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Decision No. 91469 MAR 18 1980

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF SALINAS
for an order authorizing construction
of a crossing at separated grades
between Davis Road and the tracks of
the Southern Pacific Transportation
Company, sometimes referred to as the
Davis Road Overhead. PUC No. E-117.23-A.

Application No. 59126
(Filed September 6, 1979)

Raymond M. Haight, City Attorney, for
the City of Salinas, applicant.
Harold S. Lentz, Attorney at Law, for
Southern Pacific Transportation
Company, respondent.
Robert W. Stich, for the Commission
staff.

O P I N I O N

The application of the city of Salinas (City) requests an order authorizing construction of a crossing at separated grades between Davis Road and the tracks of the Southern Pacific Transportation Company (SP), sometimes referred to as the Davis Road Overhead (PUC No. E-117.23-A.), and that the Commission apportion 10 percent of the cost of the Davis Road Overhead project to SP pursuant to the provisions of Section 1202.5(b) of the Public Utilities Code (PU Code):

"(b) Where a grade separation project initiated by a public agency will directly result in the elimination of one or more existing grade crossings, located at or within a reasonable distance from the point of crossing of the grade separation, the commission shall apportion against the railroad 10 percent of the cost of the project. The remainder of such costs shall be apportioned against the public agency or agencies affected by such grade separation."

As City and SP have not voluntarily executed a written agreement to share the project cost, duly noticed public hearings

in the matter were held before Administrative Law Judge Orville I. Wright (ALJ) in San Francisco, California, on February 11, 13, 14, 15, and 19, 1980. At the conclusion of the hearings the matter was submitted subject to the filing of concurrent briefs by the parties, due March 3, 1980.

Decision No. 90399 dated June 5, 1979 establishes that Boronda Road is Number 22 in priority of railroad crossings which we determined to be most urgently in need of separation or alteration for the year 1979-1980. The Davis Road grade separation (project) is advanced by City as qualifying to replace it. We are to determine here whether the project will directly result in the elimination of the Boronda Road crossing and whether the project is within a reasonable distance from Boronda Road. We are also to determine the merits of several objections to our approval of the project raised by respondent.

The draft environmental report is entitled "Davis Road Extension and Grade Separation", indicating the two purposes to be served by the project: (1) to provide the final link in a chain of arterials around the perimeter of City and (2) to eliminate the Boronda Road grade crossing. City's program essentially joins two projects into a single plan.

The geometric limits of the Davis Road grade separation (project) for which the City seeks an apportionment of 10 percent of the cost to SF are set forth on pages 5 and 6 of Exhibit 1, and are as follows:

1. The removal and closure to traffic of the existing Boronda Road Grade Crossing, PUC No. E-116.7, and the cul-de-sac and barricades required in connection therewith.

2. The northerly approach roadways, supporting embankments, and appurtenances of the Davis Road Overhead extending to the northerly end of the sag vertical curve at or about Station 113 + 50.

For right-of-way costs, the amount shall be determined by prorating the area required south of said Station 113 + 50, as related to the total area to be acquired between the SP's existing northerly right-of-way line and West Rossi Street.

3. Relocation of the Monterey County Flood Control and Water Conservation District Canal.

4. Two bridge structures, one spanning West Market Street and the second spanning the SP tracks and right-of-way.

5. All approach roadways, embankments, and appurtenances, southerly of the Davis Road Overhead structure, extending to Station 96, except that work associated with Ramps C and D, which do not carry traffic across the railroad, are excluded, as set forth below.

6. For right-of-way cost south of West Market Street, 51 percent of the net cost of the rights-of-way required for the total grade separation project and the several loops and approach roadways between the north line of Via Maria on the south and the existing state-owned right-of-way of Route 183 along West Market Street.

7. Pavement widening along West Market Street, as necessary to provide channelized left turn pockets to Ramps A and B and temporary detours, as needed, to carry traffic through construction.

8. Railroad work, flagging, adjustment of trackage, adjustment to signal and communication lines, and the like, all as may be described in a subsequent Railroad Agreement.

Those portions of the project for which the City does not seek an apportionment of cost to SP are set forth on pages 6 and 7 of Exhibit 1, and are as follows:

9. Traffic signals and roadway lighting along West Market Street.

10. Ramps C and D.

11. Approach roadways and associated rights-of-way northerly of the north end of the sag vertical curve at or about Station 113 + 50.

12. Approach roadways and pro rata portion of rights-of-way southerly of Station 96 + 00, as described in paragraph 2 above.

The total cost of the project is estimated at \$7,296,000 of which \$490,000 represents extension of the overpass over the distance of three additional contemplated tracks at the request of SP.

That the project will directly result in the elimination of the Boronda Road crossing is a fact virtually uncontradicted by respondent. The evidence shows that the project would provide a portion of a connector route around the City generally following the adopted Freeway Route which was abandoned by the California Department of Transportation. City, with County of Monterey participation, has constructed 1.2 miles of this route as a 4-lane highway from Route 68 westward to Alisal Street. Monterey County is now constructing an extension of the 4 lanes from Alisal Street westward 0.42 miles to Davis Road. From the U.S. 101 interchange at Laurel Drive, developers have extended Davis Road southerly approximately 0.6 miles. The project will connect this southerly extension of Davis Road with that portion of Davis Road which lies south of Market Street. (Exhibit 11, pages 2-4; also see TR 43:16 to 44:30; 16:12 to 17:3; 114:22 to 115:1.)

Construction of the project will greatly improve convenience to the motoring public by providing a much more direct north-south travel corridor in the western part of City. It will provide a quicker, safer route for the vast majority of the motoring public which presently uses Boronda Road. It will save a great deal of travel time for residents in the southwest portion of City who wish to travel to the northern part of City, particularly to the regional

shopping center or to U.S. 101 (TR 28:12-25; also see TR 30:12-30; 228:27 to 229:1). The converse is also true, to wit: construction of the project will substantially benefit those individuals in the northwestern part of City who wish to travel to the southern part of town or beyond to such areas as Fort Ord (TR 168:10-20).

The record further reveals that the project will provide a more direct and convenient north-south corridor for the motoring public living in or traveling through the western portion of City, as opposed to the present corridor located at Boronda Road, a significant savings in travel time and fuel cost would be effected. The project "... is a much more direct route, cutting down the distance they'd have to travel. It furnishes a much faster route. It saves them a lot of time, as well as mileage on their cars." (TR 28:22-25). "...with the shorter travel distance, there is savings to the public in terms of less travel distance, less fuel consumption, less pollution to the environment due to vehicles traveling out of their way, wasting fuel at grade crossings or going into them." (TR 229:9-14.)

We believe that the record amply demonstrates that the project will provide a far more convenient traffic corridor over the SP tracks than does Boronda Road and will directly result in the closing of the latter crossing.

SP appears not to seriously contend otherwise. It, however, alleges that because the Boronda Road crossing is in Monterey County (County) outside the limits of City, the Commission is precluded from ordering its closure because County is not a party to this proceeding. No authority is cited for this argument by SP.

SP confuses appearance at the hearing with notice thereof and an opportunity to be heard. County received notice of OII 32 wherein Boronda Road was given a ranking of Number 22 on the priority list. County has nominated City as lead agency for project purposes

and for purposes of the environmental impact report filed in this proceeding. In these circumstances, the Commission's exclusive power to alter, relocate, or abolish by physical closing any crossing heretofore established is abundantly clear.

SP argues that too high priority was given to Boronda Road in Decision No. 90399. But that proceeding was concluded on June 5, 1979 without petition for rehearing having thereafter been filed by SP. The time is long past for relitigation of OII 32.

A more difficult question is whether the project is within a reasonable distance from the point of crossing at Boronda Road.

SP witnesses testified that cost is one measure of the reasonableness of an overpass to be located at a point other than at the point of crossing to be eliminated. City's expert witness submitted a feasible overpass plan for Boronda Road which he estimated to cost \$4,852,000 as compared with the \$7,296,000 cost estimate for the project. There appears not to have been any case in the records where an overpass located apart from the grade crossing itself costs more than construction at the crossing itself.

We agree, along with the witnesses of SP and of City, that other factors than cost alone must be taken into account by the Commission in cases such as this one. These factors include public safety, traffic service, existing development in the area, established land use patterns and plans, and facility and time of response by emergency vehicles.

The evidence shows that, when constructed, the project will directly connect State Route 183 with U.S. 101 on the westerly side of the City, eliminating the necessity for vehicles to travel into the heavily congested downtown area to accomplish the same link-up. (Exhibit 11, page 3.)

The project will improve access to nearby neighborhoods.

It is at a location where it offers a substantial benefit to large segments of the community on each side of the project (TR 30:12-30; 228:27 to 229:1; 339:3 to 400:11).

The project would greatly improve the access of emergency vehicles (fire, police and ambulance vehicles) to areas adjacent to or near the project area, and would significantly enhance their emergency response time (TR 29:25 to 30:11), by as much as 1 minute, in that it would alleviate the present situation which entails an adverse travel distance of as much as a 1/2 mile for many emergency trips (TR 271:10-19). There is evidence that the City is planning to construct a new fire station in the Rossi-Rico area which would serve neighboring areas north and south of West Market Street and "...this is not really possible without having both the grade separation as well as one that is located close enough to make the running time for a fire engine at a minimum." (TR 29:21-24.)

The Davis Road alignment is consistent with City's Rossi-Rico Land Use Plan, which shows Boronda Road as terminating just prior to and on the north side of the SP tracks, and the project being built on the Davis Road alignment. (Exhibit 5; TR 31:26 to 32:2.)

The Davis Road alignment is the logical and appropriate location for the project, for the additional reason that substantial development of the Rossi-Rico area is planned in the immediate future. Exhibit 11, page 3, discloses the following planned development:

"The construction of approximately 1,000 single family homes and 600 apartments has been approved, and some are now complete. The United States Postal Service has purchased land in the area and is building a regional distribution center. The Salinas Elementary School District has completed a half million dollar extension of the elementary school which will serve the area. Without the construction of the proposed overpass, the projected growth indicated for the area will certainly suffer from inadequate traffic circulation. An Improvement District is being formed as a separate project to improve the internal circulation within the area."

It is expected that substantial growth will take place in the Rossi-Rico area (TR 131:23-27):

"...because that has the public facilities already there; is already annexed, and has a project that's been approved, and is being designed for the portion of Davis Road north of Rossi Street, and also Rossi Street out to Main."

A portion of North Davis Road has already been constructed, with an interim connection to Laurel Drive; a portion has already been constructed to a 4-lane divided highway, with a 106-foot right-of-way (TR 178:8-16). A portion of Rossi Street extending out to Main Street has already been approved by the City Council; an assessment district has been formed to pay for portions of the Davis Road and Rossi Street extensions (TR 178:17-26). All of this has been done in anticipation of the Davis Road Overhead project (TR 178:27 to 179:8). The City has also expended approximately \$200,000 (about 1/2 of which is project eligible) for purchasing rights-of-way in the area for the purpose of improving Davis Road and Rossi Street (TR 179:9-26). Other developments have taken place as set forth in Exhibit 11, page 2.

The investment in the aforementioned public improvements that have been constructed or planned would be substantially and adversely affected if the project were not built on the Davis Road alignment. City argues that any other alignment, giving consideration to all the surrounding circumstances, would not only be wasteful, but illogical and inappropriate as well.

City has approved the Davis Road alignment (TR 31:30 to 32:6; 253:5-8). County has approved the Davis Road alignment (TR 35:1-25; 253:17-21) and has entered into an agreement with City whereby the latter is to act as lead agency with respect to preparation of studies and the filing of applications with the Public Utilities Commission. In addition, County has budgeted \$150,000 toward the engineering costs of the project for this fiscal year and has also shared in 1/2 of

the cost of the preliminary analysis of the project (TR 35:1-22; Exhibit 11, page 1). An agreement between the City and the County relating to sharing in the cost of construction of the project is presently being prepared and will probably be executed within a short period of time (TR 35:23-25).

City's expert witness testified to the validity of design criteria for a hypothetical feasible overpass at Boronda Road at less cost than that for the project. He testified that, while the overpass would be adequate, the route of vehicular traffic which would result would be "lousy". (TR 271:3)

City's testimony is that there would be adverse environmental effects from the hypothetical configuration because all of the alignment south of the SP tracks goes through agricultural property, and on the north side of the SP tracks it goes through an area susceptible to flooding. It also interferes with the Rossi-Rico Land Use Plan which calls for open space in the area. It would require adverse travel distance for the motoring public. Specifically, it would generate approximately 3,321 vehicle miles per day of adverse travel (based on a level of 10,000 vehicles per day). This, in turn, would result in a fuel waste amounting to \$565 per day, or slightly more than \$200,000 per year. Approximately 67,342 gallons of gas would be wasted per year. By 1995, based on a level of 33,000 vehicles per day, this would amount to approximately 250,000 gallons of wasted fuel per year as compared to the Davis Road Overhead alignment. (TR 269:9 to 270:23; 179:27 to 182:18; TR 316:26-29.)

All of the aforesaid facts, taken together, persuade us that the project is in reasonable proximity to the grade separation to be eliminated and that it is in the public interest that the project be approved even though its cost, standing alone, is substantially in excess of the feasible hypothetical configuration at Boronda Road. The distance between the two points is 2300 feet which we find to be reasonable.

The motion of SP to bring County into this proceeding was properly denied by the ALJ.

No other issues require discussion.

Findings of Fact

1. Public convenience and necessity require that the City be authorized to construct a crossing at separated grades along the alignment of Davis Road, spanning the tracks of SP between Rossi Street and south of West Market Street, as more particularly described in the application and attached exhibits, for both motorized and nonmotorized traffic, to be identified as Crossing E-117.2-A.

2. City is the lead agency for this project and is acting on behalf of itself and County.

3. Project follows an alignment which is consistent with City's Rossi-Rico Land Use Plan, which calls for the southerly terminus of Boronda Road (which basically follows a north-south direction) to be located at a point on the north side of the SP tracks, and for the closure of the Boronda Road grade crossing.

4. Project offers superior service and function to the motoring public and emergency vehicles than the Boronda Road grade crossing.

5. Project will result in the saving of substantial amounts of motor vehicle fuel and overall travel distance for the motoring public as compared to the Boronda Road grade crossing and the adverse travel distance it requires.

6. Project will serve the same traffic corridor as the Boronda Road grade crossing.

7. Project provides a convenient and logical north-south traffic corridor, as compared to the Boronda Road grade crossing.

8. Project will provide superior access to the Rossi-Rico area of the City of Salinas, as well as to other surrounding neighborhoods, as compared to the Boronda Road grade crossing.

9. The Rossi-Rico area is planned for substantial residential and commercial growth and a substantial investment in development planning and in public and private improvements has already occurred in this area.

10. Project will substantially enhance the safety of the motoring public in crossing over the SP tracks by enabling it to do so at a separated grade, thereby avoiding the potential of vehicle-train accidents which exists at the Boronda Road grade crossing.

11. Project will substantially aid in reducing traffic congestion on West Market Street and at the Main Street Underpass (which is located approximately 1.3 miles to the east of the proposed grade separation structure).

12. Project will directly result in the elimination of the Boronda Road grade crossing, PUC No. E-116.7, which is located approximately 2300 feet westerly of the point of crossing of the proposed grade separation structure.

13. The Boronda Road grade crossing is located within a reasonable distance of the point of crossing of the proposed grade separation structure.

14. Project falls within the classification contemplated by Section 1202.5(b) of the Public Utilities Code.

15. Project will benefit SP in that it will enable it to avoid the potential vehicle-train conflict that exists at the Boronda Road grade crossing, and will enable it to utilize the area more effectively for train switching movements.

16. SP has four existing tracks in place at the site of the proposed grade separation structure, and has requested that the bridge structure that will cross over its tracks be of sufficient length to accommodate the installation of three additional tracks in the future. Applicant is willing to provide the space for the three future tracks and such space should be provided. This will also benefit SP.

17. A feasible hypothetical grade separation project located on an alignment at or immediately adjacent to Boronda Road has been reviewed. While engineering details of these various alternatives were not fully developed, it is evident that any grade separation alignment along or adjacent to Boronda Road would be substantially inferior to the Davis Road alignment from the standpoint of public convenience and necessity.

18. An alignment along or adjacent to Boronda Road would not only offer inferior service and function to the motoring public, but to emergency vehicles as well.

19. An alignment along or adjacent to Boronda Road would be inconsistent with the Rossi-Rico Land Use Plan of City.

20. An alignment along or adjacent to Boronda Road would result in a substantial waste of motor vehicle fuel and adverse travel distance to the motoring public, as compared to the Davis Road alignment.

21. The project has been placed on the 1979-1980 annual priority list established by the Commission pursuant to the provisions of Section 2452 of the Streets and Highways Code.

22. The project is in Priority Position Number 22 as set forth in PUC Decision No. 90399, dated June 5, 1979.

23. Pursuant to PUC Decision No. 90399, the Boronda Road grade crossing has been found to be urgently in need of elimination or separation.

24. SP was represented in the nomination hearings which were held in 1979 and which culminated in PUC Decision No. 90399. SP did not object to the nomination of the project by City, and SP did not request that the hearings be reopened or that a rehearing be set with respect to this project.

25. On January 28, 1980, City, acting as lead agency for this project, approved a Final Environmental Impact Report with respect

to the project. Applicant filed a Notice of Determination in accordance with the California Environmental Quality Act. This notice and the Final Environmental Impact Report have been filed with the Commission.

26. The Commission has considered Applicant's Final Environmental Impact Report and finds that the benefits of the proposed project outweigh any adverse effects, and that the proposed project should be approved.

27. Inasmuch as this project falls under Section 1202.5(b) of the Public Utilities Code, 10 percent of the cost of construction should be apportioned against the railroad. The remainder of the construction costs should be borne by City. The project cost should be defined as the cost of that portion of the project described as follows:

- a. The removal and closure to traffic of the existing Boronda Road Grade Crossing, PUC No. E-116.7, and the cul-de-sac and barricades required in connection therewith.
- b. The northerly approach roadways, supporting embankments, and appurtenances of the Davis Road Overhead extending to the northerly end of the sag vertical curve at or about Station 113 + 50. For right-of-way costs, the amount shall be determined by prorating the area required south of said Station 113 + 50, as related to the total area to be acquired between the SP's existing northerly right-of-way line and West Rossi Street.
- c. Relocation of the Monterey County Flood Control and Water Conservation District Canal.
- d. The two bridge structures, one spanning West Market Street and the second spanning the SP tracks and right-of-way.
- e. All approach roadways, embankments, and appurtenances, southerly of the Davis Road Overhead structure, extending to Station 96, except that work associated with Ramps C and D, which do not carry traffic across the railroad, shall be excluded.

- f. For right-of-way cost south of West Market Street, 51 percent of the net cost of the rights-of-way required for the total grade separation project and the several loops and approach roadways between the north line of Via Maria on the south and the existing state-owned right-of way of Route 183 along West Market Street.
- g. Pavement widening along West Market Street, as necessary to provide channelized left turn pockets to Ramps A and B and temporary detours, as needed, to carry traffic through construction.
- h. Railroad work, flagging, adjustment of trackage, adjustment to signal and communication lines, and the like, all as may be described in a subsequent Railroad Agreement.

28. Maintenance cost of the elevated structure, including abutments, piers, superstructure, and approach embankments, should be borne by City. SP should be responsible for the cost of maintenance of railroad track, longitudinal drainage, and all railroad facilities.

29. Following completion and opening to traffic of the Davis Road Overhead, the existing Boronda Road grade crossing, FUC No. E-116.7, should be abandoned and physically barricaded to public traffic.

30. Clearances should be in accordance with General Order 26-D. Walkways should conform to General Order 118.

31. Construction plans of the proposed project should be submitted by City to SP for its technical review and should be filed with the Commission prior to commencing construction.

32. Changes incorporated into the project which mitigate the significant impacts are the responsibility of City. Such changes should be adopted by City.

Conclusions of Law

1. The proposed project falls within the classification established by Section 1202.5(b) of the Public Utilities Code.

2. The application for an Order to Construct the project and the request for an apportionment of ten percent (10%) of the cost thereof to SP should be granted.

3. In view of the need of the city of Salinas to obtain an order immediately in order to receive an allocation of funds from the Grade Separation Fund Program this fiscal year, this order will be effective immediately.

O R D E R

IT IS ORDERED that:

1. The city of Salinas is authorized to construct the Davis Road Overhead (PUC E-117.2-A) at separated grades across the tracks of the Southern Pacific Transportation Company, all as set forth in the findings of this decision.

2. Ten percent of the cost of the project, as defined in the findings, shall be apportioned against the Southern Pacific Transportation Company, and the remainder thereof shall be borne by the city of Salinas.

3. Within thirty days after completion of construction pursuant to this order, the city of Salinas shall so advise the Commission in writing.

4. This authorization shall expire if not exercised within three years 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.

The effective date of this order is the date hereof.

Dated MAR 18 1980, at San Francisco, California.

John E. Bayson
President

Richard W. Kivale
Commissioners

[Signature]
Commissioners

Commissioner Claire T. Dodrick, being necessarily absent, did not participate in the disposition of this proceeding.