

RSAC/RRT/sh

Mailed: 3/16/98

Decision 98-03-033 March 12, 1998

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

City of Long Beach, to remove the )	
Nicholson Avenue Overhead Viaduct )	Application 97-09-050
structure )	(Filed September 10, 1997)
_____ )	

O P I N I O N

City of Long Beach, acting by and through its Board of Harbor Commissioners, Port of Long Beach (City), requests authority to remove the Nicholson Avenue Overhead Viaduct structure at separated grades over the City's Long Beach Branch Line tracks, formerly owned by Southern Pacific Transportation Company (SPT), in the Port Area of Long Beach and Los Angeles, Los Angeles County.

In Decision (D.) 93-10-067, dated October 20, 1993, of Application (A.) 93-02-008, City was authorized to construct Anaheim Street Overhead at separated grades between Anaheim Street and the Thenard Junction over the tracks of SPT's former Long Beach Branch Line in the Port Area of Long Beach and Los Angeles, Los Angeles County. During construction of the Overhead, the existing Anaheim Street at-grade crossing was ordered to be closed and physically removed and a temporary detour at-grade crossing approximately 110 feet north of the Anaheim Street crossing was authorized to be opened to public traffic. Upon completion of the Anaheim Street Overhead and its opening to vehicular traffic, the temporary detour at-grade crossing was ordered to be closed and physically removed.

By Commission Resolution TED-91, dated June 21, 1996, City was granted an extension of time from November 20, 1996, to November

20, 1998, to exercise the authority granted by D. 93-10-067 in A. 93-02-008. In connection with the construction of the Anaheim Street Overhead, City now has determined that the removal of the Nicholson Avenue Overhead Viaduct structure also will be necessary. City advised that SPT subsequently sold the tracks at the proposed project site to the Port of Long Beach and is no longer a party to the proceeding.

City is the lead agency for this project under California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 21000, et seq. City has determined that this project, the elimination of an existing grade separation structure and an at-grade crossing, is categorically exempt from the reporting requirements of CEQA under PR Code Section 21080.13.

The Commission is a responsible agency for this project under CEQA, and has reviewed and considered the lead agency's exemption determination. The existing Anaheim Street at-grade crossing, the existing Nicholson Avenue Overhead Viaduct structure, and adjacent areas have been inspected by the Commission's Rail Safety and Carriers Division - Traffic Engineering Staff. After reviewing the need for and safety of the proposed Anaheim Street Overhead and the proposed removal of the existing Nicholson Avenue Overhead Viaduct structure, Staff recommends that City's request be granted.

The application was found to be in compliance under the Commission's filing requirements, including Article 10 of the Rules of Practice and Procedure which relates to the construction, alteration or abolishment of railroad crossings. A site map and detailed drawing of the existing Nicholson Avenue Overhead Viaduct structure are shown in Appendix A.

#### Findings of Fact

1. Notice of the Application was published in the Commission's Daily Calendar on October 6, 1997. No protests have been received. A public hearing is not necessary.

2. City requests authority under Public Utilities Code Sections 1201-1205 to remove the Nicholson Avenue Overhead Viaduct structure at separated grades over the tracks of the City's Long Beach Branch Line, formerly owned by SPT, in the Port Area of Long Beach and Los Angeles, Los Angeles County. The existing structure will not be replaced by an at-grade crossing.

3. Public convenience, necessity and safety require the removal of the Nicholson Avenue Overhead Viaduct structure.

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

5. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's exemption determination.

#### Conclusions of Law

1. Under Public Resources Code Section 21080.13 the activity is exempted from the requirements set forth in CEQA; therefore the guidelines (14 Cal. Admin. Code - Division 6) concerning the evaluation of projects and the preparation and review of environmental documents do not apply.

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 Long Beach, acting by and through its Board of Harbor Commissioners, Port of Long Beach (City), is authorized to remove the Nicholson Avenue Overhead Viaduct structure at separated grades over the tracks of the City's Long Beach Branch Line, formerly owned by Southern Pacific Transportation Company (SPT), in the Port Area of Long Beach and Los Angeles, Los Angeles County, at the location and substantially as shown by plans attached to the Application and Appendix A of this order, identified as

Crossing BH-502.7-A. The existing structure shall not be replaced by an at-grade crossing. The tracks are used jointly with The Burlington Northern and Santa Fe Railway Company (BNSF) and Union Pacific Railroad Company (UP).

2. Clearances shall be in accordance with General Order (GO) 26-D.

3. 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.

4. Removal costs shall be borne by City.

5. Within 30 days after completion of the work under this order, City shall notify the Commission in writing that the authorized work has been completed.

6. This authorization shall expire if not exercised within two 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.

7. The application is granted as set forth above.

Application 97-09-050 is closed.

This order becomes effective 30 days from today.

Dated MAR 12, 1998 at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners

