has not been able to enforce private crossing restrictions, particularly as they may relate to pedestrians. The crossing is used by large numbers of the general public to gain access to the recreation public beach and pier. It is a publicly used pedestrian crossing.

27. Unless an at-grade vehicular crossing is constructed at the pier entrance, as sought, all vehicles will continue to cross the track at lifeguard Crossing 7.

28. There would be more advantages relative to safety and increased public pedestrian crossing capacity from locating the proposed combination at-grade crossing at the site of lifeguard Crossing 7 and also preserving the tunnel than there would be from demolishing the tunnel and locating the at-grade crossing at the tunnel site.

29. Relocation of the Santa Fe track to an inland alignment would resolve completely the railroad-recreation beach conflict along the six miles of beach in San Clemente. The parties should continue to explore relocation and funding possibilities. However, the record does not disclose that such a project could be expected to be completed in the near future. Authorization for immediate resolution of the at-grade crossing problems in the vicinity of the pier entrance is required.

30. The record does not show that the sliding and swinging gates recommended by the consulting engineer for a combination at-grade crossing have been used heretofore at any crossing of the Santa Fe Coast Line (other than inexpensive versions of sliding gates at two private crossings), nor that they would provide an adequate level of safety. Pedestrians are highly mobile and easily can avoid crossing gates. The record does not show that standard No. 9 drop gates equipped with skirt material, or any other type of automatic railroad crossing gate installation, would be necessary safety equipment to control pedestrians in the pier front area beyond installations of standard No. 8 flashing lights and bells.

31. Public convenience and necessity require that applicant be authorized to construct a public pedestrian at-grade crossing at the approximate site of lifeguard Crossing 7, in conjunction with a limited access vehicular at-grade crossing, with dimensions substantially in accordance with the plan identified as Exhibit 4 (not including the automatic gates), subject to Findings 32 through 38.

32. The authorized combination crossing and the crossing protection should be constructed in accordance with the Commission's general orders.

33. The pedestrian crossing should be a public crossing with minimum protection of standard No. 8 flashing lights and bells. The vehicular crossing should be a private crossing protected with modified No. 9 drop gates that remain in a closed (down) position unless activated to open by a card key or radio transmitter operated by the driver of an authorized vehicle or by a button or switch operated by an authorized employee of the city. The gate arm opening operation should be overridden by train-activated circuits.

34. All work in connection with construction between lines two feet outside of the rails should be performed under the supervision of the railroad.

35. Santa Fe should install the automatic protection equipment.

36. The cost of constructing the crossing, the cost of the automatic protection equipment, and the cost of installing that equipment should be borne by applicant.

37. It should be the responsibility of Santa Fe to maintain the crossing area between lines two feet outside of the rails, and to maintain the automatic crossing protection. The cost of such maintenance should be borne by applicant.

38. It should be the responsibility of applicant to maintain the approaches and those portions of the crossing not included under Santa Fe's responsibility specified in Finding 37.

39. The authorized combination pedestrian and limited access vehicular at-grade crossing is reasonably necessary and convenient. It would adequately protect the public health, safety, and welfare.

40. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

It is concluded that the application should be granted as set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. The City of San Clemente (applicant) is authorized to construct a combination pedestrian and limited access vehicular at-grade crossing over the Santa Fe right-of-way at approximately the same site as existing private lifeguard Crossing 7, substantially as shown by the plan identified as Exhibit 4 (not including the automatic gates), subject to the conditions specified below. The crossing is to be identified as 2-204.7.

2. Protection equipment for the combination crossing shall be as specified in Finding 33.

3. The crossing authorized in Ordering Paragraph 1, and the automatic crossing protection, shall be constructed, installed, paid for, and maintained as specified in Findings 31 through 38, above.

4. Within thirty days after completion pursuant to this order, applicant shall so advise the Commission in writing.

5. This authorization shall expire if not exercised within two years, unless time be extended or if the above conditions are not complied with.

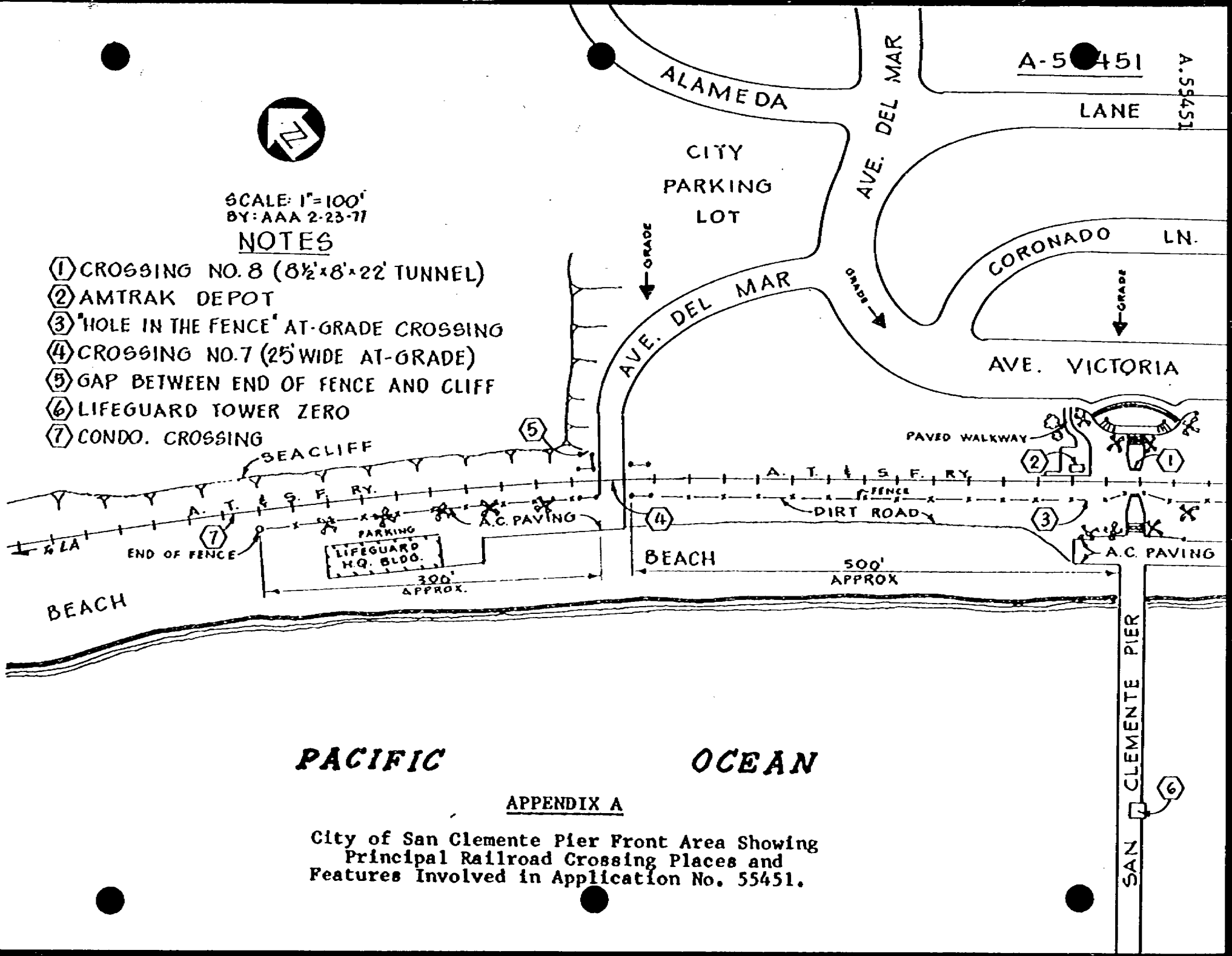
6. This authorization may be revoked or modified if public convenience, necessity, or safety so require.

7. To the extent not granted herein Application No. 55451 is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 23rd day of AUGUST, 1977.

Robert Batinovich
President
William Symons, Jr.
Vernon L. Sturgeon
Richard D. Gravelle
Clair T. Dedrick
Commissioners



APPENDIX A

City of San Clemente Pier Front Area Showing Principal Railroad Crossing Places and Features Involved in Application No. 55451.

APPENDIX B
(Page 1 of 2)

Descriptions of Identified Places and Areas Along Six Miles of Santa Fe Main Line in City of San Clemente Where Pedestrians or Pedestrians and Vehicles Cross to Public Beach and Facilities

Crossing No. (Exhibits 1 & 2)	Location and Description	Protection or Warning Devices
1	Camino Capistrano-Camino San Clemente pedestrian and vehicular at-grade crossing.	None, except sign.
2	Senda De La Playa trailer park pedestrian and vehicular at-grade crossing (photo Exhibits 5 and 6) between parking area and public beach, Decision No. 59775 (1960), Crossing 2-203.4.	Automatic drop gates with flashing lights, bells, and signs. Gates added in 1976.
3	North Beach pedestrian at-grade crossing area of several hundred feet in vicinity of Lolly between Avenida Estacion and Boca de la Playa. Crossing between parking area and beach recreation area.	None, except sign.
4	Pelayo-Buena Vista pedestrian at-grade crossing to beach recreation area.	None.
5	West Escalones-West Mariposa pedestrian at-grade crossing to beach recreation area.	None.
6	Linda Lane pedestrian crossing between parking area and beach.	No protection or warning at grade. Small storm drain under track sometimes used as tunnel when not filled with water and debris.

APPENDIX B
(Page 2 of 2)

Crossing No. (Exhibits 1 & 2)	Location and Description	Protection or Warning Devices
Condominium Crossing (Unnumbered)	Pedestrian at-grade crossing between foot of stairway leading from multistory condominiums on seacliff and beach (between Crossings 6 and 7).	None.
7	Del Mar lifeguard crossing (photo Exhibits 8 and 47). Open, 25-foot-wide, private at-grade crossing used by pedestrians and motor vehicles to and from lifeguard headquarters building, concessions, beach, and pier.	None, except signs. Sliding gates not operating mechanically.
8	Pier entrance pedestrian underpass, Crossing 2-204.8 BD. Constructed about 1927 (photo Exhibits 9, 10, 11, and 12). Also adjacent hole-in-the-fence pedestrian at-grade crossing.	Tunnel under track. No protection or warning at grade.
9	Esplanade-West Paseo de Cristobal pedestrian overpass, Crossing 2-205.1 AD (1951). Serves principally a residential area on the seacliff.	High walkway from top of seacliff over track with many stairs to beach.
10	La Costa-Playa a la Playa pedestrian crossing.	Storm drain channel also serves as pedestrian tunnel under track.
11	Avenida Calafia parking area and State Park. 4,000 feet of unprotected right-of-way.	None, except at Crossing 12.
12	State Park underpass (dirt road) used by pedestrians and small lifeguard vehicles, Decision No. 36708 (1943), Crossing 2-206.3 BD.	Tunnel under track.
13	Richard M. Nixon estate private pedestrian at-grade crossing (photo Exhibit 7).	Flashing lights and bell.