

Decision 98-04-022 April 9, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of City of Yorba Linda,)
to build a new grade separation.)
A.T.&S.F. Railroad Crossing M. P.)
37.5 (Public Utilities Commission)
Crossing Number 37.5) Fairmont)
Boulevard.)

Application 96-08-008
(Filed August 5, 1996)

ORIGINAL

O P I N I O N

City of Yorba Linda (City) requests authority to construct Fairmont Boulevard Overhead separation bridge structure over the main line tracks of The Burlington Northern and Santa Fe Railway Company (BNSF), formerly known as The Atchison, Topeka and Santa Fe Railway Company (AT&SF) in Yorba Linda, Orange County.

Fairmont Boulevard is a major north-south arterial street of regional significance, connecting large existing residential and business areas in Cities of Yorba Linda and Anaheim, and providing access to State Route (SR) 91 Freeway. It is anticipated that the construction of this project will significantly reduce the traffic congestion in the area.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Section 21000, et seq. After preparation of a Final Environmental Impact Report, City issued a Notice of Determination. On October 2, 1996, City filed a Notice of Determination with the State Office of Planning and Research, which found that, "The project will have a significant effect on the environment." Mitigation measures were made a condition of the approval of the project.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's Notice

of Determination. The site of the proposed project has been inspected by the Commission Rail Safety and Carriers Division - Traffic Engineering Section staff. Staff examined the need for and the safety of the grade separation, and recommends that the project be approved.

The application was found to be in compliance under the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure which relates to the construction of a public highway across a railroad. A location map and details from the project plans are shown in Appendix A.

Notice of the application was published in the Commission Daily Calendar on August 7, 1996. On August 21, 1996, BNSF filed a protest indicating that the railroad and the applicant were not yet in agreement with respect to the method of construction of the proposed project, nor were they in agreement with respect to the terms pursuant to which such construction should be undertaken. By motion filed February 11, 1998, BNSF withdrew its protest to the application. Since there are no other unresolved matters or disputes, a public hearing is not necessary and the application may receive ex-parte treatment.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on August 7, 1996.
2. By protest filed August 21, 1996, BNSF indicated that applicant and the railroad were not yet in agreement with respect to the method of construction of the proposed grade separation.
3. BNSF withdrew its protest to the instant application by motion filed February 11, 1998. There are no other disputes or unresolved matters.

4. City requests authority, under Public Utilities Code Sections 1201-1205, to construct Fairmont Boulevard Overhead grade separation bridge structure over BNSF's main line tracks in Yorba Linda, Orange County.

5. Construction of the Fairmont Boulevard overhead grade separation bridge structure is necessary to reduce traffic delay and improve safety for railroad operations.

6. Public convenience, necessity, and safety require construction of the Fairmont Boulevard overpass.

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

8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Notice of Determination, which found that the project will have a significant impact on the environment. Mitigation measures were made a condition of the approval of the project.

Conclusions of Law

1. Since there are no other disputes or unresolved matters, 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 Yorba Linda (City) is authorized to construct Fairmont Boulevard Overhead at separated grades over the main line tracks of The Burlington Northern and Santa Fe Railway Company (BNSF), formerly known as The Atchison, Topeka, and Santa Fe

Railway Company (AT&SF), in Yorba Linda, Orange County, at the location and substantially as shown by plans attached to the application and Appendix "A" of this order, to be identified as Crossing 2B-37.5-A.

2. Clearances of the Fairmont Boulevard Overhead 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 and not less than 10 feet of horizontal clearance shall be authorized, and BNSF shall be authorized to operate with such reduced overhead and side clearances provided that instructions are issued by the railroad and filed with the Commission's Rail Safety and Carriers Division forbidding employees to ride on tops of cars beneath the structure.

3. City shall notify the Commission's Rail Safety and Carriers Division and BNSF at least 15, but not more than 30, days in advance of the date when the temporary impaired overhead and side clearances will be created.

4. 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.

5. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement, together with plans of the overhead grade separation bridge structure approved by BNSF, shall be filed 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.

6. 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.

7. 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.

8. The application is granted as set forth above.

9. Application 96-08-008 is closed.

This order is effective 30 days from today.

Dated April 9, 1998, at San Francisco, California.

RICHARD A. BILAS

President

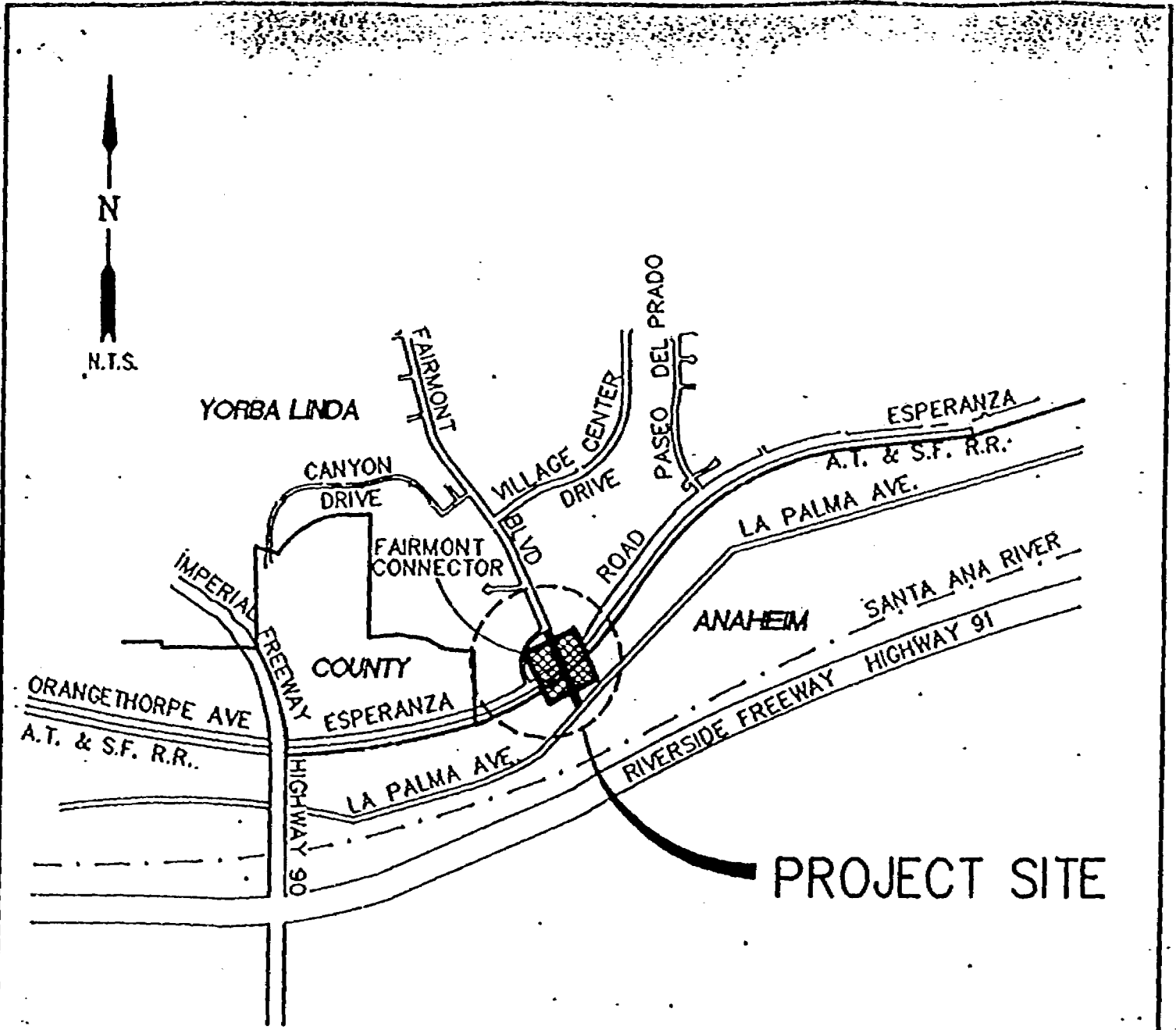
P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners



VICINITY MAP

