

Mailed: 10/15/97

ORIGINAL

Decision 97-10-012 October 9, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the State of California,)
 Department of Transportation, for an order)
 authorizing the Department to: widen)
 SR 201 at Sierra Street (PUC No. B-225.2),)
 by upgrading the railroad crossing and)
 providing railroad crossing warning)
 devices for the proposed widening located)
 in the City of Kingsburg, Fresno County,)
 State of California.)

Application 97-04-003
(Filed April 2, 1997)

O P I N I O N

The State of California, Department of Transportation (Caltrans) requests authority to widen State Route (SR) 201 where it crosses the tracks of the Union Pacific Railroad (UP), formerly the Southern Pacific Transportation Company (SPT) B-line, at grade in the City of Kingsburg, Fresno County.

Application 97-04-003 refers to SPT as the railroad company that "owns and operates [the] railroad tracks at the location of the project." However, as authorized by the Surface Transportation Board in September of 1996, SPT and UP merged to form one corporation known as the Union Pacific Railroad and is referred to as such hereinafter.

At present, the crossing (PUC No. 001B-225.2) is approximately 48 feet wide with two lanes of travel across two tracks. It is located 130 feet east of the SR 201/Simpson Street intersection. The project proposes widening the crossing to 80 feet to accommodate a raised median and dedicated right and left turn lanes.

RSAC/ARO

The crossing is fitted with three Standard No. 9 automatic gate-type signals; one for each approach on SR 201, and one for the right turn pocket from northbound Simpson Street to eastbound SR 201. Under this project, the railroad warning system will be upgraded to three Standard No. 9-A automatic gate-type signals with cantilever. Also, traffic signals are to be installed at the SR 201/Simpson Street intersection which will be interconnected with the railroad warning system to ensure that vehicular movements are preempted by train movements.

During construction train service will continue to utilize the existing facilities while vehicular traffic is detoured to the Stroud Avenue crossing (001B-224.5), approximately 3700 feet to the north.

This project is proposed as part of SR 201 improvements planned between SR 99 and Kingsburg. The improvements involve widening the roadway to accommodate four lanes of travel which will increase capacity and safety.

Caltrans is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Sections 21000, et. seq. After preparation and review of an Initial Study/Environmental Assessment (IS/EA), Caltrans issued a Negative Declaration. On September 11, 1995, Caltrans filed a Notice of Determination with the Office of Planning and Research stating that "the project will not have a significant effect on the environment."

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's IS/EA, Negative Declaration, and Notice of Determination.

The site of the proposed project has been inspected by the Commission's Rail Safety and Carriers Division Traffic Engineering staff. The staff examined the need for and safety of the proposed crossing modifications and recommends that the sought authority be granted.

RSAC/ARO

Application 97-04-003 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38 which relates to the construction of a public highway across a railroad. A sketch of the project area is set forth as Appendix A.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on April 8, 1997. No protests have been filed.
2. Caltrans requests authority, under Public Utilities Code Sections 1201-1205, to widen SR 201 where it crosses the mainline tracks of UP at grade, in the City of Kingsburg, Fresno County.
3. Caltrans is the lead agency for this project under CEQA, as amended.
4. Public convenience, necessity, and safety require the widening of the SR 201 crossing.
5. Public safety requires that protection at the crossing be three Standard No. 9-A automatic gate-type signals with cantilever in accordance with General Order 75-C.
6. Public safety requires that the traffic signals to be installed at the intersection of SR 201 and Simpson Street be interconnected with the railroad crossing warning system to ensure that vehicular movements are preempted by train movements.
7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's IS/EA, Negative Declaration, and Notice of Determination.
8. The project will not have a significant effect on the environment.

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.

ORDER

IT IS ORDERED that:

1. The State of California, Department of Transportation (Caltrans) is authorized to widen State Route (SR) 201 where it crosses the mainline tracks of the Union Pacific Railroad (UP), formerly the Southern Pacific Transportation Company B-line, at grade in the City of Kingsburg, Fresno County, at the location and substantially as shown on the plans attached to the application, known as Crossing 001B-225.2.

2. Protection at the crossing shall consist of three (3) Standard No. 9-A automatic gate-type signals with cantilever as specified in General Order (GO) No. 75-C.

3. Traffic signals to be installed at the intersection of SR 201 and Simpson Street shall be interconnected with the railroad crossing warning system in such manner that vehicular movements at the intersection are preempted by train movements at the crossing.

4. Clearances shall be in accordance with GO 26-D.

5. Construction of the grade crossing shall be equal or superior to the Standard No. 1 as specified in GO 72-B. Maintenance of the crossings shall conform to GO 72-B.

6. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations 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 the parties. A copy of the agreement shall be filed by Caltrans with the Commission's Rail Safety and Carriers Division prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

RSAC/ARO

8. Final construction plans, approved by UP, shall be filed by Caltrans with the Commission's Rail Safety and Carriers Division prior to commencing construction.

9. Within thirty (30) days after completion of the work under this order, Caltrans shall advise the Commission's Rail Safety and Carriers Division in writing that the authorized work has been completed.

10. This authorization shall expire if not exercised within two (2) 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.

11. The application is granted as set forth above.

12. Application 97-04-003 is closed.

This order becomes effective thirty (30) days from today.

Dated OCT 9, 1997, at San Francisco, California.

P. GREGORY CONLON

President

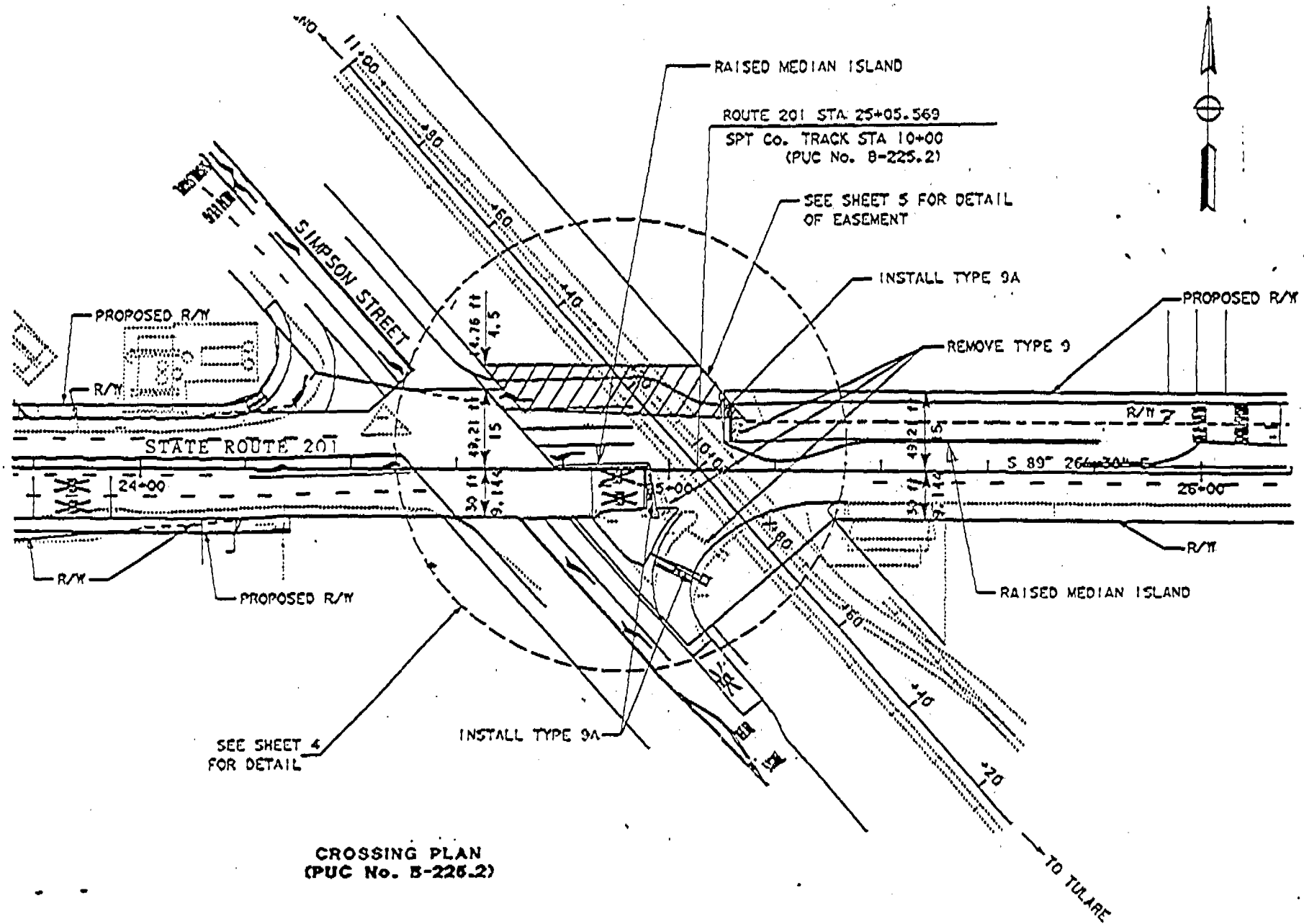
JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners



CROSSING PLAN
(PUC No. B-225.2)

Decision 97-10-013 October 9, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Indian Springs Mutual Utility
Company to Sell and Watertek Inc. to Acquire the
Wastewater System of Indian Springs.

Application 97-07-046
(Filed July 25, 1997)

ORIGINAL

O P I N I O N

Summary

This decision grants authority for Watertek, Inc. (Watertek, or buyer) to buy and Indian Springs Mutual Utility Company (Indian Springs, or seller) to sell all of the latter's wastewater system. Watertek is authorized to file tariffs to reflect the acquisition, including its proposed \$33.00 monthly service rate.

Discussion

Watertek is a regulated sewer utility serving approximately 419 customers in the Oak Hills community near the City of Salinas, Monterey County. Indian Springs is an unregulated mutual water and sewer company providing water and sewer service to approximately 176 customers in the Indian Springs Ranch and Heritage Park subdivisions south of Salinas. Oak Hills and Indian Springs are approximately 15 miles apart. Watertek proposes to acquire all of Indian Springs' wastewater system assets in accordance with the provisions of the sale and purchase documents attached as Exhibits A1 through A7 to the application, and to apply a sewer rate of \$33.00 per month.

Notice of the application appeared on the Commission's Daily Calendar of August 5, 1997. No protests were received.

Indian Springs is a California nonprofit mutual benefit corporation controlled by Indian Springs Ranch Property Owners Association (the Association). Indian Springs' water and sewer customers consist of the members of the Association, plus residents of Heritage Park. According to the application, neither Indian Springs' water service nor

water facilities are included in this acquisition, but may be the subject of a separate filing by a different Commission-regulated water utility at some future date.

The wastewater system to be transferred consists of gravity wastewater mains, Smith-Loveless package plant, sprayfield disposal system, operating easements, and other assets as specified in the purchase and sales documents attached to the application as Exhibits A1 through A7. No real property is to be acquired. Exhibit A4 lists the intangible property Indian Springs would convey to Watertek, including but not limited to: wastewater rights; system construction, operation, maintenance and customer records; and permits and licenses.

According to the application, the original cost of the property being transferred is not known, but the replacement cost has been estimated at \$662,165 as itemized in Exhibit E. The selling price is \$1,000 in cash. Applicant Watertek has not requested authorization to record specific acquisition figures in its regulated books of account, nor for approval of either cost or replacement value as the basis for future ratesetting.

Seller desires to dispose of the system because operating a utility system is complex and takes considerable time. Buyer desires to acquire the system to expand stability and profitability.

Raymond L. Smith has owned and operated Watertek since purchasing all of its stock in 1986.¹ Smith's qualifications include being a Grade III Wastewater Operator, a Grade II Water Operator, a general contractor, and Superintendent of Utilities for the City of Soledad. In the latter position, he is responsible for wastewater services to approximately 9,800 Soledad residents, the large Dole salad plant in Soledad, and 10,000 inmates in Soledad's two state prisons. In addition, Watertek provides contract wastewater services for the unincorporated community of Spreckels, and contract water and wastewater services for the San Lucas County Water District in Monterey County. Watertek has been operating the Indian Springs wastewater system under contract for

¹ Decision 86-12-051, December 17, 1986.

the past seven years. Watertek has no formal or informal complaints pending with the Commission.

We conclude that Watertek and Raymond L. Smith are well-qualified to acquire and operate the Indian Springs wastewater system.

The application states that Indian Springs' board of directors approved of the Watertek acquisition following a favorable vote of the Indian Springs and Heritage Park community during which there was full disclosure of the terms and conditions of the sale and the intended sewer rate. Further, Watertek's proposed \$33.00 flat monthly sewer service rate is the same rate approved by the board and currently being charged under Watertek's contract operation. Customers had been paying a \$58 monthly combined water and sewer flat rate before the acquisition was arranged.

Exhibit D to the application includes Watertek's 1996 recorded and 1997 budgeted income statements broken down by district (Oak Hills, Indian Springs, San Lucas, and Spreckels). Although both purport to show Indian Springs' sewer revenues roughly matched by expenses, they are unaudited and untested and will be given little weight in this context. However, we do find it persuasive that the \$33.00 monthly rate, while higher than Watertek's only currently filed tariff rate (\$62.96 quarterly for Oak Hills), was endorsed by both Indian Springs' board and its customers, and is the same as those customers currently pay. We will approve the \$33.00 rate.

With time, it is reasonable to assume that Watertek's costs to provide service to its Oak Hills and its Indian Springs customers will change, and that rates may then need to be adjusted. To preserve ratesetting flexibility, we will require that, for the present, Watertek track its revenues, costs and investments separately as to each area it serves. That it has done so already in presenting Exhibit D indicates that this should not be a burden.

Findings of Fact

1. Watertek is a public utility providing regulated sewer service to customers in the Oak Hills subdivision near Salinas, Monterey County.

2. Indian Springs is an unregulated mutual water and sewer company providing service to customers in the Indian Springs Ranch and Heritage Park subdivisions south of Salinas.

3. Applicants Watertek and Indian Springs propose that Watertek acquire all of Indian Springs' wastewater system assets in accordance with the provisions of the sale and purchase documents they have entered into, attached as Exhibits A1 through A7 to the application, and that Watertek apply a sewer rate of \$33.00 per month.

4. The assets to be acquired constitute an existing, fully-functional wastewater system not contiguous to Watertek's Oak Hills regulated system.

5. Exhibit A4 to the application lists the intangible property Indian Springs would convey to Watertek in the acquisition, including but not limited to: wastewater rights; system construction, operation, maintenance and customer records; and permits and licenses.

6. Indian Springs desires to dispose of the system because operating a utility system is complex and takes considerable time. Watertek desires to acquire the system to expand stability and profitability.

7. The purchase price is \$1,000 in cash. The original cost of the property being transferred is not known.

8. Applicant Watertek has not requested authorization to record specific acquisition figures in its regulated books of account, nor for approval of either cost or replacement value as the basis for future ratesetting.

9. Watertek and Raymond L. Smith are well-qualified to acquire and operate the Indian Springs wastewater system.

10. Indian Springs' board of directors approved of the Watertek acquisition following a favorable vote of the community during which there was full disclosure of the proposed terms and conditions of the sale and the proposed sewer rate.

11. Watertek's proposed \$33.00 flat monthly sewer service rate is the same as Indian Springs sewer service customers are currently paying.

12. A Watertek sewer rate of \$33.00 per month for Indian Springs customers is reasonable and justified.

13. In order to implement the acquisition, Watertek will need to file additional tariff sheets with the new rates and a service area map.

14. To preserve ratesetting flexibility will require that, for the present, Watertek track its revenues, costs and investments separately as to each area it serves.

15. The authorization that follows is not a finding of the value of the assets to be transferred, nor of the amounts to be used for future ratesetting purposes.

16. There is no known opposition to the proposed acquisition.

Conclusions of Law

1. The proposed acquisition is not adverse to the public interest.
2. A public hearing is not necessary.
3. The application should be granted as set forth in the order that follows.
4. The order that follows should be made effective immediately so that the parties may consummate the acquisition and transfer responsibility for the Indian Springs wastewater system on a timely basis.

O R D E R

IT IS ORDERED that:

1. Within one year after the effective date of this order, Watertek, Inc., (Watertek) may acquire the wastewater system assets of Indian Springs Mutual Utility Company (Indian Springs) in accordance with the provisions of the sale and purchase documents attached to the application.

2. As a condition of this grant of authority, Watertek shall assume a public utility obligation to Indian Springs' sewer customers, and shall collect and remit all user fees required under Public Utilities Code § 401 et seq.

3. Not later than 10 days after the transfer, Watertek shall file an advice letter in accordance with General Order 96-A, making only such revisions to its tariffs as are necessary to reflect the acquisition, the new service area, and the sewer rate approved herein. Indian Springs customers' sewer rate shall be set at \$33.00 per month, and shall not be increased except as authorized by this Commission.

4. Concurrently with the advice letter filing required by Ordering Paragraph 3, Watertek shall submit a separate compliance letter providing notification of the date on which the transfer was consummated and a true copy of the sale and transfer instrument(s).

5. Watertek shall track its revenues, costs and investments separately as to each area it serves.

6. This proceeding is closed.

This order is effective today.

Dated October 9, 1997, at San Francisco, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners