

Decision 99-06-034 June 10, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the LOS ALAMITOS RACE COURSE for an Order authorizing pedestrian-bikeway crossings at Grade at the track of the Union Pacific Railroad Company, in the City of Cypress.

Application 97-12-017
(Filed December 8, 1997)

O P I N I O N

Los Alamitos Race Course (LARC) filed this application to establish several public crossings over the Los Alamitos Branch of the protestant, Union Pacific Railroad Company (UP). LARC's contention was that this action was necessary to formalize the right to use the proposed crossings, which have actually been used for many years. In the background of the request was a dispute, or at least a pending transaction, between these parties concerning the underlying real property.

Pub. Util. Code § 1201 et seq. grants jurisdiction to this Commission to regulate any public crossing over the track of a railroad corporation. On the other hand, the federal Surface Transportation Board (STB) has exclusive jurisdiction over abandonment of any rail line of an interstate rail carrier such as UP under 49 U.S.C. § 10501(b). At the time the application was filed, the Los Alamitos Branch was the subject of an imminent request by UP for permission to abandon the entire line.

On December 11, 1998, the STB issued its decision in Docket No. AB-33 (sub-No. 125X), Union Pacific Railroad Company – Abandonment Exemption – in Orange County, CA, the effect of which was to authorize abandonment of the

branch. By letter dated January 15, 1999, UP's counsel advised the administrative law judge that the portion of the branch which is the subject of this application had been abandoned, with rail service terminating on January 10.

In the absence of a track of a railroad corporation in use, as contemplated by Pub. Util. Code § 1201 et seq., there is no basis for maintaining this proceeding to establish crossings. We therefore dismiss this application.

Comments of Draft Decision

The draft decision of ALJ Ryerson in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. No comments were filed.

Findings of Fact

1. Application (A.) 97-12-017 was filed with this Commission to establish public crossings on the Los Alamitos Branch of the UP.
2. After the application was filed the Los Alamitos Branch was abandoned pursuant to the decision of the federal Surface Transportation Board in Docket No. AB-33 (Sub-No. 125X), Union Pacific Railroad Company – Abandonment Exemption – in Orange County, CA (issued December 11, 1998).

Conclusions of Law

1. The Los Alamitos Branch is abandoned as a matter of law.
2. This Commission now has no basis for maintaining this proceeding.

O R D E R

IT IS ORDERED that:

1. Application 97-12-017 is dismissed.

2. The proceeding is closed.

This order is effective today.

Dated June 10, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

LORETTA M. LYNCH

JOEL Z. HYATT

Commissioners