

Decision 98-05-017 May 7, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Bakersfield)
for an Order authorizing construction of)
a pedestrian crossing at separated grades)
between "N" Street and the tracks of The)
Burlington Northern and Santa Fe Railway,)
sometimes referred to as the "N" Street)
Pedestrian Overhead" (PUC No. 2-887.1AD))

Application 97-10-046.
(Filed October 16, 1997)

O P I N I O N

City of Bakersfield (City) requests authority to construct "N" Street Pedestrian Overhead at separated grades over the tracks of The Burlington Northern and Santa Fe Railway Company's (BNSF) Fresno-Bakersfield Main Line in Bakersfield, Kern County.

City proposes to construct a grade separated Pedestrian Overhead which will carry an 8-foot-wide pedestrian walkway over BNSF's double track main line, one future track, and one auxiliary track by means of a precast concrete I-girder bridge. Total length of the overpass across the right-of-way will be approximately 102 feet from approach tower to approach tower. During the period of construction, pedestrian traffic will be carried across the present "N" Street at-grade crossing.

Construction of the proposed grade separated Pedestrian Overhead is necessary to provide safe pedestrian movement between the proposed Bakersfield Convention Center and Arena Complex north of the BNSF tracks and off-street parking lots, expected to be heavily utilized during Arena events, south of the BNSF tracks.

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. Applicant has determined that the project 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 also has reviewed and considered the lead agency's exemption determination. The existing "N" Street at-grade crossing and adjacent areas have been inspected by the Commission's Rail Safety and Carriers Division Staff - Traffic Engineering Section. After reviewing the need for and safety of the proposed "N" Street Pedestrian Overhead, Staff recommends that City's request be granted.

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 public highway crossings and separations over a railroad. A site map and detailed drawing of the proposed grade separated Pedestrian Overhead structure are shown in Appendix A.

Notice of the application was published in the Commission's Daily Calendar on October 23, 1997. On November 3, 1997, 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. During several months of negotiations, the parties were able to resolve their differences and on March 2, 1998, BNSF withdrew its protest to the proposed construction of the "N" Street Pedestrian Overhead.

City's Civil Engineer consultant advised BNSF and the Commission staff that City desires to start construction of the proposed "N" Street Pedestrian Overhead as soon as possible in order to avoid delays and potential penalties to City by City's contractor and to open the proposed grade separated Pedestrian Overhead in time for the opening of the proposed Bakersfield Convention Center and Arena Complex. It is therefore requested that the usual 30-day effective date of an order be waived. We will make our order effective immediately.

Findings of Fact

1. BNSF filed a protest to the Application on November 3, 1997, stating that the applicant and the railroad were not yet in agreement with respect to the method and terms of construction of the proposed "N" Street Pedestrian Overhead.

2. By motion filed March 2, 1998, BNSF withdrew its protest on the basis that the applicant and the railroad were now in agreement as to the method and terms of construction of the proposed grade separated Pedestrian Overhead. There are no other unresolved matters.

3. City requests authority under Public Utilities Code Sections 1201-1205 to construct "N" Street Pedestrian Overhead at separated grades over the tracks of BNSF's Fresno-Bakersfield Main Line in Bakersfield, Kern County.

4. The proposed "N" Street Pedestrian Overhead will provide safe pedestrian movement between the proposed Bakersfield Convention Center and Arena Complex north of the BNSF tracks and off-street parking lots south of the BNSF tracks.

5. Public convenience, necessity and safety require construction of the proposed grade separated Pedestrian Overhead.

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

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

Conclusions of Law

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

2. 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.

3. There is no opposition to this application, and a public hearing is not necessary.

4. The usual 30-day effective date on an order should be waived as City wishes to commence construction of the proposed "N" Street Pedestrian Overhead at the earliest possible date.

O R D E R

IT IS ORDERED THAT:

1. City of Bakersfield (City) is authorized to construct "N" Street Pedestrian Overhead at separated grades over the tracks of The Burlington Northern and Santa Fe Railway Company's (BNSF) Fresno-Bakersfield Main Line in Bakersfield, Kern County, at the location and substantially as shown by plans attached to the Application and Appendix A of this order, identified as Crossing 2-887.1-AD.

2. Clearances shall be in accordance with General Order (GO) 26-D. Walkways shall conform to GO 118.

3. 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 approved by BNSF, shall be filed with the Commission's Rail Safety and Carriers Division Staff prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

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

5. 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.

6. The application is granted as set forth above.

Application 97-10-046 is closed.

This order becomes effective today.

Dated May 7, 1998 at San Francisco, California.

RICHARD A. BILAS

President

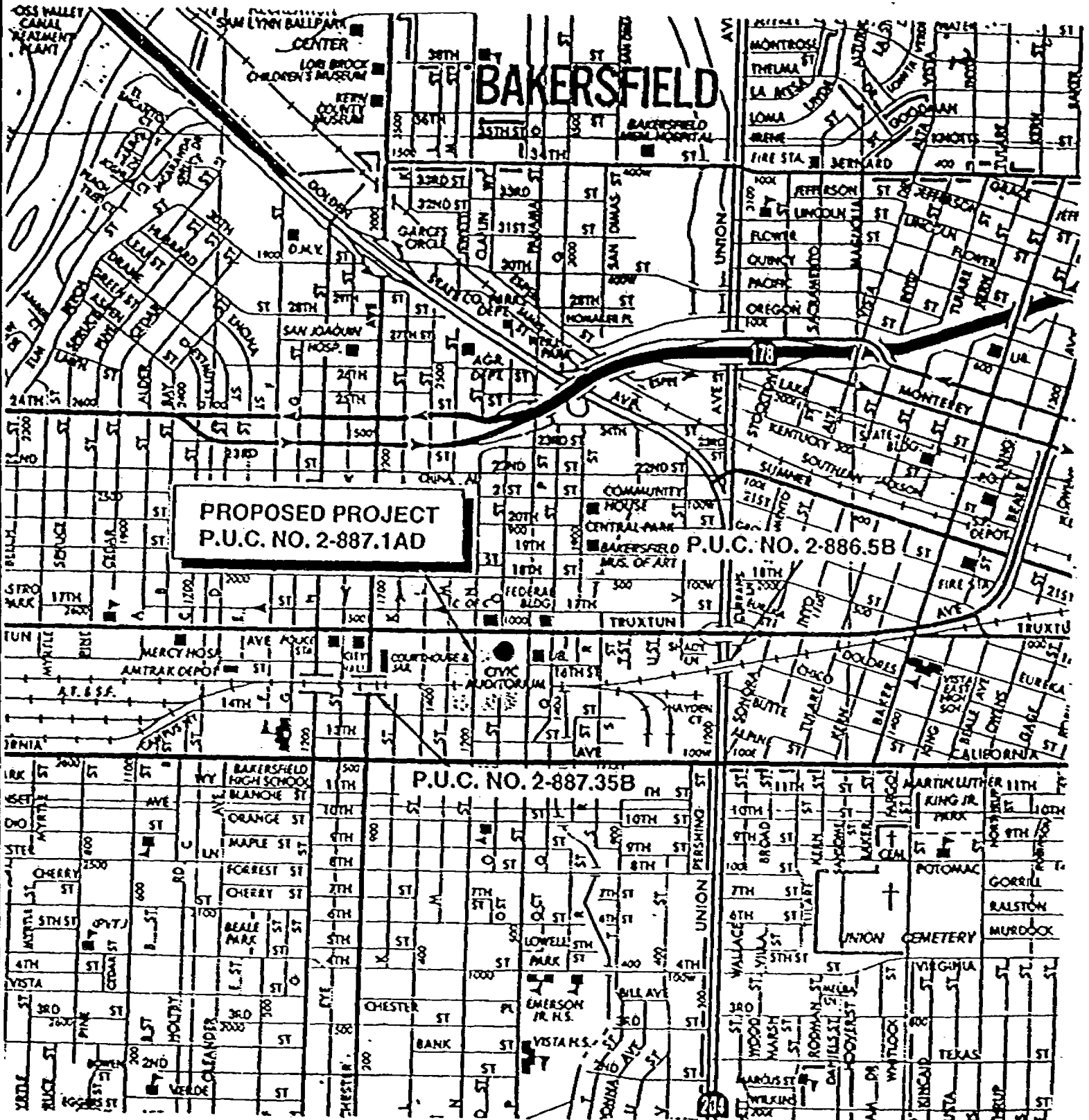
P. GREGORY CONLON

HENRY M. DUQUE

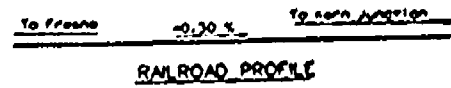
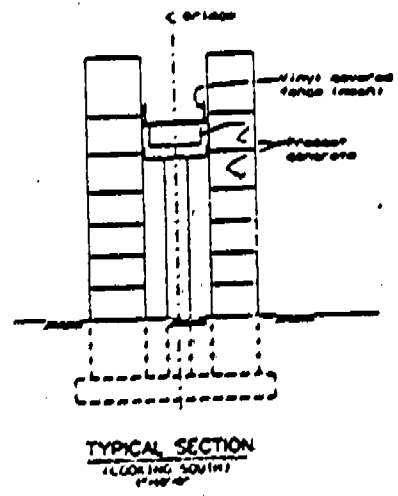
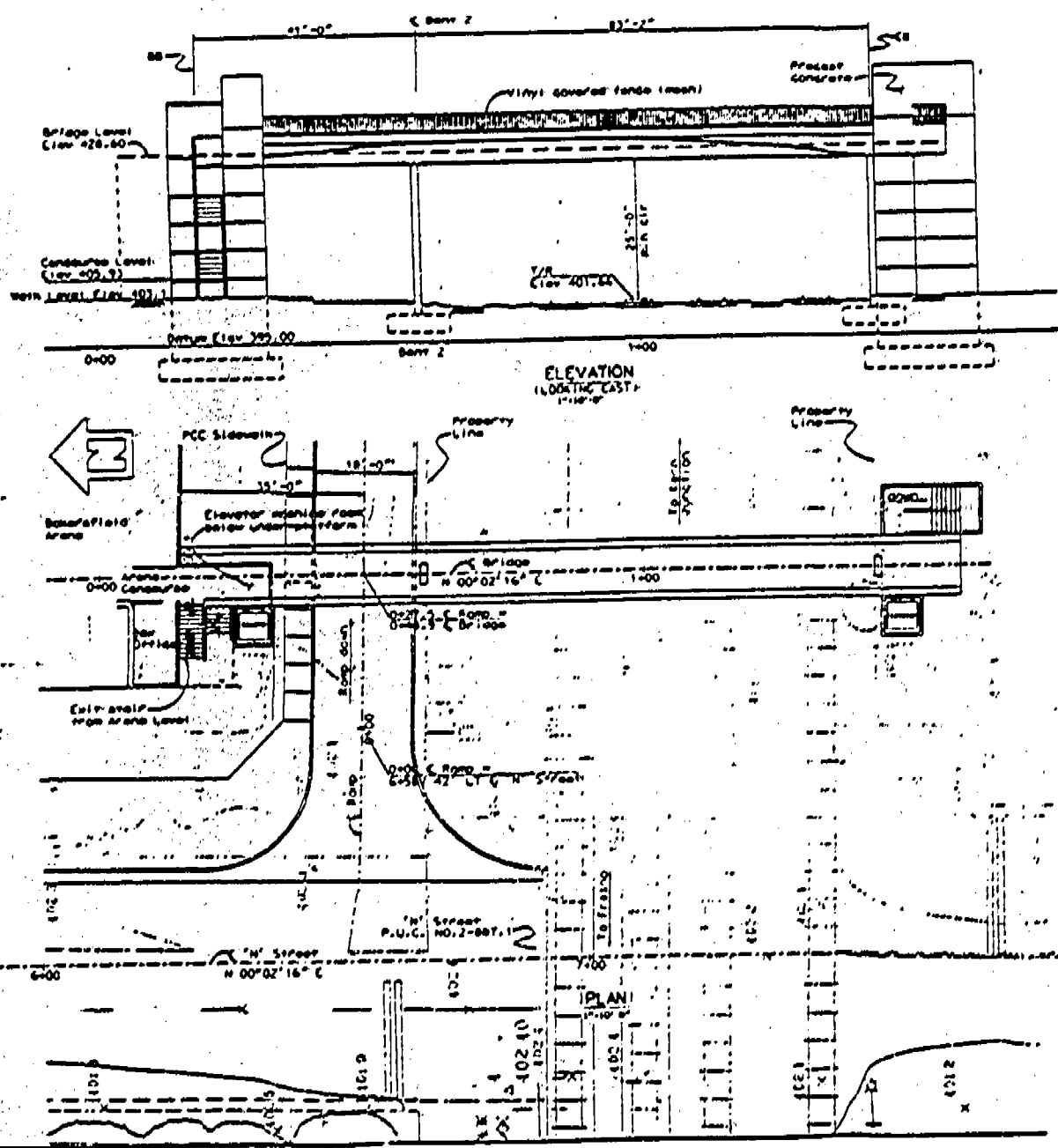
JOSIAH L. NEEPER

Commissioners

Commissioner Jessie J. Knight, Jr., being necessarily absent, did not participate.



VICINITY MAP
 City of Bakersfield
 "N" STREET PEDESTRIAN OVERHEAD
 AT BNSF RY.



CITY OF BAKERSFIELD
 1st STREET PEDESTRIAN OVERHEAD
 P.U.C. NO. 2-887,140
 GENERAL PLAN & ELEVATION
 SCALE: 1"=10'