

Decision 96-02-016 February 7, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Modesto for an )  
order authorizing construction of a crossing )  
at separated grades between Kansas Avenue )  
and the tracks of the Southern Pacific )  
Transportation Company, sometimes referred )  
to as the "Kansas-Needham Overhead" )  
[PUC No. B-112.3A] )

) Application 95-10-029  
) (Filed October 16, 1995

**ORIGINAL**

O P I N I O N

As part of a railroad track consolidation project, the City of Modesto (City) requests authority to construct Kansas Avenue at separated grades over Southern Pacific Transportation Company's (SPT) El Paso Route main line tracks in Modesto, Stanislaus County. The proposed grade separation will replace the existing Kansas Avenue at-grade crossing.

The proposed construction consists of realigning Kansas Avenue via a new structure (Kansas-Needham Overhead) over existing 8th Street, SPT's tracks, and 9th Street. Under a Joint Trackage Rights Agreement, the Union Pacific Railroad Company (UP) will operate its Tidewater Subdivision trains through Modesto over SPT tracks. The UP's Needham Street crossing (75-28.7) will also be removed as part of the grade separation project. The proposed grade separation will improve traffic circulation in the northern area of Modesto's central business district, reduce travel time, and enhance safety of motorists.

City is the lead agency for this project under California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Sections 21000, et seq. Although the project is exempt from the provisions of CEQA (Section 21080.13, replacement of an existing at-grade crossing), City had an environmental

assessment document prepared because the underpass will be partially financed as a Federal Demonstration Project (10-Sta-O-Mod-D16). After preparation and review of an Environmental Assessment, City issued a Negative Declaration and approved the project. On February 9, 1994, a Notice of Determination was filed with the Stanislaus County Clerk which found that "the project will not have a significant effect on the environment.

The Federal Highway Administration reviewed the environmental data prepared by City and took full responsibility for the accuracy, scope, and contents of the environmental assessment.

Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's Environmental Assessment and Notice of Determination.

Application 95-10-029 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to construction of a public highway across a railroad. A sketch of the crossing site is included as Appendix A.

The Commission's Safety and Enforcement Division Traffic Engineering staff has inspected the site of the proposed project. After reviewing the need for and safety of the proposed construction, the staff recommends that the sought authority be granted.

#### Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on October 31, 1995. No protests have been filed.

2. City requests authority under Public Utilities Code Sections 1201-1205 to construct Kansas Avenue at separated grades over SPT's El Paso Route main line in Modesto, Stanislaus County.

3. Construction of the Kansas Avenue grade separation is required to improve traffic circulation and safety of motorists.

4. Public convenience, necessity, and safety require construction of the Kansas Avenue grade separation.

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

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Environmental Assessment and Negative Declaration.

Conclusions of Law

1. The application is uncontested, and a public hearing is not necessary.

2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Modesto (City) is authorized to construct Kansas Avenue at separated grades over Southern Pacific Transportation Company's (SPT) El Paso Route main line and auxiliary tracks in Modesto, Stanislaus County, at the location and substantially as shown by plans attached to the application, to be identified as Crossing B-112.30-A.

2. Upon the opening of the Kansas Avenue grade separation to vehicular traffic, the existing Kansas Avenue at-grade crossing (B-112.3) across the SPT tracks shall be physically closed and all its associated signs and warning devices removed.

3. During construction of the Kansas Avenue grade separation, the existing Needham Street at-grade crossing (75-28.7) across the Union Pacific Railroad Company's (UP) tracks shall be

physically closed and all its associated trackage, signs and warning devices removed.

4. Clearances shall be in accordance with GO 26-D, except that during the period of construction a clearance of not less than 21 feet, 6 inches above top of rail is authorized. SPT and UP are authorized to operate with such reduced overhead clearance provided that, SPT and UP issue instructions and file them with the Commission's Safety and Enforcement Division limiting the height of loads beneath the structure.

5. City shall notify the Commission's Safety and Enforcement Division, SPT, and UP at least 15, but not more than 30 days in advance of the date when temporary impaired overhead clearance will be created.

6. Walkways shall conform to GO 118. Walkways adjacent to any trackage shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

7. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between all the parties. A copy of the agreement, together with plans of the crossing, approved by SPT and UP, shall be filed by the City with the Commission's Safety and Enforcement Division prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

8. Within 30 days after completion of the work under this order, City shall advise the Commission's Safety and Enforcement Division in writing that the authorized work has been completed.

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

10. The Executive Director shall serve a copy of this order on SPT and UP so that the railroad companies are informed of the obligation herein imposed upon them.

11. The application is granted as set forth above.

This order becomes effective 30 days from today.

Dated FEB 7, 1996, at San Francisco, California.

DANIEL Wm. FESSLER

President

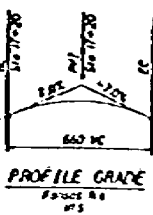
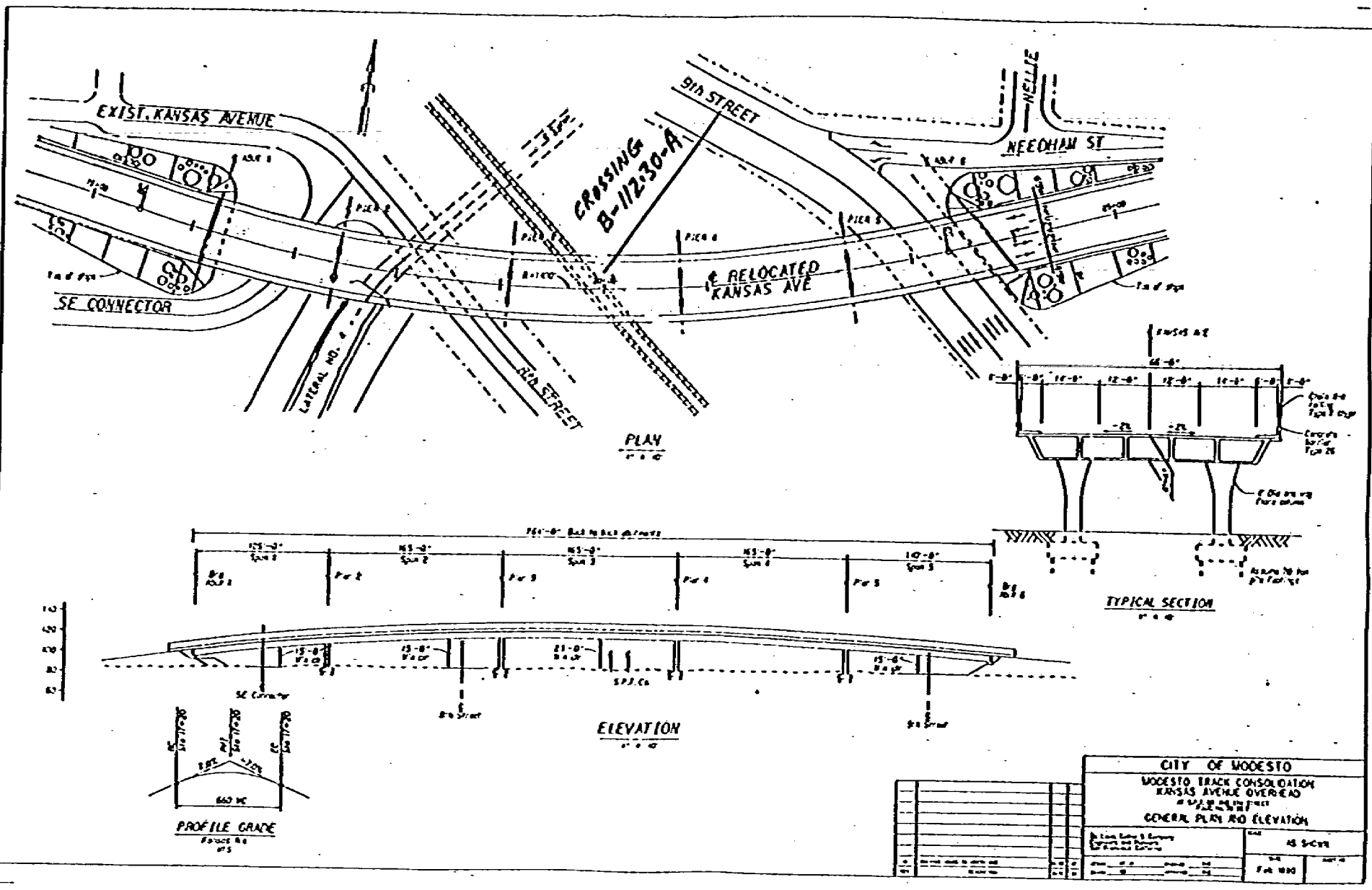
P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners



<b>CITY OF MODESTO</b>	
MODESTO TRACK CONSOLIDATION KANSAS AVENUE OVERHEAD	
GENERAL PLAN NO ELEVATION	
Prepared by: _____ Checked by: _____ Date: _____	Scale: AS SHOWN Date: _____ File No: _____