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MAIL DATE  
1/25/96

Decision 96-01-028                      January 24, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF SAN CARLOS )  
for an Order Authorizing construction )  
of 7,558 feet of earthfill embankment, )  
150 feet of open platform structure, )  
and one railroad grade separation )  
structure to carry Holly Street )  
traffic under the tracks of the )  
Peninsula Corridor Joint Powers Board, )  
and one temporary crossing at-grade )  
across the shoofly tracks of the )  
Peninsula Corridor Joint Powers Board )  
(PUC No. E-23.1). This project is )  
sometimes referred to as the "Holly )  
Street Grade Separation Projects". )

**ORIGINAL**

Application 95-04-003  
(Filed April 4, 1995)

ORDER DENYING REHEARING OF DECISION 95-09-071

The Laureola Association (Laureola) has applied for rehearing of D.95-09-071 which granted the application of the City of San Carlos to construct one railroad grade separation structure and one temporary crossing-at-grade, referred to as the Holly Street grade separation project. Construction is to raise railroad tracks 11.5 feet higher than the existing grade over Holly Street in the City of San Carlos and to depress the street 8.5 feet below its existing elevation. Laureola alleges that the height of 11.5 feet and depression of 8.5 feet is in violation of City of San Carlos Resolution No. 1994-2 and the plan presented to voters in the City of San Carlos measure D. (Application of Laureola Association for Rehearing of Decision 95-09-071) Laureola states that the resolution and measure D specify that railroad tracks are to be raised 10 feet and Holly Street lowered 10 feet.

The City of San Carlos responded in opposition to the application for rehearing. San Carlos argues that Laureola lacks standing to challenge Decision No. 95-09-071 because it was not a

party to the proceeding and is not a stockholder or a bond holder pecuniarily interested in the public utility affected. (Response of the City of San Carlos in Opposition, page 2). We need not decide the issue of standing.

The question of grade crossings and separation of grades is one of state concern as distinguished from a municipal affair. It lies within the jurisdiction of the Commission which has the "exclusive power" to require a separation of grades and to prescribe the terms upon which such separation shall be made. (Section 1202 Public Utilities Code). The resolutions of the City of San Carlos and measure D are not construction specifications. The City of San Carlos was organized under the general laws and is subject to the provisions of Section 1202 of the Public Utilities Code; see City of San Mateo v. Railroad Commission 9 Cal.2d 1 (1937).

Furthermore, the Commission's Safety and Enforcement Division's engineering staff inspected the site of the proposed project, and after reviewing the need for and safety of the proposed construction, the staff recommended that authority to construct the project be granted.

Laureola does not specify any legal ground as to why the Decision 95-09-071 is unlawful.

The Commission has reviewed each and every allegation of the application for rehearing.

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Therefore IT IS ORDERED that Laureola's application for rehearing of D.95-09-071 is denied.

This order is effective today.

Dated January 24, 1996, at San Francisco, California.

P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners

Commissioner Daniel Wm. Fessler,  
is necessarily absent on official  
business.