

Decision 03-10-049 October 16, 2003

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of Solana Beach for an order authorizing construction of a crossing at separated grades adjacent to Rosa Street between Highway 101 and South Cedros Avenue over the track of the North County Transit District (NCTD), sometimes referred to as Rosa Street Pedestrian Overcrossing.

Application 03-06-013  
(Filed June 12, 2003)

**O P I N I O N**

**Summary**

City of Solana Beach (City) requests authority to construct a proposed grade-separated pedestrian-rail crossing, referred to as the Rosa Street Pedestrian Overcrossing, adjacent to Rosa Street above the two main line tracks of the North County Transit District (NCTD) in Solana Beach, San Diego County.

**Discussion**

City proposes to construct a grade-separated pedestrian-rail crossing over NCTD's tracks at milepost 242.19 adjacent to Rosa Street between Highway 101 to the west and South Cedros Avenue to the east. NCTD's tracks bisect the City. The construction of the proposed Rosa Street Pedestrian Overcrossing is necessary for the grade-separated movement of pedestrian and bicycle traffic above NCTD's tracks, which run between the Cedros Design Center (located along Cedros Avenue to the east) and Highway 101. Increasing the ease of pedestrian and bicycle access throughout the area is highly important, from a safety, business, and community access standpoint. Additionally, the proposed

Rosa Street Pedestrian Overcrossing also will provide easy access to and from the Coastal Rail Trail, which runs north from Via de la Valle, along Highway 101, to Ocean Street, with an approximate distance of 1.4 miles.

The proposed Rosa Street Pedestrian Overcrossing structure will carry pedestrian and bicycle traffic over NCTD's two main line tracks by means of a proposed three-span bridge structure. The total length of the proposed bridge structure is approximately 210 feet, measured from abutment to abutment. The portion of the bridge structure that will span the NCTD tracks is a pre-fabricated steel truss structure, with a cast-in-place concrete walking surface. This span is approximately 104 feet, 6 inches. The total width of the traveled way is approximately eight feet. The substructure components of the proposed bridge structure consist of reinforced concrete and masonry.

NCTD owns the right-of-way within the project limits and maintains the tracks. The predecessor to The Burlington Northern and Santa Fe Railway Company (BNSF), The Atchison, Topeka, and Santa Fe Railway Company, originally owned the right-of-way and operated trains within the project limits. BNSF operates freight trains and the National Railroad Passenger Corporation (Amtrak) operates passenger trains over these tracks. Amtrak also operates the Coaster trains for NCTD.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA, as amended in 1982), as stated in Public Resources Code Section 21000 et seq. On June 20, 2003, City filed, with the State Clearinghouse and San Diego County Clerk, a Notice of Exemption (NOE) for this project. The NOE finds that this project is Categorically Exempt from CEQA under CEQA Guideline Section 15301(c) for bicycle and pedestrian projects; Section 15303(c) for projects less than 10,000 square foot in floor area; Section

15303(d) for street improvement projects; Section 15304(h) for bicycle lane projects on existing rights-of-way; and Section 15332 for infill development projects. A copy of the NOE is included in Appendix A attached to the order.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider that portion of the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). CEQA Guideline Section 15096 contains the specific activities that a responsible agency must conduct.

The Commission has reviewed and considered the City's Categorical Exemption determination. We are not aware of any information that would suggest that City's exemption classification was inappropriate in this instance. We find that City reasonably concluded, pursuant to CEQA Guideline Sections 15301(c), 15303(c), 15303(d), 15304(h), and 15332, that the proposed Rosa Street Vicinity Pedestrian/Bicycle Bridge project, of which the proposed Rosa Street Pedestrian Overcrossing grade-separated pedestrian-rail crossing project is a part, qualifies for an exemption from CEQA. Accordingly, we adopt City's findings of exemption for purposes of our project approval.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) has inspected the site of the proposed Rosa Street Pedestrian Overcrossing. After reviewing the need for and the safety of the proposed Rosa Street Pedestrian Overcrossing, RCES recommends that the Commission grant City's request.

The Application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of public highways across a railroad. A vicinity map, location map, and detailed drawings of the proposed Rosa Street Pedestrian Overcrossing are shown in Appendix B attached to the order.

In Resolution ALJ 176-3115, dated June 19, 2003, and published in the Commission Daily Calendar on June 20, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains accurate. Given these developments, it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3115.

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

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. The Commission published a Notice of the Application in the Commission Daily Calendar on June 16, 2003. There are no unresolved matters or protests; a public hearing is not necessary.
2. City requests authority, under Public Utilities Code Sections 1201-1205, to construct the proposed Rosa Street Pedestrian Overcrossing, a grade-separated pedestrian-rail crossing for pedestrian and bicycle traffic, above NCTD's two main line tracks in Solana Beach, San Diego County.

3. The proposed Rosa Street Pedestrian Overcrossing is necessary for the grade-separated movement of pedestrian and bicycle traffic above the NCTD tracks, which run between the Cedros Design District (located along Cedros Avenue to the east) and Highway 101. The proposed Rosa Street Pedestrian Overcrossing additionally will provide easy access to and from the Coastal Rail Trail, which runs north from Via de la Valle, along Highway 101, to Ocean Street for approximately 1.4 miles.

4. Public convenience, necessity, and safety require construction of the proposed Rosa Street Pedestrian Overcrossing.

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

6. The City determined that the project is exempt from CEQA pursuant to CEQA Guideline 15301(c), 15303(c), 15303(d), 15304(h) and 15332.

7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Categorical Exemption determination in the NOE.

### **Conclusions of Law**

1. We believe the City reasonably concluded, pursuant to CEQA Guideline Sections 15301(c), 15303(c), 15303(d), 15304(h), and 15332, that the proposed Rosa Street Vicinity Pedestrian/Bicycle Bridge project, of which the proposed Rosa Street Pedestrian Overcrossing project is a part, qualifies for an exemption from CEQA. Accordingly, we adopt City's findings of exemption for purposes of our project approval.

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

**O R D E R**

**IT IS ORDERED** that:

1. City of Solana Beach (City), in cooperation with North County Transit District (NCTD), is authorized to construct the proposed Rosa Street Pedestrian Overcrossing, at milepost 242.19, above NCTD's two main line tracks, adjacent to Rosa Street between Highway 101 to the west and South Cedros Avenue to the east, in Solana Beach, San Diego County, at the location and substantially as shown by plans attached to the Application and Appendix B of this order, identified as CPUC Crossing No. 2-242.19-AD.

2. Clearances shall conform to General Order (GO) 26-D.

3. Walkways shall conform to GO 118. City and NCTD (parties) shall maintain walkways adjacent to any trackage subject to rail operations free of obstructions and shall promptly restore walkways to their original condition in the event of damage during construction.

4. The parties shall bear construction and maintenance costs in accordance with an agreement between the parties. City shall file a copy of the agreement with the Rail Crossings Engineering Section (RCES) prior to construction. Should the parties fail to agree, the Commission shall apportion the costs of construction and maintenance by further order.

5. Within 30 days after completion of the work under this order, City, in cooperation with NCTD, shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

6. This authorization shall expire if not exercised within three years unless the Commission extends the time or if the parties do not comply with the above

conditions. The Commission may revoke or modify authorization if public convenience, necessity, or safety so require.

7. The application is granted as set forth above.

8. Application 03-06-013 is closed.

This order becomes effective 30 days from today.

Dated October 16, 2003, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners

### APPENDIX A NOTICE OF EXEMPTION

#### Notice of Exemption

To:  Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: (Public Agency) City of Solana Beach  
635 South Highway 101  
(Address)  
Solana Beach, CA 92075

County Clerk San Diego  
County of San Diego  
1600 Pacific Highway  
San Diego, CA

**FILED**  
Gregory J. Smith, Recorder/County Clerk  
JUN 20 2003  
BY [Signature] DEPUTY

Project Title: Rosa Street Vicinity Pedestrian/Bicycle Bridge

Project Location - Specific: Railroad right-of-way between Rosa Street and Dahlia, 1/3 mile south of the train station.

Project Location - City: Solana Beach Project Location - County: San Diego

Description of Nature, Purpose, and Beneficiaries of Project:  
Any and all phases of acquisition of leases, financing and/or construction of the Rosa Street Bridge to further enhance safe pedestrian and bicycle linkage across the existing double railroad tracks.

Name of Public Agency Approving Project: City of Solana Beach

Name of Person or Agency Carrying Out Project: City of Solana Beach Engineering Dept.

- Exempt Status: (check one)
- Ministerial (Sec. 21080(b)(1); 15268);
  - Declared Emergency (Sec. 21080(b)(3); 15269(a));
  - Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
  - Categorical Exemption. State type and section number:
  - Statutory Exemptions. State code number:

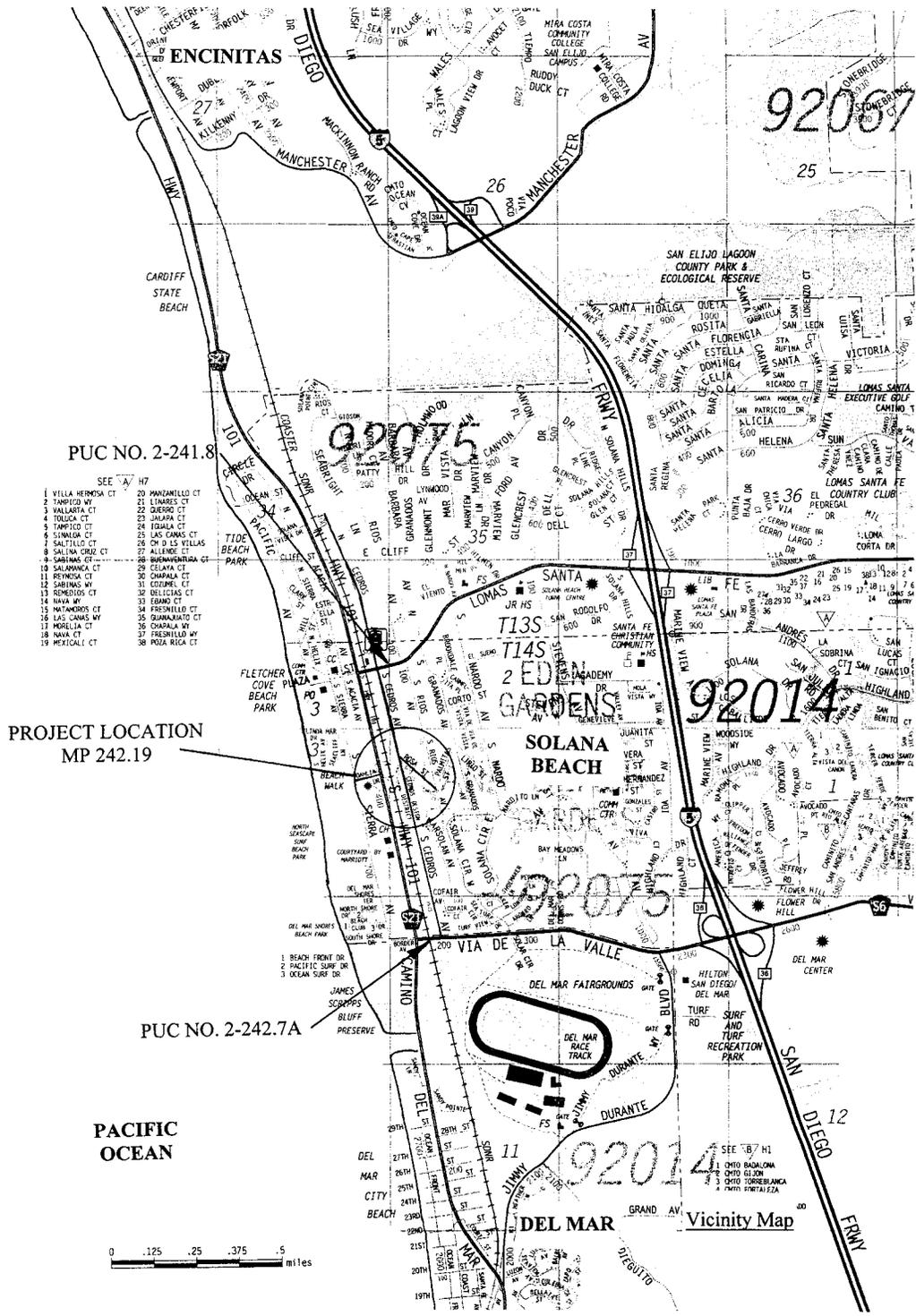
Reasons why project is exempt: Consistent with spirit and intent of Section 15303(c) - less than 10,000 square foot floor area; 15303(d)-street improvements; 15304(h)-bicycle lanes on existing rights-of-way; 15332-infill development and 15301(c)-bicycle

and pedestrian trails.  
Lead Agency: Dan Goldberg (Engineering) Area Code/Telephone/Extension: 858-720-2471  
Contact Person: Steven Apple (CEQA) 858-720-2441

If filed by applicant:  
1. Attach certified document of exemption finding.  
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No  
Signature: [Signature] Date: June 17, 2003 Title: Planning Director

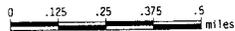
Signed by Lead Agency Date received for filing at OPR: \_\_\_\_\_  
 Signed by Applicant  
**FILED IN THE OFFICE OF THE COUNTY CLERK**  
**POSTED JUN 20 2003**  
**RETURNED TO AGENCY ON JUL 21 2003**  
 DEPUTY [Signature]

# APPENDIX B MAPS AND PLANS

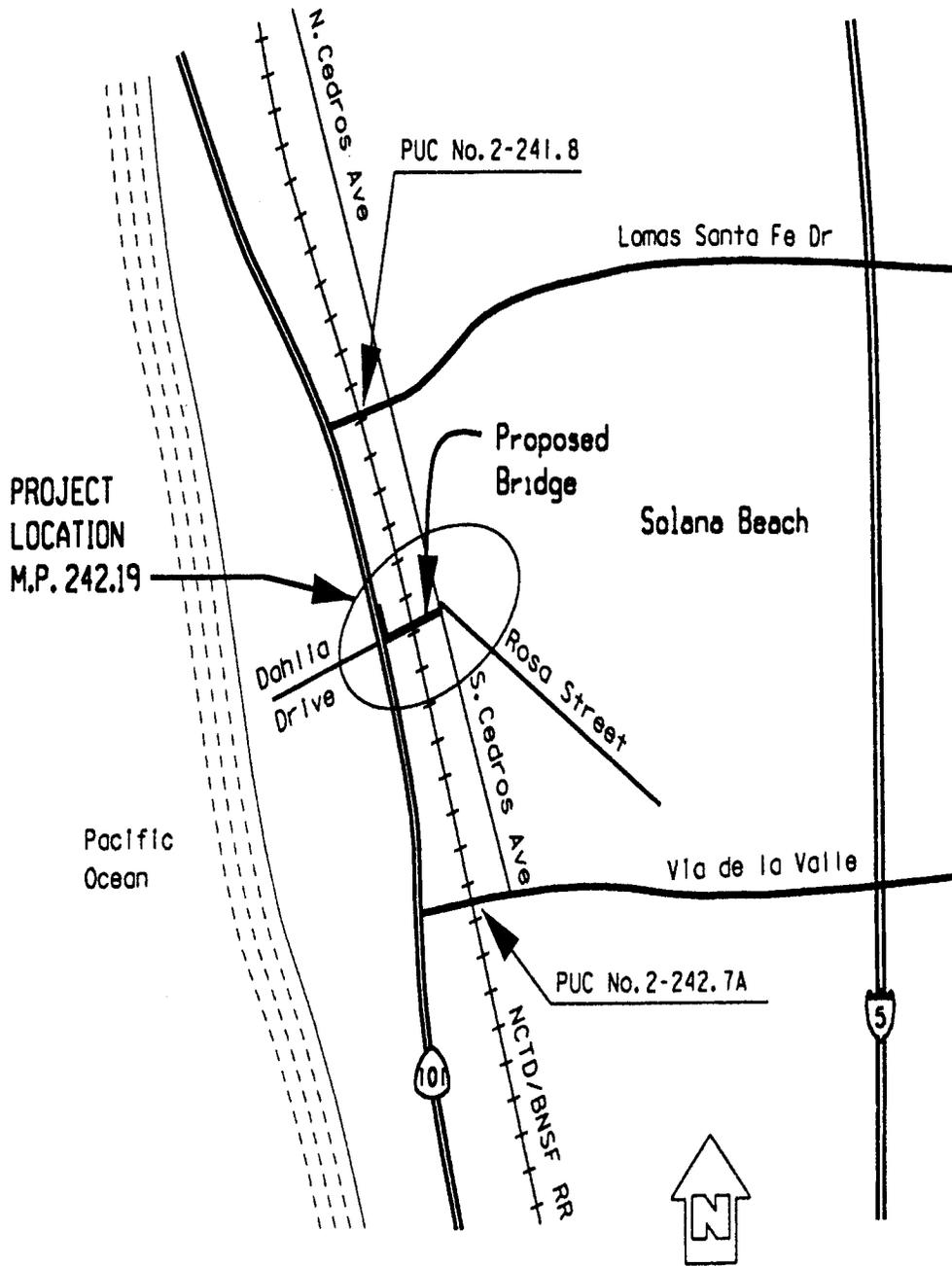


- SEE A7 H7
- |                    |                    |
|--------------------|--------------------|
| 1 VILLA HERMOSA CT | 20 PANZANELLO CT   |
| 2 TAMPICO WY       | 21 LINARES CT      |
| 3 VALLARTA CT      | 22 QUERO CT        |
| 4 TOLUCA CT        | 23 JALAPA CT       |
| 5 TAMPICO CT       | 24 TIBALCA CT      |
| 6 SANLUA CT        | 25 LAS CANAS CT    |
| 7 SAITILLO CT      | 26 CH O LAS VILLAS |
| 8 SALINA CRUZ CT   | 27 ALLENDE CT      |
| 9 SANTIAGO CT      | 28 BARRAMUNTERA CT |
| 10 SALAMANCA CT    | 29 CELAYA CT       |
| 11 REVINOSA CT     | 30 CHAPALA CT      |
| 12 SAUNING WY      | 31 COZUMEL CT      |
| 13 REMEDIOS CT     | 32 DELICIAS CT     |
| 14 NAVA WY         | 33 EBANO CT        |
| 15 MATAMOROS CT    | 34 FRESNILLO CT    |
| 16 LAS CANAS WY    | 35 GUANAJUATO CT   |
| 17 MORELIA CT      | 36 CHARALLA WY     |
| 18 NAVA CT         | 37 FRESNILLO WY    |
| 19 MEXICALTE CT    | 38 POZA RICA CT    |

PACIFIC OCEAN



Vicinity Map



**LOCATION MAP**

NO SCALE

