

NW

Decision No. 81582

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF MILPITAS  
for an order authorizing construction  
of a crossing at separated grades  
between Abel Street and the tracks of  
the Southern Pacific Transportation  
Company and The Western Pacific Rail-  
road Company, sometimes referred to  
as the "Abel Street Overhead".

Application No. 53438  
(Filed July 6, 1972)  
(Amended November 14, 1972)

O P I N I O N

The City of Milpitas requests authority to construct Abel Street at separated grades over the tracks of the Southern Pacific Transportation Company and The Western Pacific Railroad Company and to apportion the cost among the parties. The city also requests the relocation of the North Main Street at grade crossing of the Southern Pacific Transportation Company. Notice of the application was published in the Commission's Daily Calendar on July 7, 1972. No protests have been received. A public hearing is not necessary.

FINDINGS AND CONCLUSIONS

The request is in the public interest and should be granted. The City of Milpitas should be authorized to construct Abel Street at separated grades over the tracks of the Southern Pacific Transportation Company and The Western Pacific Railroad Company to be identified as Crossings Nos. DA-40.3-A and 4G-10.8-A. The City of Milpitas should be authorized to relocate the North Main Street at grade crossing of the Southern Pacific Transportation Company identified as Crossing No. DA-40.0. The protection of this crossing should be two Standard No. 9 gate signals (General Order 75-C).

The priority list of grade separation projects for the year 1973 as set forth in Decision No. 80874 shows this project as Priority No. 20.

Construction and maintenance costs should be borne in accordance with an agreement between the parties and the allocation of the cost will be by agreement of parties referred to by the city's letter of April 3, 1973.

The applicant is the lead agency for this project pursuant to the California Environmental Quality Act of 1970, as amended.

#### O R D E R

1. The City of Milpitas is authorized to construct Abel Street at separated grades over the Southern Pacific Transportation Company's tracks and The Western Pacific Railroad Company's tracks in the City of Milpitas, Santa Clara County, at the location and substantially as shown by plans (Exhibit B) attached to the application, to be identified as Crossings Nos. DA-40.3-A and 4G-10.8-A.

2. Construction and maintenance costs of the Abel Street grade separation shall be borne in accordance with an agreement to be entered into between the parties relative thereto, and a copy of said agreement together with plans of said crossing approved by the Southern Pacific Transportation Company and The Western Pacific Railroad Company shall be filed with the Commission prior to commencing construction. The apportionment of cost of construction and maintenance shall be by the following agreement:

"For the purposes of allocating the cost of the Abel Street overhead referred to as 'structure,' said structure shall be considered to consist of two components, to wit: a new crossing over the track of Southern Pacific Transportation Company (not involving the closure of an existing Southern Pacific grade crossing) hereinafter referred to as 'the Southern Pacific Project,' and a crossing having the same geometric bounds and limits over the track of The Western Pacific Railroad Company (involving the closure of the existing Western Pacific Main Street grade crossing), hereinafter referred to as the 'Western Pacific Project.' It being impractical to divide or segregate the Southern Pacific and the Western Pacific projects into separate or individual geometric configurations for purposes of

design, estimating, or construction; it shall be deemed that the cost of the Southern Pacific project is 50 percent of the cost of the "structure," and that the cost of the Western Pacific Project is 50 percent of the cost of the "structure."

"Certain benefits will accrue to The Western Pacific Railroad Company due to the construction and use of 'The Western Pacific Project,' resulting from closure of the Main Street grade crossing. In recognition of such benefits, the Western Pacific Railroad Company shall contribute to City \$11,700.00, which sum represents the capitalized value of the direct and computable savings resulting from the elimination of the cost of physical maintenance of the existing grade crossing and crossing protection thereat. In addition, the Western Pacific Railroad Company shall contribute to the City ten percent (10%) of the cost of said Western Pacific Project.

"Inasmuch as the structure provides for the construction of Abel Street on new alignment and there is no elimination of an existing public grade crossing across the Southern Pacific Transportation Company due to construction of the Southern Pacific Project, but only a relocation of an existing grade crossing, no benefit will accrue to the Southern Pacific within the meaning of Section 1202.5(a) of the California Public Utilities Code as amended. Therefore, the Southern Pacific is not required to contribute toward the cost of the structure.

"The remaining costs shall be borne by the City of Milpitas."

3. The City of Milpitas is authorized to relocate and construct Main Street at grade across the tracks of the Southern Pacific Transportation Company at the location and substantially as shown by plans (Exhibit C) attached to the application, identified as Crossing No. DA-40.0.

Width of the crossing shall be not less than 36 feet and grades of approach not greater than five percent. Construction of the crossing shall be equal or superior to Standard No. 3 of General Order No. 72-A. Protection shall be two Standard No. 9 gate signals (General Order No. 75-C).

The construction expense of the Main Street Crossing shall be borne by the applicant. Maintenance cost of this crossing inside lines two feet outside of rails shall be borne by the Southern Pacific Transportation Company. Maintenance cost of this crossing outside said lines shall be borne by applicant. The relocation cost of the automatic crossing protection shall be borne by applicant. The maintenance cost of the automatic crossing protection shall be divided equally between the applicant and the Southern Pacific Transportation Company.

4. Clearances shall be in accordance with General Order No. 26-D. Walkways along any new or reconstructed trackage, either temporary or permanent, shall conform to General Order No. 118. Walkway areas adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall promptly be restored to their original condition in the event of damage during construction.

5. Within thirty days after completion, pursuant to this order, applicant shall so advise the Commission in writing. This authorization shall expire if not exercised within three years unless time be extended or if above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity or safety so require.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 10<sup>th</sup> day of JULY, 1973.

Verizon L. Stinson  
President  
J. P. Sullivan  
Arthur J. [illegible]  
[illegible]  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the consideration of this proceeding.