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ORIGINAL

Decision No. 89554

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)	
SOUTHERN PACIFIC TRANSPORTATION COMPANY)	
for an order authorizing the construction)	Application No. 58324
at grade of an industrial drill track in,)	(Filed August 30, 1978)
upon and across Eigenbrodt Way and Ahern)	
Street, both in the City of Union City,)	
County of Alameda, State of California.)	

O P I N I O N

The Southern Pacific Transportation Company (SP) requests authority to construct an industrial drill track at grade across Ahern Street and Eigenbrodt Way in the City of Union City, Alameda County.

The proposed industrial drill track will provide rail service to a new industry as part of the continuing development of Southern Pacific Land Company's Alvarado Industrial Park. Applicant states that "M" Distributing Company, the industry to be served, has immediate and urgent need for rail service and, therefore, requests that the usual thirty-day waiting period be waived.

Notice of the application was published in the Commission's Daily Calendar on September 1, 1978. No protests have been received.

Staff investigation has disclosed that the crossings, for which authority is sought, were constructed prior to the filing of this application. Although we find no reason to deny the application, we cannot sanction S.P.'s disregard of the well established permitting requirement of Public Utilities Code Section 1201. Had S.P. sought authority prior to construction of the crossings "M" Distributing Company would be receiving rail service today. Only S.P.'s disregard of well established and well known statutory requirements has resulted in this urgency alleged. We do not feel that such should be ground for exceptional relief. A public hearing is not necessary.

F I N D I N G S

After consideration, the Commission finds:

1. Applicant should be authorized to construct an industrial drill track at grade across Ahern Street and Eigenbrodt Way in the City of Union City, Alameda County, to be identified as Crossings L-26.84-C and L-27.12-C, respectively.

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

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

4. Protection at each crossing should be two Standard No. 8-A automatic signals with cantilevers (General Order 75-C).

5. For a period not to exceed two months from the date of this order, protection at each crossing may be two Standard No. 1-R crossing signs (General Order 75-C). The signs should be lettered both sides on reflectorized white background.

No on-rail vehicle should operate over the crossings unless it shall first be brought to a stop and traffic on the street on each side of the tracks protected by members of the crew, or other competent employees of the railroad, acting as flagmen.

6. Written instructions should be issued by the railroad to trainmen operating over the crossing to comply with the flagging instructions. A copy of the instructions should be filed with the Commission within fifteen days. Suitable signs should be installed on both sides of Ahern Street and Eigenbrodt Way calling the attention of trainmen to the flagging instructions. Flagging procedures outlined herein should remain in full force until the required automatic protection is installed and operative.

7. Construction cost of the crossings and installation cost of their automatic protection should be borne by the applicant.

8. Maintenance of the crossings should be in accordance with General Order 72-B. Maintenance cost of the automatic protection should be borne by the applicant.

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

C O N C L U S I O N S

On the basis of the foregoing findings, we conclude that the application should be granted as set forth in the following order:

O R D E R

IT IS ORDERED that:

1. The Southern Pacific Transportation Company is authorized to construct an industrial drill track at grade across Ahern Street and Eigenbrodt Way in the City of Union City, Alameda County, as set forth in the findings of this decision.

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

This authorization shall expire if not exercised within one year unless time be 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 shall be effective thirty days after the date hereof.

Dated at San Francisco, California, this 17th day of OCTOBER, 1978.

 President
William S. Quinn, Jr.

Vernon L. Sturgeon

Robert D. Swade

Clair Z. DeSilva
 Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.