

Decision 99-03-052 March 18, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the County of )  
Kern County Roads Department to construct a )  
public street, across the railroad tracks of the San )  
Joaquin Valley Railroad Company, County of )  
Kern, State of California )  
\_\_\_\_\_ )

Application 98-09-021  
(Filed September 14, 1998)

**ORIGINAL**

OPINION

As part of the project to develop the South Kern Industrial Center, County of Kern (County) requests authority to construct a public crossing at-grade across the tracks of Union Pacific Railroad Company's (UP) Sunset Branch Line in Kern County. The San Joaquin Valley Railroad Company (SJVR) operates trains on the tracks.

County proposes to construct a new at-grade crossing to provide public access to the proposed industrial area northwest and southeast of the tracks. The average annual daily vehicle traffic volume is anticipated to be less than 100 vehicles. The existing train volume on the Sunset Branch Line is one train every two days.

County 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. County prepared an Environmental Impact Report (EIR) for the project of which the proposed public crossing is a part.

After preparation and review of the EIR, County approved the project. On April 15, 1993, a Notice of Determination was filed with the Kern County Clerk which found that "said project in its approved form will have a significant effect on the environment." A Statement of Overriding Considerations was adopted for the project. Mitigation factors will reduce the severity of the adverse impacts to acceptable levels. None of the adverse factors can be attributed to the proposed at-grade crossing.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's EIR and Statement of Overriding Considerations. The site of

the proposed project has been inspected by the Rail Safety and Carriers Division -- Rail Crossing Engineering Section Staff. After reviewing the need for and safety of the proposed at-grade crossing, Staff recommends that County'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 highways across railroad tracks. A vicinity map and detailed drawings of the proposed at-grade crossing are shown in Appendix A.

In Resolution ALJ-176-3000 dated September 17, 1998, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's Rail Safety and Carriers Division recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ-176-3000.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU Code Section 311 (g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

#### Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on September 17, 1998. No protests have been received. A public hearing is not necessary.
2. County requests authority to construct a public crossing at-grade across the tracks of Union Pacific Railroad Company's (UP) Sunset Branch Line in Kern County.
3. Public convenience and necessity require construction of the proposed at-grade crossing.
4. Public safety requires the installation of two Standard No. 9-A automatic gate-type signals with additional flashing lights on cantilever arms (General Order (GO) 75-C).
5. County 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 EIR.

7. The project will have some adverse effects on the environment, but mitigation measures will reduce the adverse impacts to acceptable levels. None of the impacts are associated with the at-grade crossing.

8. A Statement of Overriding Considerations was adopted for the project.

**Conclusion of Law**

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

**ORDER**

**IT IS ORDERED** that:

1. County of Kern (County) is authorized to construct a public crossing at-grade across the tracks of Union Pacific Railroad Company's (UP) Sunset Branch Line in Kern County, at the location and substantially as shown by the plans attached to the application and Appendix A of this order, identified as Crossing 42-19.83. The San Joaquin Valley Railroad Company (SJVR) operates trains on the tracks.

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

3. Construction of the grade crossing shall be equal or superior to Standard No. 8 of GO 72-B. Maintenance of the crossing shall conform to GO 72-B.

4. Protection at the crossing shall be two Standard No. 9-A automatic gate-type signals with additional flashing lights on cantilever arms (GO 75-C).

5. Construction expense of the crossing and installation cost of the automatic protection shall be borne by Applicant.

6. Maintenance cost of the automatic protection shall be borne by the Applicant in accordance with Section 1202.2 of the Public Utilities Code.

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

8. Within 30 days after completion of the work, County shall notify the Commission in writing that the authorized work has been completed.

9. 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.
10. The Application is granted as set forth above.

Application 98-09-021 is closed.

This order becomes effective 30 days from today.

Dated March 18, 1999, at San Francisco, California.

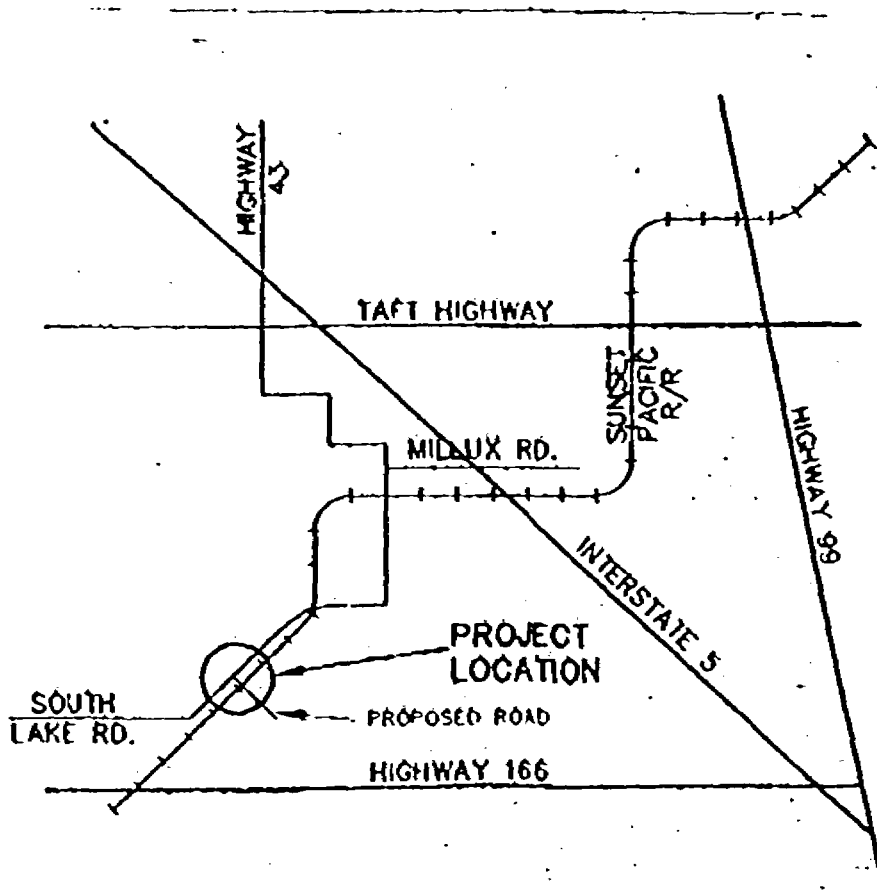
**RICHARD A. BILAS**

President

**HENRY M. DUQUE**

**JOSIAH L. NEEPER**

Commissioners



### VICINITY MAP

**RAILROAD CROSSING PROPOSED COUNTY ROAD  
SOUTH KERN INDUSTRIAL CENTER**

