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ORIGINAL

Decision No. 82182

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of THE CITY OF SAN LEANDRO, a municipal corporation, to construct a street crossing over the Southern Pacific Railroad for the extension of Farallon Drive in the City of San Leandro, County of Alameda, State of California.	Application No. 52243 (Filed October 13, 1970)

Carter J. Stroud, for the City of San Leandro, applicant.
Herold S. Lentz, for Southern Pacific Transportation Company, protestant.
Lionel B. Wilson, Attorney at Law, and John L. Carroll, for the Commission staff.

OPINION ON REHEARING

The Commission in this proceeding authorized the city of San Leandro (City) to construct a crossing at grade over the tracks of Southern Pacific Transportation Company (S.P.) at Farallon Drive (Decision No. 79893 dated April 4, 1972). S.P. petitioned for a rehearing which was denied (Decision No. 80206 dated June 27, 1972) but then upon further consideration the Commission ordered the proceeding reopened (Decision No. 80764 dated November 21, 1972) and then stayed the order contained in Decision No. 79893 pending further order of the Commission (Decision No. 80795 dated December 5, 1972).

A prehearing conference was held January 5, 1973, and after discussion the reopened proceeding was limited to evidence regarding the cost of a separation and the design cost of a grade crossing, the cost to the railroad regarding the effect that either a separation or a grade crossing would have upon its operations, and evidence regarding the alleged prematurity of the request for a crossing. Hearing was held March 13, 1973.

The City presented evidence that the previous budget estimate of $80,000 for completion of the crossing had risen to $120,000. S.P. did not cross-examine the City's witness as to this figure and did not offer any independent evidence to contest it. S.P. did, however, present a much more elaborate study of a proposed underpass than had been introduced into evidence previously.

Because of the nature of this additional evidence concerning the underpass, and also because of certain questions raised in S.P.'s petition for rehearing in this matter, it will be necessary to comment on the evidence generally and the law as applied to it, rather than to limit this opinion to the evidence presented at the rehearing.

The City's Traffic Problems

William M. Calvert, Assistant Director of Public Works for San Leandro, testified that the street network involved in the application for the Farallon Drive grade crossing is bounded by Williams Street on the north, Lewelling Boulevard on the south, Nimitz Freeway on the east, and Doolittle Drive on the west.[1/] The land use in the area consists of major residential concentrations, industrial concentrations, and islands of commercial uses in various areas.

The City street plan has two classifications of streets: Arterial streets which include Doolittle Drive, Wicks Boulevard, and Merced Street, and collector streets which include Manor Boulevard. Collector streets serve to connect local residential streets to the arterials. Wicks Boulevard, which intersects Farallon Drive at its eastern end, terminates just south of Farallon Drive at a flood control channel. The City indicated at the rehearing that it anticipates extending Wicks Boulevard over the flood control channel and connecting it with Manor Boulevard this year.[2/]

1/ The detail of this area is shown in Appendix A.

2/ The "select street system" of the City is depicted in Exhibit 2.

A traffic flow map (Exhibit 3) shows a 24-hour count at the various streets in the vicinity of the Farallon Drive crossing. The presently incomplete Wicks Boulevard showed a count of 5,800 south of its intersection with Merced Street. All of this traffic, according to the witness, would be from or to the San Leandro Industrial Park. This park is bordered by the buildings fronting on Burroughs Avenue to the north, by Wicks Boulevard to the east, by the flood control canal to the south, and by S.P.'s railroad tracks to the west. As yet this park is not fully developed. With the present street pattern, Wicks Boulevard is the only exit from the industrial park. The composition of the traffic from and to the industrial park consists, according to the witness, of everything from passenger cars to heavy truck traffic serving the area. Approximately 25 percent of the traffic is heavy truck.

North of the intersection of Wicks and Merced, the first street across the railroad tracks is Fairway Drive. The next through street north after Fairway is Marina Boulevard, which has a freeway entrance and exit and is very heavily traveled. The traffic counts indicate a heavy left-turn movement for northbound traffic both on to Fairway and on to Marina, at least during commute hours. The evening peak hour is just the reverse, that is, a heavy through movement southbound and a heavy right-turn movement from Fairway to Merced and apparently from Marina to Merced as well.

Doolittle Drive, to the west of the tracks, is also an arterial. The traffic pattern indicates that as it passes Fairway Drive, Marina Boulevard, and Williams Street in a northerly direction, it gradually collects traffic which, according to the witness, can proceed forward directly through another industrial park and on to the freeway.

The witness testified that, as it stands, this street network is inadequate and incomplete.

In the Washington Manor residential tract to the southeast of the industrial park, a street not intended as an arterial is functioning as such because of the incompleteness of Wicks Boulevard.

In this connection, the witness pointed out that the Farallon crossing would allow traffic coming from this residential tract located to the southeast of the industrial park to turn from Wicks Boulevard onto Farallon Drive and cross to Doolittle Drive rather than having all of it proceed to the intersection of Wicks and Merced and then north on Merced to either Fairway or Marina. The present heavy left-turn movements at Fairway and Marina would thus be alleviated.

The industries in the park are basically "distribution industries" and "freeway oriented" according to the witness. At present, all traffic must use Merced Street to get to the freeway entrance at Marina Boulevard. This is reflected in a traffic count of 22,600 vehicles per day on Merced Street between Marina Boulevard and Fairway Drive. With the Farallon grade crossing, some of the traffic from the industrial park could cross the tracks at Farallon, avoiding Merced, and then proceed north on Doolittle Drive to the freeway. As stated, this would relieve the considerable left-turn congestion from Merced at Fairway Drive and Marina Boulevard.

Persons now traveling north on Merced from about 10:00 a.m. through the peak evening hours experience considerable delay in making left-turn movements. At times, according to the witness, the line of traffic on Merced Street waiting for a left turn has extended south of the spur track which crosses Merced Street to the south of Fairway Drive. The reduction of traffic on Merced Street, by attracting traffic to Doolittle Drive, would cause the entire street system in this area to function better, according to the witness.

The witness' present projected figure in terms of volume would be approximately 3,000 cars a day if the grade crossing were opened at this time. If Wicks Boulevard were connected with Manor Boulevard, the witness would add between 2,000 and 2,500 trips a day, making a total of 5,000 or 5,500 trips across the Farallon Drive crossing. This estimate is based upon traffic counts and from an observation of the through traffic now emanating from the housing tract to the southeast of the industrial park. If the industrial park were fully developed, and the Wicks Boulevard extension were completed, then the count would, according to the witness, be approximately 8,000 to 8,500 cars a day, approximately 25 percent of this being generated by the industrial park.

The witness also indicated that the total amount of traffic across the railroad tracks would not increase since Farallon Drive would pull traffic from Fairway Drive.

The late night traffic at the proposed crossing "would be nil". Ninety percent of the traffic, according to the witness, would be between 7:00 a.m. and 9:00 p.m.

In support of its application the City also introduced a "license plate study" which is essentially an origin and destination study from the Washington Manor area (the residential area to the southeast of the proposed crossing) to Doolittle Drive. The purpose of this study was to show the demand for northwest access to the residential area. Fairway Drive was clearly the most heavily traveled of the three routes surveyed (the other two being Marina Boulevard and Williams Street). It is expected that some of the Fairway traffic would divert to Farallon Drive.

The City also presented a study made for the purpose of determining whether traffic would clear after trains blocked the crossing (Exhibit 10). It covered the period 7:00 a.m. to 9:00 a.m. on June 29, 1971. The study shows that at present on Fairway Drive, some traffic does not clear before the next train comes. Witness Calvert was of the opinion that Farallon Drive, in addition to relieving this congestion on Fairway, would itself clear more rapidly because it would be four lanes rather than, as is Fairway Drive, two lanes.

Exhibit 11 shows the estimate that Mr. Calvert developed based upon projected traffic on the Farallon Drive crossing. The City estimates substantial traffic reduction on Merced Street, Fairway Drive, and Wicks Boulevard after its completion, by the use of the Farallon Drive crossing. The witness pointed out that there is a difficult angular intersection at Merced and Wicks, and with some of the traffic not having to use Wicks Boulevard to get to Merced Street and then turn left at Fairway Drive (or to proceed in the opposite direction over these streets) the congestion at this Merced-Wicks intersection would be relieved.

The witness summarized his reasons for favoring the Farallon Drive crossing as (1) relief of the Wicks-Merced intersection, (2) alleviating the left-turn problem on Fairway Drive and also on Marina Boulevard and Williams Street at those streets' intersections with Merced Street, and (3) greater use of Doolittle Drive in preference to Merced Street.

Mr. Calvert testified that his reason for believing that considerable traffic diversion off Fairway on to Farallon would occur was (1) avoidance of the traffic signal at Fairway and Merced and also the stop sign facing the Fairway traffic at Doolittle Drive, and (2) the fact that Farallon Drive will be four lanes. The witness admitted that the train blockings indicated in Exhibit 6 would make this route less attractive.

The City also offered testimony from a police lieutenant to the effect that the Farallon crossing would improve patrolling, and that in this connection Marina Boulevard and Merced Street were "poor" for emergencies during the day, both for the police department and for an ambulance service jointly operated by the police and fire departments.

A battalion chief of the San Leandro Fire Department testified as to the traffic advantages for fire protection. Exhibit 14, a map of the city, outlined the areas of responsibility of the various fire companies. He was particularly concerned about fast spreading fires in industrial buildings.

As to the San Leandro industrial park, four pieces of equipment would respond in the first alarm because of fire hazards in industrial buildings. In a second alarm situation, equipment would be converging on the park from all five fire station areas. The witness felt that the response to an industrial building fire in the park would be increased by using Doolittle Drive and the Farallon crossing. With Wicks Boulevard open, the use of Farallon Drive would also speed responses to fires. There are fire hydrants on both sides of the railroad tracks on Farallon and therefore the fire department would be given another source of water should there be a major fire in that area. The witness said it would be desirable to avoid Merced and Marina whenever possible because of the traffic there now. It is noted that the fire coverage problems mentioned would not be present at night, and therefore a crossing blocking would seem to still allow the fire department to use Merced and Fairway Drive satisfactorily.

S.P. introduced its own traffic counts which were taken May 20, 1971 on the west side of the tracks at Farallon Drive and Catalina Street, and also at Farallon Drive and Doolittle Drive. There were also traffic counts taken on the east side of the tracks at Farallon Drive and Griffith Street, and also at the intersection of Wicks and Merced.

These traffic counts were taken on a Thursday from 6:00 a.m. to 6:00 p.m. Apparently those taken on the west side of the tracks were for the purpose of showing that more traffic is currently using Farallon Drive on the west side, and also Doolittle Drive, than the City supposes.

A mechanical count of the traffic at the Fairway grade crossing (Exhibit 33) was also taken.

Exhibit 32 shows S.P.'s traffic count of the Wicks-Merced intersection. There is some confusion as to exactly what was counted, but apparently the count revealed that something just under 5,000 cars used Wicks Boulevard to and from Merced Street.

As to the counts taken on the Farallon Drive segment west of the tracks, while S.P.'s counts may show somewhat more local traffic than the City supposes, they do not rebut the City's evidence that Doolittle Drive, a through street, is lightly used compared to Merced Street, and that if greater use were made of Doolittle Drive, left-turn problems at Fairway Drive, Marina Boulevard, and Williams Street would be reduced.

As to S.P.'s count at the intersection of Wicks and Merced, this if anything would corroborate the City's assumption that after Wicks Boulevard is completed, this angular intersection will be in need of relief from the traffic volumes currently passing through it.

Interference with Train Operations

The City's witness, Mr. Calvert, introduced three exhibits concerning train movements.

Exhibit 6 was a survey of train movements for one week, conducted at the proposed Farallon Drive crossing.

The witness pointed out that in his opinion there was only slight coincidence between the peak vehicular traffic and blockings at the proposed crossing. In the morning from 6:00 a.m. to 11:00 a.m. there is a slight coincidence between the traffic patterns, but in the afternoon hours, according to the witness, the vehicular traffic is reduced at the time the train traffic is increased. Exhibit 6 shows extended blockings as follows:

1. May 10, 1971, 8:05 p.m. to 10:14 p.m. (no information as to how many cars involved).
2. May 11, 1971, 5:02 p.m. to 5:37 p.m. (75 cars).
3. May 11, 1971, 7:58 p.m. to 10:27 p.m. (59 cars).
4. May 12, 1971, 7:55 p.m. to 11:20 p.m. (no information as to number of cars).
5. May 13, 1971, 7:42 p.m. to 10:19 p.m. (no information as to number of cars).
6. May 14, 1971, 5:44 p.m. to 6:11 p.m. (the notations indicate a caboose was stopped in the crossing, but there is no information as to the length of the train.
7. May 14, 1971, 8:43 p.m. to 10:36 p.m. (no information as to length of train).

Thus the exhibit shows what appears to be a regular blocking of extended length occurring around 8:00 p.m. each evening. This is well after the peak automobile traffic would be expected to occur. The exhibit indicates two other blockings of 35 minutes and 27 minutes which would overlap with the evening peak vehicular traffic. The record does not disclose the reasons for any of these blockings although it may be inferred that the regular blockings occurring around 8:00 p.m. have to do with trains waiting to enter the Mulford yard. As to the blockings of 35 and 27 minutes, whether they are due

to the necessity for switching because of problems at the Mulford yard, or because of nonrecurring situations such as casualties cannot be determined from competent evidence in the record.[3/]

Witness Calvert pointed out there was some overlap in the morning periods, peak vehicular traffic being from 8:00 - 9:00 a.m. and the railroad peak from 9:00 - 10:00 a.m. Based upon his survey, the witness felt that the arrival rate of the vehicles would not establish a queue that could not be handled after each movement of a train. The witness stated he was not worried about long closures at late night hours. He stated that as long as both crossings (Fairway and Farallon) were not blocked there would not be a safety problem regarding fire department, ambulance service, etc.

This witness also introduced Exhibit 10, a Traffic Interference Study. This included two days, Tuesday, June 29, 1971 and Friday, July 9, 1971, since these were the busy days of the week according to Exhibit 6. Exhibit 10 showed that when trains near 50 cars in length came at 5-minute intervals there was not enough time for the traffic to clear before the next train came. This, however, according to the witness, would not cause continual blocking of Fairway Drive. Furthermore, according to the witness, at Farallon Drive the traffic should clear more rapidly because there will be four lanes.

The witness also sponsored Exhibit 11 which consisted of traffic estimates assuming the Farallon grade crossing to be opened. Present vehicle queves, according to the witness, would be reduced because Farallon would take some traffic presently passing over Fairway.

3/ Counsel of S.P. asserted (Tr. 216) that the 35-minute crossing blocking occurring on May 11 was due to a full yard and not to any casualty.

The witness admitted that his exhibits showed two out of five days to include a blocking of approximately half an hour between 5:00 p.m. and 7:00 p.m. The train at 5:20 p.m. on June 29, 1971 consisted of 49 cars. The testimony of Frank Woolford, discussed hereafter, makes it clear that this particular train would not have fit between Fairway Drive and the end of the drill track located just north of the flood control channel and would have had to be cut at Farallon Drive to clear the proposed crossing.

Outside of the extended blockings set forth on page nine, there were only four crossing blockings of five minutes or longer and only two of these occurred during hours of peak vehicular traffic. The first of these was a 14-minute blocking from 6:00 p.m. to 6:14 p.m. and consisted of an engine and five cars. Therefore, it appears that this blocking would have been unnecessary had the crossing been operating. The second of the two blockings was of 6 minutes in length from 8:30 to 8:36 p.m. In addition, there were four minute blockings, none of which occurred during periods of peak vehicular traffic.

S.P.'s concern with the proposed crossing, as to railroad operations, is that (1) it will divide the presently clear segment of drill track which begins just north of the flood control channel south of Farallon Drive, and which is presently uninterrupted by any crossings to Fairway Drive, and (2) it will divide the presently clear segment of main line track, in excess of 9,000 feet extending from Fairway Drive south to Lewelling Boulevard, leaving S.P. with two segments of approximately 2,905 feet between Fairway Drive and Farallon Drive, and 6,110 feet from Farallon south to Lewelling.

Val Russell, an assistant division superintendent of S.P.'s Western Division, which includes San Leandro, testified as to the operational problems. He pointed out that the drill track runs from the flood control channel north to the Mulford yard, in the vicinity of Davis Street. This track is used in order that the switching from the various industries will not have to be done on the main line track. It is, he said, a passing track as well.

The witness pointed out that the Mulford yard spots cars for 130 or more industries in the vicinity. He referred to Exhibit 1, the large aerial photograph of the Farallon Drive area, and stated that the various spur tracks between Fairway Drive and the canal south of Farallon Drive contained, on the day the exhibit photograph was taken, over 40 cars. The witness stated that applicant's Exhibit 6, the survey of potential crossing blockings at Farallon Drive, would be typical for that time of year as to train counts, but that May is a low point in the year, business picking up in June, July, and August.

Train lengths are increasing, the witness stated. He noted trains on Exhibit 6 of over 100 cars and said that this is becoming more frequent than it was a few years ago. Car lengths, he said, are also increasing and S.P. now assumes a 60-foot car average for figuring lengths of trains rather than 50 feet that was traditional. On cross-examination the witness conceded that the amount of business as well as the length of cars would control the overall length of the train, that is, that trains would not be longer simply because the cars are longer, since the same amount of freight would fit into fewer cars.

At present, according to the witness, 58 cars could be placed on the drill track between Fairway Drive and the clear point north of the flood control channel (using a 60-foot car length). If both Fairway and Farallon are grade crossings, a train of 30-35 cars would fit between Fairway and Farallon. Several additional cars could fit between Farallon and the end of the drill track, by cutting the train at Farallon Drive. His testimony took into account an operating department rule that the train should clear 100 feet on each side of a crossing. According to the witness, the available space would be 300 feet less than the 2,900 feet from the center line of Fairway to the center line of Farallon. Thus, applying a 60-foot car average approximately 43 cars would fit if the train had to be cut to clear Farallon Drive. The witness was unable to testify as to what percentage of the trains going through the area are between 43 and 58 cars long.

On cross-examination, the witness conceded that Lewelling Boulevard is closed on one side, where there is only a dirt road, and that south of Lewelling there is about 3,000 feet to the next crossing. The witness stated, however, that trains should not block Lewelling indiscriminately because, even though it is a private crossing, S.P. never knows when someone will use it.

The witness pointed out that northbound through freight trains, when there was any doubt about length, would stay south of Farallon Drive to keep Farallon clear. That would mean leaving cars on the main line.

The witness mentioned the priority for AMTRAK Train 98 from Oakland to Los Angeles and Train 99 from Los Angeles to Oakland. The line has to be cleared for these trains. The record does not contain the times for the AMTRAK trains but the Commission will take notice of the AMTRAK schedule, which shows that the southbound train leaves Oakland every day from 8:45 a.m. and arrives at San Jose at 10:05 a.m. The northbound train leaves San Jose at 6:49 p.m., arriving in Oakland at 8:20 p.m. This means that the AMTRAK trains would pass through San Leandro, roughly, at 9:15 a.m. southbound and 7:30 p.m. northbound (the proposed grade crossing being approximately 15 miles from Oakland and approximately 30 miles from San Jose).[4/] The record thus indicates, by comparing the AMTRAK schedule with train movements indicated in the various exhibits, that the AMTRAK trains go through the area at times other than when S.P. is faced with extended delays in order to move trains into the Mulford yard from the Farallon Drive area.

4/ Exhibit 34 indicates that on May 25, 1971 the southbound AMTRAK train passed through the proposed crossing at 9:37 a.m.

According to the witness, switching movements from the various industries onto the drill track would be affected since some movements would have to be backed southward to clear Farallon Drive.

The witness also stated that extra time of about 30 minutes a day, 6 days a week would be added for local freight trains if the crossing were opened. Through freight trains would also be delayed approximately 30 minutes a day for two through trains and, as business picks up, three trains. These delays would be caused by the fact that some trains either would have to be left south of Farallon Drive or extra time would have to be taken to cut the train at Farallon Drive.

Trains entering Mulford yard from the drill track south of Farallon, if they had to be cut, would require an air test when the train was put back together. This would occur, according to the witness, if a train exceeding the length from Lewelling Boulevard to Farallon Drive were being held at that location, or if a train enters the drill track to pick up more cars at Mulford and then returns south to recouple the train. This requires additional time on the part of the brakemen and also additional time to make the air test.

When deciding that it would take 30 more minutes to handle the trains if the Farallon Drive crossing were opened, the witness stated he was concerned with a number of functions. He considered the travel time from Farallon to Mulford yard or to Davis Street and back to the train, plus various coupling and uncoupling problems. The men, he said, would be out of position in many cases and would have to walk up to the engine or back to the caboose in order to do the work. He considered the necessity for cutting the crossing to allow traffic to move. Also, he considered the time that cars would be in the drill track waiting for a through train to pass.

Lastly, the witness mentioned that a grade crossing across a drill track complicates matters as to the predictor. The predictor is installed to function accurately for the main line track rather than for the slow-moving trains along the drill track.

The City presented the testimony of Frank R. Woolford, registered engineer and a former chief railroad engineer, now a consultant. He testified that he made an observation of the area on May 6, 1971 for the purpose of determining delays to train operations from the proposed crossing.

It was his opinion that there would be no significant difference in gate problems for the S.P. at Farallon than presently experienced at Fairway for the main line track. As to the drill track, he thought there would be less delay at Farallon than there is at Fairway if a motion sensor instead of a predictor were used.

He explained in this connection that in entering a turnout such as the south switch onto the drill track, he would approach it at a slow speed and then approach Farallon at the same slow speed. With a motion sensor, he said, the gates would be down by the time the train got there and the train could continue at a slow speed to Fairway. At the present time, however, the train can go at a faster speed to Fairway since there is no crossing at Farallon. This would mean some slower movement for about 900 feet for trains moving into the siding. The witness agreed that with a southbound train of over 44 cars and a caboose, the train would not fit between Farallon and Fairway, and extra time would be involved in a cutting operation.

He examined Exhibit 6, pointing out that some of the movements do not state the number of cars, but as best as he could determine there were two southbound trains (excluding switching) which would not fit into the space between Fairway and Farallon.

He stated that if the northbound trains stopped south of Farallon rather than south of Fairway, they would have to travel an additional 2,900 feet to reach the Mulford yard. A 10-mile an hour speed limit would be reasonable in making this movement, he said. This would mean, according to the witness, that to accomplish the movement, six or seven minutes would be involved. The witness determined that four northbound local freights per week were indicated in the City's study and therefore a total of 28 minutes in a 5-day period would be involved.

For cutting and recoupling the train, the witness considers 10 minutes adequate time. Based upon an examination of Exhibit 6, the maximum number of trains performing this operation would have been 6 southbound and 4 northbound. Over a 5-day week this would come to a total time for cutting trains of 100 minutes.

The witness added this to the previous discussed travel time requirement and gave an opinion that the delay for nonswitching operations for one 5-day week would be 2 hours and 10 minutes. He noted that Exhibit 6 showed 87 freights passing through in five days and 77 of those movements did not involve stopping.

It was the witness' opinion that the switching movements would not lose any time, assuming the same operations as on Exhibit 6.

Traffic Problems v Railroad Operations

There are many facets to this case regarding both the traffic problems and the railroad operations, but the Commission believes that, on balance, the necessity for relieving certain present and future traffic problems by opening the grade crossing at Farallon Drive outweigh the disadvantages to S.P. caused by certain adjustments which must be made to the railroad operations in this location.[5/]

5/ The choice of a grade separation or a crossing at grade is discussed hereafter.

S.P. has expressed concern that the Commission is simply considering future problems and that the application of the City is premature. This is not the case. Some of the City's problems are presently existing. What future problems there are, are those of the immediate future and are very real. The City intends to connect Wicks Boulevard with Manor Boulevard this year. There is no reason to believe that the industrial park will not continue to grow to its full capacity. The Commission has long held that future problems are relevant in determining the need for crossings. (In re Richmond (1919) 17 CRC 527.) And although the operation of traffic on the streets of a community is not within the province of the Commission, the Commission may consider the fact that public convenience and necessity are best served by a correlation of the traffic pattern with the type and location of crossing structures. (County of San Diego (1968) 68 CPUC 740.) Difficulty with left-turn movements on Merced Street, increases in traffic on Wicks Boulevard that will occur after its connection with Manor Boulevard, the desirability of clearing some of the residential traffic from the Manor Boulevard area through Farallon Drive and across to Doolittle Drive, the increase in traffic in and out of the industrial park as it is developed, necessary relief at the intersection of Merced Street and Wicks Boulevard, and improved fire coverage all point to the public convenience and necessity of establishing a crossing at Farallon Drive.

Because of conflicting assertions and testimony as to railroad operations, this aspect of the case is most difficult to analyze, but after due consideration the Commission believes that the best evidence of present train movements in the area is offered by the City's Exhibit 6. This shows that extended blockings do not occur during hours of heavy vehicular traffic. S.P. introduced no documentary information to corroborate its witness' testimony that May was the low point of the year as far as traffic was concerned, or that Exhibit 6 represented an atypical situation.

As to the problem of long trains (over a mile long) remaining on the main line track because they will not fit onto the drill track south of Fairway Drive, this would occur in any event because there is only approximately 3,500 feet from Fairway Drive to the clear point of the drill track north of the flood control channel. Thus, as trains become increasingly longer the installation of a crossing at Farallon Drive will not affect whether such trains are on the main line or not.

As to holding such long trains without blocking any crossing, even with the Farallon Drive crossing there will still be over 6,000 feet from Farallon Drive to Lewelling Boulevard to hold a train. When needed, without being unreasonable, the railroad could occasionally block the private crossing at Lewelling Boulevard, cutting the train there as necessary, thus gaining an additional 3,000 feet to store a train.

The Commission believes it is reasonable for S.P. to use a 60-foot average car length to determine how many cars would fit in a given space. Under this assumption 58 cars can be placed on the drill track between Fairway Drive and the clear point of the beginning of the drill track, and approximately 43 cars could be placed in the same space if the train had to be broken to clear Farallon Drive.6/

6/ As will be discussed later, S.P. will at certain hours be able to leave 58 cars in this area for more than five minutes since the Commission is of the opinion that the City's crossing blocking ordinance should not apply during certain hours.

There is no showing that at present the AMTRAK trains or other through trains are blocked or unreasonably delayed by the storing of trains on the main line south of the flood control channel and north of Lewelling Boulevard. There is insufficient evidence in the record for the Commission to make a determination of exactly how many trains which now fit between Fairway Drive and Farallon Drive would have to extend onto the main line track if the Farallon Drive crossing is constructed and the train has to be cut at Farallon. At least from Exhibit 6 this does not appear to be a recurring problem and, as pointed out, S.P.'s witness was unable to give information as to what percentage of the trains going through the area are between 43 and 58 cars long.

There will no doubt be some additional delays to train movements due to various factors. Some long northbound freights which could now be held between Lewelling Boulevard and Fairway Drive would have to be cut at Farallon causing additional work and time, or else left south of Farallon, thus increasing the time and distance to the Mulford yard from where the train is held.

Southbound trains picking up cars from the Mulford yard (or setting them out) by using the southern entry to the drill track (north of the flood control channel) would have to be cut at Farallon at times, or if less than 43 cars, left north of Farallon, entailing an additional movement of the cars to or from the clear point on the drill track.

The difficulty with adopting the specific time estimates of either the S.P.'s witness or Mr. Woolford is that both witnesses apparently assumed the applicability of San Leandro's crossing blocking ordinance for 24 hours. A second problem, and indeed a major one, is that (as mentioned) there is no basis to determine how many 43- to 58-car trains set out or pick up cars from the Mulford yard, or are otherwise held in the Fairway-Farallon area. Exhibit 6 shows ten such trains, but all appear to have been through trains making no stops, and all cleared Farallon in less than five minutes.

As to trains of over 100 cars in length, there is no showing from any survey or documentation that such trains are delayed due to the operations at the Mulford yard. Exhibit 6 shows that 16 trains in excess of 80 cars in length (nine of which had 100 cars or over) passed through the area during the survey, as follows:

No. of Cars	Date	Time Entered Intersection	Time to Clear (Min. & Sec.)
89	5/10	2:28 p.m.	3:00
104	5/11	5:24 a.m.	2:00
105	5/11	7:18 a.m.	1:45
90	5/11	11:05 a.m.	1:30
99	5/11	3:46 p.m.	3:10
112	5/12	6:38 a.m.	1:40
153	5/12	7:59 a.m.	3:00
87	5/12	6:32 p.m.	2:00
106	5/13	3:30 a.m.	1:26
111	5/13	8:00 a.m.	3:00
106	5/13	1:26 p.m.	5:00
96	5/13	6:18 p.m.	1:00
104	5/14	7:41 p.m.	1:38
97	5/14	12:21 p.m.	2:00
135	5/14	7:15 p.m.	3:00

Thus, at least from the data available on Exhibit 6 it appears that S.P. has been able to schedule long trains to avoid their being delayed by Mulford yard holding operations, which appear to take place most heavily and regularly at about 8:00 p.m.

S.P. argues that the Commission must determine the cost, if any, to S.P. of delay in railroad operations caused by the proposed crossing. It is not necessary from a legal standpoint for the Commission to make a specific finding of exactly how many minutes and hours, or man-hours will be involved in these additional movements and then to capitalize this amount for the reason that the Commission, in this proceeding, is not required to determine the amount of damages, if any, to S.P. as a result of constructing the Farallon Drive crossing. The Commission believes that the construction of the crossing will not unduly interfere with S.P.'s operations, and will so find, but this is not the proceeding to determine the exact cost, if any, to S.P. of delay to railroad operations.

In its petition for rehearing S.P. cites City of Oakland v Schenck (1925) 197 Cal 456 and City of Long Beach v Pacific Electric Railway (1955) 44 Cal 2d 599, apparently for the proposition that the Commission should capitalize the cost of additional operations to S.P. and consider such figure in determining whether a grade crossing or a grade separation should be built.

Both of these cases began as eminent domain proceedings in the Superior Court, in which public authorities sought to condemn an easement for a crossing. Both cases hold, inter alia, that if the opening of the street across the tracks will not unduly interfere with a railroad's use for legitimate railroad purposes, then the compensation should be nominal. Neither case stands for the proposition that the Commission, in this type of proceeding now before it, should make such determination as is requested by S.P. Further, as was pointed out in City of Oakland v Schenck, 197 Cal 456 at p. 460, one of the incidents of the public use to which a railroad company dedicates its property used as a right of way is the right of the public to construct street crossings wherever and whenever reasonably necessary.

It should be clear that S.P. does not here seek an award of damages, but claims that the Commission should take into account certain alleged increased operational costs, the capitalized value of which is claimed to be in excess of $400,000, and that the Commission should make a finding or findings on such valuation. If the Commission were to do this in this case, numerous questions would be raised in other railroad crossing cases, such as whether the Commission should analyze and make findings on the financial amount of benefit to a railroad upon the elimination of a crossing, or whether the Commission should, when an issue of operational efficiency is raised in a proceeding such as this, make a more general investigation of the area to determine whether there are offsetting benefits to the railroad as a result of increased access to industrial areas served by the railroads, and therefore increased business to the railroad. The Commission has not heretofore accepted this burden.

The Commission does take into account the location of a proposed crossing in relation to the amount of railroad traffic. For instance, the Commission has held that a showing of more than the usual public convenience and necessity should be made before the Commission will authorize the crossing at grade through the middle of a railroad yard. (City of Sanger, 35 CRC 574.) The Commission has in the past balanced highway traffic considerations against railroad needs. (Cf. Western Pacific Railroad Company (1925) 26 CRC 396; City of Azusa (1968) 68 CPUC 182.) The Commission has not in the past made such determination on the basis of capitalized value of operational problems. The financial "benefit" theory has been held not to be required as the test in cases involving crossing protection apportionment. (Atchison, Topeka & Santa Fe Railway Company v PUC, 346 US 346; 74 S. Ct. 92, 98 L. ed. 51 (1953).) The Commission is not inclined to apply such a theory in this case. Furthermore, the Commission itself has held that the question of the value of what, if anything, may be taken by way of condemnation if a crossing is opened is one for the Superior Court. (City of Visalia (1969) 69 CPUC 310.)

Grade Separation (Underpass)

The City indicated it rejected the idea of an underpass because of expense and because the configuration of Farallon Drive made it less than an ideal location for an underpass. The City engineer stated that other locations, such as Marina Boulevard, were more in need of a grade separation.

S.P. introduced a rough engineering plan of an underpass and, at the rehearing, a more elaborate study prepared by De Leuw, Cather and Company, a firm of engineering consultants specializing in street construction and traffic problems (Exhibit 45).

Robert M. Barton, a civil engineer with De Leuw, Cather and Company, testified that Exhibit 45 was basically an engineering study of a preliminary design for a grade separation. The exhibit depicted both a two-lane and a four-lane structure, the estimated costs of which are $733,000 and $976,000, respectively.

Both plans call for a 6.2 percent grade on the west side and a 7.4 percent grade on the east side. Exhibit 45 states that, for this type of street, vehicle design speeds in the general range of 25 to 35 miles an hour through the underpass would be appropriate.

Because of the water table, the estimate includes placement of a concrete "boat" which is customarily used for underpasses which are below the water table. It would be necessary to install a drainage collection system and pumping facilities, as is also customary with this type of underpass.

The right of way costs, according to Exhibit 45, were developed by an unidentified right of way appraiser. The development of these figures was not explained.

Mr. Barton indicated that the soils tests which were used for the report were those previously taken elsewhere but in the general vicinity of Farallon Drive. He stated that actual soil tests would be necessary to confirm the fact that an underpass, constructed as indicated in Exhibit 45, is feasible. The nearest tests were apparently several test borings within a 1,000 to 1,500 feet of the site.

The witness did not think that truck traffic would be substantially slowed down, notwithstanding the proposed 7.4 percent grade on the east side of the underpass. As to the 7.4 percent grade, the witness said it would not be necessary to depress Griffith Street where it intersects with Farallon, but it appears from the drawings and from the witness' testimony that some adjustment in the grade would be necessary to allow Griffith Street to remain completely undepressed.

The witness had testified that trucks do not slow down significantly on a short grade; a long truck heading east on Farallon and intending to turn left on Griffith Street would have its rear axles sitting on the 7.4 percent grade, and therefore the turning time for such a truck would be increased. The witness thought that even such a truck, because of the configuration of Farallon Drive, would be clear of vehicles intending to turn right and stay on Farallon rather than to turn left on to Griffith. He conceded, however, that two trucks would block things entirely at this point.

In spite of these difficulties, the witness stated his recommendation would be for a two-lane rather than a four-lane underpass. Such an underpass, he admitted, would be a transition from a four-lane street to two-lane. It appears that the witness took the total traffic count and simply averaged the figure over so many hours; this approach considers rush hour problems inadequately.

The design includes a frontage road on the south side of Farallon west of the tracks, but no such road on the north. As to the parcel of land located on the corner of Griffith and Farallon, there are access problems regarding both the two- and four-lane design. It would be necessary to relocate the driveway to the property and build a retaining wall to protect the building located there. There is no information in the record as to whether such a relocated driveway would be satisfactory to the property owner's operations.

The witness indicated he did not know what the development plans were on the vacant parcels of land, and conceded that if a subdivision were to occur, the amount of funds allocated for taking of property would have to be increased.

Apparently the reason for no frontage road on the north side of the proposed underpass west of the tracks was that such property could be entered from Catalina Street. This approach is sound if it is assumed that only one large lot would exist on the corner of Catalina and Farallon Drive all the way to the railroad tracks. The possibility of subdividing this property fronting Farallon between

Catalina Street and the railroad tracks would be eliminated, however, unless some provision is made for access, such as a frontage road similar to that proposed on the south of Farallon.

Mr. Calvert, the city engineer, stated that from his past investigations on city streets, vehicles driven through any separation, underpass or overpass, would operate at speeds of 32 to 40 miles an hour and therefore the design criteria should be approximately 40 miles per hour. Mr. Calvert also objected to the configuration of the underpass because another street (Griffith Street) would be brought into the beginning of the underpass depression. He pointed out that with possible greater use of the spur track immediately south of Griffith, vehicles might come out of the underpass and then suddenly be confronted with cars moving across Farallon Drive on this spur track. This situation is bad because of the mix of cars and trucks (trucks counting for 22 to 25 percent of the total anticipated traffic) which would prevent a car behind a truck from anticipating a sudden stop when the spur track is in use.

He lastly objected to the fact that trucks turning left on to Griffith Street would do so slowly because of the grade.

He stated he would recommend against a grade separation if asked by City authorities.

In our opinion, the left-turning truck problem, combined with rush hour traffic patterns, eliminates the feasibility of a two-lane underpass. A four-lane underpass would ease the left-turn situation, but there would still be the problem of cars turning right being suddenly confronted, as they emerged from the underpass, with occasional traffic on the spur track.

We consider it important that no specific soils tests were taken at this precise location; therefore, while it is probable that the grade crossing can be built according to the engineering design submitted in Exhibit 45, it is not certain that additional expense would not be necessary.

Lastly, it appears that the estimate for condemnation purposes is quite conservative. As pointed out, a subdivision would raise the figure. As also mentioned above, the design seems to assume only one large lot between Catalina Street and the railroad tracks along Farallon Drive. Additionally, as stated, there is no evidence in the record that the redesign of the property located on Griffith Street and Farallon Drive would be satisfactory to the owner. If it is not, the condemnation costs might be raised considerably.

It also seems obviously undesirable either to depress the western margin of Griffith Street as it runs into Farallon Drive or to make an even steeper grade than 7.4 percent on the eastern side of the tracks.

S.P. reminds the Commission that the proposed Farallon Drive crossing was included in the 1972 grade separation priority list (Case No. 9257, Decision No. 79466). While this is true, we are mindful that S.P. itself unilaterally nominated Farallon Drive for the list, and did so after the commencement of the application in this present case. In any event, Farallon Drive does not appear in the priority list established for 1973 (Case No. 9423, Decision No. 80874).

Applicability of City Ordinance

During the hearings, the examiner ruled that the Commission could not make a determination as to whether the City's Ordinance No. 866 N.S., enacted in 1951, should apply to the proposed grade crossing if it is allowed to be constructed. This ordinance reads, in pertinent part, as follows:

> "It shall be unlawful for inter-urban or other railway trains to be operated in such manner as to prevent the use of any street for purposes of travel for a period of time longer than five (5) minutes."

Public Utilities Code Section 1202 gives the Commission exclusive power to determine, inter alia, the terms of installation of a railroad crossing, and Section 1219 states as follows:

> "The Legislature declares that Sections 1201 to 1205, inclusive, are enacted as germane and cognate parts of and as aids to the jurisdiction vested in the commission for the supervision, regulation, and control of railroad and street railroad corporations in this State, and the Legislature further declares that the authority and jurisdiction thus vested in the commission involve matters of state-wide importance and concern and have been enacted in aid of the health, safety, and welfare of the people of this State."

It has been held under these sections that regulation of grade crossings is a matter of statewide concern and not a municipal affair. (City of Union City v Southern Pacific Co. (1968) 261 CA 2d 277, 67 Cal Rptr 816.)

It is clear from these two sections that the Commission may determine the reasonableness of applying a crossing blocking ordinance to a new crossing. It is equally clear that in reaching such determination, the Commission need not wear blinders and restrict its analysis to the new proposed crossing only, but may study the reasonableness of the ordinance as to other crossings at least within the same jurisdiction, after installation of the additional crossing.

Such a review is especially appropriate where, as here, the ordinance was enacted in 1951 and obviously not in contemplation of any crossing at Farallon Drive.7/

7/ S.P. invites the Commission to decide other issues as to the validity of the City's ordinance, such as whether it is void because state law or the Commission's adoption of Resolution No. S-1278 preempts the field. Such matters are more properly before the Commission in Case No. 8949, which is a general investigation of crossing blockings and are more appropriately decided there, if necessary. In view of the fact that the Commission can dispose of all issues relative to this present proceeding by virtue of Public Utilities Code §§ 1202 and 1219, it is not necessary to reach these other issues.

A review of the authorities shows that the determination of the reasonableness of applying the ordinance to the new crossing need not await the commission of an actual violation. The examiner's ruling that an actual violation must be committed is therefore reversed. All facts necessary for a decision on this issue are before the Commission.

The Supreme Court of this State has held that an action may be maintained to enjoin the enforcement of an ordinance in cases of substantial and irreparable injury. (San Diego T. Assn. v East San Diego (1921) 186 Cal 253.) In Abbott v City of Los Angeles (53 Cal 2d 674, 3 Cal Rptr 158 (1960)), the court reviewed the authorities and made it clear that an actual violation need not be present to test the validity of an ordinance. The court (footnote at page 678) stated as follows:

> "When the enforcement of a law or ordinance would injure plaintiff's rights, equity may enjoin the prosecution (see cases collected 27 Cal.Jur.2d, § 26, p. 133; see also Porterfield v. Webb, 195 Cal. 71, 74 [231 P. 554]). Declaratory relief has also been used in California to challenge the constitutionality of penal statutes and ordinances (Portnoy v. Superior Court, 20 Cal.2d 375, 378 [125 P.2d 487]; LaFranchi v. City of Santa Rosa, 8 Cal.2d 331 [65 P.2d 1301, 110 A.L.R. 639]; Sandelin v. Collins, 1 Cal.2d 147 [33 P.2d 1009, 93 A.L.R. 956]. See also the following cases holding that declaratory relief is a proper vehicle for testing the validity of statutes of a nonpenal nature: Salsbery v. Ritter, 48 Cal.2d 1, 7 [306 P.2d 897]; Bess v. Park, 132 Cal.App.2d 49 [281 P.2d 556]; Mefford v. City of Tulare, 102 Cal.App.2d 919 [228 P.2d 847]; Monahan v. Department of Water & Power, 48 Cal.App.2d 746, 751 [120 P.2d 730]; Andrews v. City of Piedmont, 100 Cal.App. 700 [281 P. 78]). The theory of these cases was perhaps best expressed by Borchard in his book on Declaratory Judgments (1934) where he pointed out (p. 278) that to exclude examination of penal statutes from the operation of declaratory relief is like 'telling the prospective victim that the only way to determine whether the suspect is a mushroom or a toadstool is to eat it.'"

In California Water & Telephone Company v County of Los Angeles, 253 CA 2d 16; 61 Cal Rptr 618 (1967), the court stated that the factors affecting whether a determination of the validity of an ordinance should be made are (1) the penal character of the ordinance attacked, (2) the need for now determining the validity of the ordinance, (3) the character of the respondents' interest and that of the public in the subject matter, and (4) the existence of alternative remedies, if any, to test the validity of the ordinance. Additionally, the court stated that declaratory relief is not foreclosed simply because the subject matter of the action is a penal statute or ordinance (California Water & Telephone Company v County of Los Angeles, 253 CA 2d 16, 24).

Applying that test, a justiciable controversy is presented which the Commission should now resolve: (1) the ordinance is penal in character, (2) it would be unreasonable for the Commission to stay its hand and cause S.P. to be in doubt as to its rights pending the construction and use of the Farallon Drive crossing and whatever violation might be committed at a later date, (3) the character of the interests of S.P., the City, and the general public is substantial and requires a determination at this time, and (4) as mentioned, the only alternative to the Commission's determination is awaiting an actual violation, which under the circumstances is unreasonable. As was the case in California Water & Telephone Company v County of Los Angeles, were there any doubt about the justiciability of the controversy, that doubt would have to be resolved in favor of present adjudication, because the public is interested in settlement of the dispute. (See California Water & Telephone Company v County of Los Angeles, Supra, p. 26.)

The Commission has previously determined, in an investigation commenced pursuant to a petition filed by Southern Pacific Transportation Company, that a city speed limit ordinance was invalid. The Commission did so without having before it any actual violations. (Southern Pacific Transportation Company (1970) 71 CPUC 181.)

It appears clear, therefore, that the Commission may, pursuant to the above mentioned authorities, make a determination in this case as to the reasonableness of applying the City's ordinance to the proposed crossing, and to adjacent crossings in the same jurisdiction after installation of the proposed crossings.

The City's witness, Mr. Calvert, indicated that he was not concerned about late night crossings. It would also seem from a review of the testimony of the fire and police witnesses, that there would be no particular difficulty in achieving proper coverage under night traffic conditions so long as Farallon Drive and Fairway Drive are not both closed for extended periods at the same time. The peak vehicular traffic does not coincide with the peak railroad traffic except for some coincidence in the morning hours between 6:00 and 11:00 a.m. As mentioned above, City's witness testified that ninety percent of the traffic would be between 7:00 a.m. and 9:00 p.m.

As for S.P.'s operations, as stated above, the regular blockings of extended length appear to occur at or slightly before 8:00 p.m. The earlier extended blockings have not been shown by a preponderance of the evidence to occur on a regular basis, and as to the May 14 blocking of 27 minutes in length beginning at 5:44 p.m., there is a notation on Exhibit 6 "Caboose in Crossing" leading to the inference that possibly it might have been easy in this particular case to clear the intersection if a grade crossing had been located there at the time.

In summary, it appears that the evidence shows that S.P. will be able to abide by the City's ordinance with minimum difficulty during the hours of 7:00 a.m. to 8:00 p.m. During the remaining hours, it appears unreasonable to restrict S.P.'s use of the uninterrupted drill track from Fairway Drive to the clear point north of the flood control canal by application of this ordinance. It must be understood, however, that the Commission in making this determination is not inviting S.P. to block Farallon Drive at any hour of the day or night in an indiscriminate or unreasonable manner and more specifically, is not relieving S.P. from complying with Commission Resolution S-1278 or any rules issued thereunder.

In this regard the Commission notes that this ordinance apparently applies to Lewelling Boulevard, which is merely a dirt road on one side of the railroad. The dirt road has a padlocked gate across it and is seldom used. It would appear unreasonable to apply the City's ordinance to this crossing in its present condition. Commission Resolution No. 1278 affords adequate safeguards, and will give S.P. additional flexibility in parking long trains south of the Farallon Drive crossing.

Findings

1. The San Leandro Industrial Park, located within the city limits of San Leandro, is a partially incomplete development consisting primarily of distribution-oriented industries, and is bordered by the buildings fronting on Burroughs Avenue to the north, by Wicks Boulevard to the east, by the flood control canal to the south, and by S.P.'s tracks to the west.

2. The street network in need of relief by way of construction of a grade crossing across S.P.'s tracks at Farallon Drive is bounded by Williams Street on the north, Lewelling Boulevard on the south, the Nimitz Freeway on the east, and Doolittle Drive on the west. The land use in this area consists of major residential concentrations, industrial concentrations, and islands of commercial use in various areas.

3. Wicks Boulevard is presently the only exit from the San Leandro Industrial Park. Wicks Boulevard is to be connected with Manor Boulevard to allow better access to and from the Washington Manor residential area.

4. The Wicks Boulevard - Merced Street intersection presently handles all traffic in and out of the San Leandro Industrial Park, and when the additional traffic from the Washington Manor area begins using Wicks Boulevard, this intersection will be in need of relief from the traffic volumes it will be handling.

5. The first grade crossing to the north of the proposed crossing is at Fairway Drive. Fairway Drive intersects with Merced Street north of the aforementioned Wicks - Merced intersection. The traffic counts indicate heavy turn movements from Merced Street onto Fairway Drive during commute hours.

6. The second grade crossing to the north is at Marina Boulevard, which also intersects with Merced Street. Marina Boulevard also experiences turn movements during commute hours which are not as heavy as at Fairway Drive. Marina Boulevard is heavily traveled because it intersects with the Nimitz Freeway.

7. Doolittle Drive, to the west of the tracks, can handle additional traffic north from Farallon Drive to the Freeway. ✓

8. The present street pattern is incomplete and inadequate to handle the present and projected traffic which results primarily from expansion of the industrial park and the forthcoming use of Wicks Boulevard by residents of the Washington Manor area.

9. Construction of a crossing at Farallon Drive will improve the City's traffic patterns as follows:

   a. Some of the traffic from the Washington Manor area may turn from Wicks Boulevard onto Farallon Drive and cross to Doolittle Drive, proceeding north on Doolittle rather than on Merced Street, thus relieving the turning movement problem existing at Fairway Drive and Marina Boulevard.

b. There will be a second exit from the industrial park, and all traffic will no longer have to exit via the Wicks - Merced intersection.

c. With the completion of Wicks Boulevard, Farallon Drive will handle between 5,000 to 5,500 vehicle trips per day, mostly to or from either the industrial park or the Washington Manor residential area, which would otherwise have to proceed along Merced Street. A more advantageous traffic flow can be achieved with such a pattern, since Doolittle Drive is able to absorb some of the north-south traffic currently using Merced Street, which currently has a traffic count of 22,600 vehicles per day between Marina Boulevard and Fairway Drive.

d. The total amount of traffic over the railroad would not be increased but redistributed, and since Farallon Drive will have four lanes, as against the two lanes on Fairway Drive, the traffic will clear the track easier.

e. Fire, ambulance, and police coverage will be improved, at least during daylight hours.

10. The peak vehicular traffic in the morning hours is from approximately 8:00 a.m. to 9:00 a.m., while the peak morning train traffic is from approximately 9:00 a.m. to 10:00 a.m. Extended crossing blockings do not occur regularly in the morning hours.

11. There is no overlap in the evening hours between peak vehicular and peak train traffic.

12. Fairly regular extended blockings due to conditions at the Mulford yard occur at approximately 8:00 p.m.

13. The proposed crossing will divide the present segment of drill track which is unobstructed from Fairway Drive to the clear point north of the flood control channel, and which can presently hold approximately 58 cars, into two shorter segments which, if a train is cut to clear Farallon Drive, will hold a total of approximately 43 cars (using a 60-foot car length as an average).

14. There is a clear main line track extending from Fairway Drive to Lewelling Boulevard, over 9,000 feet in length, which, upon the opening of the proposed crossing will be bisected into segments of approximately 2,905 feet between Fairway Drive and Farallon Drive, and approximately 6,110 feet from Farallon to Lewelling.

15. S.P. will experience some delay in operations due to the necessity to clear the Farallon Drive crossing to comply with either the City's ordinance or Commission Resolution S-1278. These delays are due primarily to the following factors:

a. A train which could now fit onto the drill track between Fairway Drive and the clear point at the end of the drill track will have to be either cut to clear Farallon or moved south of Farallon, if such train exceeds the storage space between Fairway and Farallon.

b. Some switching movements from the various industries onto the drill track will be affected since some such movements will have to be backed southward to clear Farallon Drive.

c. Northbound trains which stop south of Farallon Drive (i.e., those which it is undesirable to cut at Farallon Drive pending further movement) will have to travel an additional 2,900 feet to reach the Mulford yard.

d. Southbound trains picking up or setting out cars onto the drill track by way of the southern entry to it (north of the flood control channel) will, at times, have to be cut at Farallon Drive, or if less than 43 cars, left north of Farallon, entailing an additional movement of the cars to or from the clear point on the drill track.

16. The record indicates that based upon present scheduling, AMTRAK trains will not be delayed by the opening of the proposed crossing.

17. The aforementioned additional movements will not unduly interfere with railroad operations.

18. While an underpass is feasible from an engineering standpoint it is not a reasonable alternative to a grade crossing at this location for the following reasons:

a. A two lane underpass is undesirable from a traffic standpoint because of the probability that during hours of peak vehicular traffic, left turning trucks and other vehicles (from Farallon Drive onto Griffith Street) would effectively block westbound traffic.

b. With truck traffic into the industrial park estimated at between 22 and 25 percent, at least during daylight hours, a 7.4 percent grade on the east side of the underpass is undesirable.

c. In order to avoid depressing Griffith Street at all, this 7.4 percent grade would have to be made slightly steeper.

d. While a four lane underpass would alleviate the left-turn problem, there would still be the problem of westbound vehicles bearing right onto Farallon Drive being occasionally suddenly confronted with railroad cars using the spur track located to the south of the Griffith - Farallon intersection.

e. The cost of a four lane underpass might well be substantially in excess of the $976,000 estimate in Exhibit 45 due to (1) the possibility of subdivision, (2) the possible need for a frontage road on the north side of Farallon west of the tracks as well as the south frontage road shown in Exhibit 45, (3) the fact that no soils tests were taken at this particular location, (4) the fact that it is unknown as to whether the arrangement shown in Exhibit 45 as to the parcel located at the northwest corner of Farallon and Griffith would afford a satisfactory arrangement of the property located there for the purpose for which it is now used, and (5) the fact that the right of way costs generally were not explained in detail.

f. Even assuming the correctness of the figure of $976,000 it is not a reasonable alternative to a grade crossing estimated to cost $120,000 considering present and future traffic volumes and the fact that the crossing will not unduly interfere with railroad operations.

19. It is unreasonable to apply the city of San Leandro's Ordinance No. 866 N.S. to the proposed crossing except between the hours of 7:00 a.m. and 8:00 p.m.

20. Upon completion of the proposed crossing, it will be unreasonable to apply the city's Ordinance No. 866 N.S. to the Lewelling Boulevard crossing while that crossing remains in its present state of development.

21. The Commission finds, pursuant to Commission Rule 17.1 (a)(2) that the requirements of the California Environmental Quality Act, the Guidelines for Implementation of the California Environmental Quality Act promulgated by the Office of the Secretary of Resources, and Rule 17.1 do not apply to the project which is the subject of this proceeding because it can be seen with reasonable certainty that the project involved will not have a significant effect on the environment, in that:

a. The crossing will not generate new traffic but will redistribute existing traffic.

b. Such redistribution will eliminate traffic delays and congestion thus, if anything, reducing pollution resulting from such delays and congestion of traffic.

O R D E R

IT IS ORDERED that:

1. The city of San Leandro is authorized to construct Farallon Drive at grade across the tracks of Southern Pacific Transportation Company as shown by plans (Exhibits A, B, C, and D) attached to the application to be identified as Crossing No. L-16.7.

2. Width of the crossing shall be not less than 84 feet measured normal to the roadway and grades of approach not greater than two percent. Construction shall be equal or superior to Standard No. 4A of General Order No. 72-B.

3. Clearances, including any curbs, shall conform to General Order No. 26-D. Walkways shall conform to General Order No. 118 in that the transition slope between walkways required under General Order No. 118 and top of roadway shall provide a reasonable regular surface with gradual slope not to exceed one inch vertical to eight inch horizontal in all directions of approach.

4. Protection shall be two Standard No. 9A flashing light signals (General Order No. 75-C) automatic gate type with cantilever arm.

5. The new crossing shall not be opened to public use until the protection ordered herein is installed and operative. No obstruction shall remain or be placed near the crossing which will impair the motorists' view of the signals.

6. The city of San Leandro shall bear the entire expense of construction and installation of the crossing and automatic protection, also maintenance cost of the crossing outside of lines two feet outside of rails. Southern Pacific Transportation Company shall bear maintenance cost of the crossing between such lines.

7. Maintenance costs of the automatic protection shall be borne by the city of San Leandro pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

8. The city of San Leandro shall not apply its Ordinance No. 866 N.S. to the Farallon Drive crossing except between the hours of 7:00 a.m. and 8:00 p.m.

9. The city of San Leandro shall not apply its Ordinance No. 866 N.S. to the Lewelling Boulevard crossing after the opening of the Farallon Drive crossing, while the Lewelling Boulevard crossing remains in its present state of development.

10. 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 two years unless the time be extended or if 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.

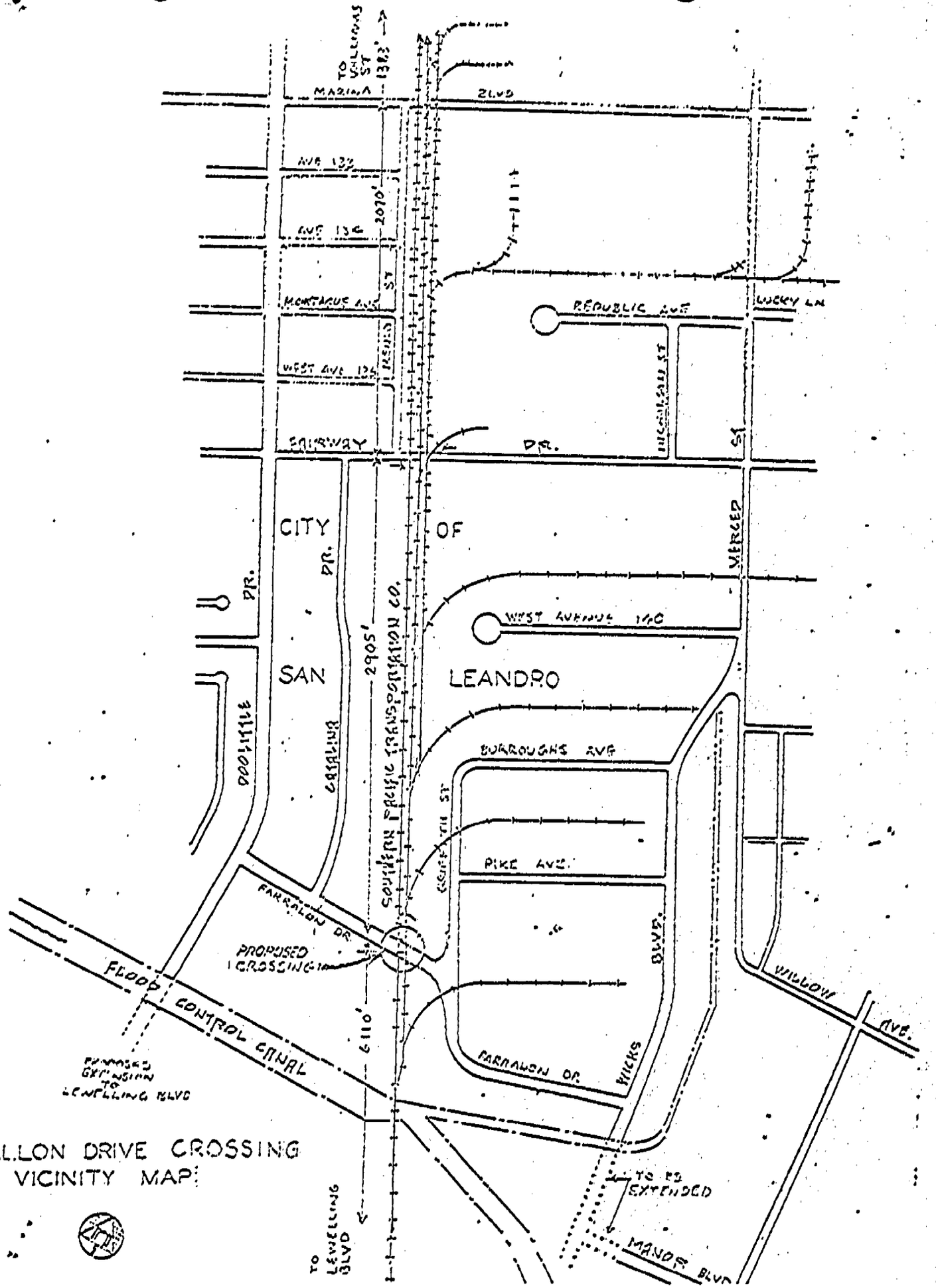
Dated at San Francisco, California, this 27th day of NOVEMBER, 1973.

Vernon L. Sturgeon
President

Commissioners

AL 5224

APPENDIX A



FARALLON DRIVE CROSSING
VICINITY MAP