

ORIGINAL

Decision No. 82267

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation for the purpose of establishing a list for the year 1974 of existing and proposed crossings at grade of city streets or county roads most urgently in need of separation, or projects effecting the elimination of grade crossings by removal or relocation of streets or railroad tracks, or existing separations in need of alteration or reconstruction as contemplated by Section 189 of the Streets and Highways Code.

Case No. 9607
(Filed August 21, 1973)

(Appearances are listed in Appendix A)

O P I N I O N

By order dated August 21, 1973 the Commission instituted this investigation to determine the 1974 annual priority list of existing and proposed grade crossings of city streets and county roads by the tracks of any railroad or rail passenger service most urgently in need of separation or elimination by removal or relocation of streets or tracks and of existing grade separations most urgently in need of alteration or reconstruction. Thereafter such a list is to be furnished to the State Department of Transportation (DOT) as required by Section 189-191 of the Streets and Highways Code, which also provides that the annual budget of DOT shall include \$10,000,000 for allocation to local agencies to assist them in completing the projects on the annual priority list.

Copies of the Order Instituting Investigation were served upon each city, county, and city and county in which there is a railroad grade crossing or separation, each railroad corporation, the Department of Transportation, the California Highway Commission,

the Greater Bakersfield Separation of Grade District; the League of California Cities, the County Supervisors Association, and other persons who might have an interest in the proceeding.

Public hearings were held in Los Angeles on October 18, 1973 and in San Francisco on October 25 and 26, 1973.

In response to the Order Instituting Investigation, various public bodies desiring to nominate crossings, separations, or removals for inclusion on the 1974 priority list filed with the Commission the following information applicable to each project nominated:

For New or Existing Crossings at Grade Proposed for Separation

1. Identification of crossing, including name of street or road, name of railroad, and crossing number.
2. Twenty-four-hour vehicular traffic volume count, by either 60- or 30-minute periods.
3. Number of train movements for one typical day segregated by type, i.e., passenger, through freight, or switching.
4. Statement as to vehicular delay at crossing.
5. Type of separation proposed (overpass or underpass).
6. Preliminary cost estimate of project.
7. Statement as to the amount of money available for construction of the project.
8. Statement as to need for the proposed improvement.

For Crossings at Grade Proposed for Elimination by Removal or Relocation of Streets or Tracks

1. Identification of crossing, including name of street or road, name of railroad, and crossing number.
2. Twenty-four-hour vehicular traffic volume count, by either 60- or 30-minute periods.
3. Number of train movements for one typical day segregated by type, i.e., passenger, through freight or switching.
4. Estimated cost of eliminating crossing if grade separation facilities on the existing alignment of the street and railroad tracks were constructed.
5. Type of alteration proposed.

6. Preliminary cost estimate of project.
7. Statement as to the amount of money available for construction of the project.
8. Statement as to need for the proposed improvement.

For Grade Separations Proposed for Alteration

1. Identification of crossing, including name of street or road, name of railroad, and crossing number.
2. Twenty-four-hour vehicular traffic volume count, by either 60- or 30-minute periods.
3. Description of existing separation structure, with principal dimensions.
4. Type of alteration proposed.
5. Preliminary cost estimate of project.
6. Statement as to the amount of money available for construction of the project.
7. Statement as to the need for the proposed improvement.

During the course of hearing, Exhibit 1 was introduced by the Commission staff. This exhibit considered the nominations and pertinent data filed pursuant to the Order Instituting Investigation in relation to certain tangible and intangible factors. These factors were used for the purpose of comparing the relative importance of one crossing with another in order to assign priorities. Considered among the tangible factors were traffic, cost, accident frequency, and state of readiness. The intangible factors considered were potential and type of traffic, location and relation to city street pattern, relationship to railroad operations, available alternate routes, accident potential, and vehicular delays. Also considered was the availability of local agency funds to cover its share of the cost of the project.

In addition to the nominations filed, the staff also nominated several crossings which it felt were in need of separation. These nominations are included in the list. The staff recommended one nomination not be placed on the list. This nomination - The City of Mountain View Project - was voluntarily withdrawn by the sponsoring

agency during the course of the hearings. The staff otherwise recommended that all the nominated projects be included in the list.

Representatives of various cities and counties introduced evidence and gave argument in support of their nominations.

DOT gave testimony through two witnesses, one of whom estimated that with the carry over into 1974 of unallocated 1973 grade separation funds, there would be a total of approximately \$20,500,000 for allocation in 1974.

The Commission staff recommended that the opinion and order issuing out of this proceeding detail in general the steps necessary for a local agency to ultimately secure an allocation from the state grade separation fund. In compliance with that request those steps are as follows:

Requirements Necessary to Receive Funds

1. Nominate project and be placed on priority list of grade separation, alterations, or elimination projects by the California Public Utilities Commission for the current year pursuant to Section 189 of the Streets and Highways Code.
2. File application for authority to construct and be issued decision from the California Public Utilities Commission authorizing construction of street or road project over the tracks of a railroad.
3. Negotiate agreement with railroad.
4. Resolution by city, county, or district declaring availability of funds and ability to award contract concerning construction of grade separation.
5. Right-of-way acquisition summary and cost estimate.
6. Complete construction plans.
7. File request for funds from the California Highway Commission through its Division of Highways prior to the Commission's deadline date.

Attorneys for DOT and for the Southern Pacific Transportation Company pointed out at the hearing that state Senate Bill No. 456 amending portions of the Streets and Highway Code becomes effective July 1, 1974; that one of the effects of this amendment is to require the Public Utilities Commission to determine the priority list on a fiscal year basis rather than on a calendar year basis as previously required; and that another effect of this amendment may be that the 1974 priority list determined in this proceeding will be good only until July 1, 1974 at which time the Commission will have to have established a priority list for the fiscal year beginning on that date.

A few of the projects nominated involve the local agency obtaining its money from independent sources which would benefit from the completed project. We have been asked to rule whether or not those projects are thereby disqualified from being placed in the priority list. They are not disqualified. In the decision on rehearing of the 1966 annual priority list, we found that "Neither Section 189 nor Section 190 of the Streets and Highways Code places limitations on the means by which local agencies raise their share of the project." (Re Annual Grade Crossing Priority List (1965) 65 CPUC 787, 789.) In that case the Bay Area Rapid Transit District proposed to pay the shares of the cities of Richmond and Hayward and we permitted those projects to be included in the 1966 priority list. Hence, the source of the local agency's funds does not disqualify projects from being placed on the list.

At the hearing, issue was taken that certain of the projects, while eligible for the list, were misclassified as to type of project, e.g., proposed new separation versus alteration of existing separation, separation of existing crossing versus proposed new separation, etc., and we have been requested to make findings on this issue. Since a finding either way on the issue will not be determinative of the projects' eligibility to appear on the list, as either type of project is eligible for the list under Section 189

of the Streets and Highway Code, we deem the consideration of possible misclassification is more appropriately left to later proceedings in the local agency's quest for grade separation funds (see Requirements Necessary to Receive Funds, supra).

At the hearing the representative for DOT made a motion to exclude the Alhambra and San Gabriel projects (Priority No. 49 and No. 51 respectively) from the list on the ground that the projects are part of a redevelopment program the urgency of which is questionable. That motion is denied. The Alhambra project will affect nine grade crossings and create seven grade separations while the San Gabriel project, although an independent project, is closely connected to the Alhambra project and will eliminate four existing grade crossings through grade separations. All facts considered, the Commission is of the opinion that these two projects should be placed on the priority list with the priority given to them as set out below.

The representatives of the city of Milpitas, the Southern Pacific Transportation Company, and the Western Pacific Railroad Company request that we make a specific finding as to the Milpitas project's eligibility (Priority No. 1) for an allocation from the grade separation fund. At issue is the amount of total contribution required from Southern Pacific and Western Pacific whose tracks the

project crosses. This project appeared as Priority No. 20 on our 1973 priority list (Decision No. 80874) and we approved the project as well as the contribution agreement between the railroads and Milpitas (Decision No. 81582). In selecting a project for the priority list we are required, among other things, to take "into consideration the possibility of financing the same under the provisions of this code." (Streets & Highway Code Section 189.) Only the "possibility" and not the probability or actual assurance that a project will be able to receive financing from the fund is required before we may include a project on the list. This proceeding therefore is not the proper forum to determine the ultimate eligibility or ineligibility of a project to receive an allocation from the grade separation fund.

The Commission, after considering all of the nominations, establishes the following priority list for 1974:

PRIORITY LIST OF GRADE SEPARATION PROJECTS OR ALTERATIONS
YEAR 1974
PURSUANT TO SECTION 189 OF THE STREETS AND HIGHWAYS CODE

C. 9607

Priority: Number	Crossing No.	Street	Public Agency	Railroad
1	4G-10.1 & DA-40.3	Abel Street	Milpitas	WP-SPT
2	2-225.0-A	Harbor Drive	Oceanside	AT&SF
3	E-46.6-B	Julian Street	San Jose	SPT
4	2-233.7-A	Poinsetta Lane	Carlsbad	AT&SF
5	E-393.16-A	Dulah Road	Ventura County	SPT
6	2H-14.1	El Segundo Boulevard	Los Angeles County	AT&SF
7	B-109.5 thru B-110.9	Carpenter - Briggsmore	Stanislaus County	SPT
8	2H-20.9	Prairie Avenue	Torrance & Los Angeles County	AT&SF
9	2H-20.5-C thru 2H-21.17-C	Madrona Avenue	Torrance	AT&SF
10	D-46.0, D-47.0, 4-46.7 & 4-47.7	Murrieta - Livermore	Livermore	SPT and WP
11	B-496.4	Durfee Avenue	El Monte	SPT
12	B-567.7	Eighth Street	Banning	SPT
13	EC-108.9-B	San Andreas Road	Santa Cruz County	SPT
14	2-187.6	Ridge Route Drive	Orange County	AT&SF
15	BEO Line	Berkeley thru College	Claremont	SPT-AT&SF
16	B-500.5	Hacienda Boulevard	Los Angeles County	SPT
17	A-15.5 & 2K-1.8-B	23rd Street	Richmond	SPT-AT&SF
18	2-165.1 & 3Y-17.6	Lemon Street	Fullerton	AT&SF-UP
19	B-483.7 & B-483.5	Mission - Griffin	Los Angeles	SPT
20	BK-498.0	Imperial Highway	Norwalk	SPT
21	8N-1.85 thru 8N-2.6	Eighth Street	Pittsburg	SN
22	2-180.5	Culver Drive	Irvine	AT&SF
23	E-222.0-A	Eighth Street	San Luis Obispo County	SPT

PRIORITY LIST OF GRADE SEPARATION PROJECTS OR ALTERATIONS
YEAR 1974
PURSUANT TO SECTION 189 OF THE STREETS AND HIGHWAYS CODE

C. 9607

Priority: Number	Crossing No.	Street	Public Agency	Railroad
24	E-61.0	Bernal Road	San Jose	SPT
25	2E-16.5	Twin Oaks Valley Road	San Marcos	AT&SF
26	L-40.7	Tasman Drive	Santa Clara	SPT
27	B-511.8	Roselawn Avenue	Pomona	SPT
28	E-57.3	Branham Lane	San Jose	SPT
29	BG-Line	Century Freeway	Los Angeles County	SPT
30	B-513.0 & 3-30.5	Dudley Street	Pomona	SPT-UP
31	36-13.8	Picador Boulevard	San Diego	SD&AE
32	36D-3.1-B	Imperial Avenue	San Diego	SD&AE
33	2-268.9-A	Harbor Drive	San Diego	AT&SF
34	A-75.4-B	Richards Boulevard	Davis	SPT
35	2-167.7 & 3Y-20.1	Lincoln Avenue	Anaheim	AT&SF-UP
36	2B-0.7	Rialto Avenue	San Bernardino	AT&SF
37	A-13.8	Cutting Boulevard	Richmond	SPT
38	BK-508.5	Lincoln Avenue	Anaheim	SPT
39	2-154.6	Florence Avenue	Los Angeles County	AT&SF
40	2-159.6	Alondra Boulevard	La Mirada	AT&SF
41	2-166.2 & 3Y-18.5	Orangethorpe Avenue	Anaheim	AT&SF-UP
42	E-23.2	Holly Street	San Carlos	SPT
43	A-91.0	28th Street	Sacramento	SPT
44	E-21.0	Laurie Meadows Drive	San Mateo	SPT
45	A-13.1	47th Street	Richmond	SPT
46	2H-19.1-B	190th Street	Los Angeles Co. & Torrance	AT&SF
47	2H-20.0	Del Amo Boulevard	Torrance	AT&SF
48	BK-512.4	Katella Avenue	Anaheim	SPT

PRIORITY LIST OF GRADE SEPARATION PROJECTS OR ALTERATIONS
YEAR 1974
PURSUANT TO SECTION 189 OF THE STREETS AND HIGHWAYS CODE

C. 9607

Priority: Number	Crossing No.	Street	Public Agency	Railroad
49	B-Line	SPT Lowering Project	Alhambra	SPT
50	E-448.8	Tampa Avenue	Los Angeles	SPT
51	B-Line	SPT Lowering Project	San Gabriel	SPT
52	L-14.9	Davis Street	San Leandro	SPT
53	2-167.1-3Y-19.4	La Palma Avenue	Anaheim	AT&SF-UP
54	BBG-Line	SPT Track Relocation	Torrance	SPT
55	BAH-310.3	North Chester	Bakersfield Sep. Dist.	SPT
56	B-199.9	Ashlan Avenue	Fresno County	SPT
57	2-149.5	Greenwood Avenue	Montebello	AT&SF
58	2B-25.2	Lincoln Avenue	Corona	AT&SF
59	2B-1.3	Mill Street	San Bernardino	AT&SF
60	B-312.3	Union Avenue	Bakersfield Sep. Dist.	SPT
61	2-887.6	"P" Street	Bakersfield Sep. Dist.	AT&SF
62	B-213.3	Clovis Avenue	Fresno County	SPT
63	B-609.7	Monroe Street	Indio	SPT
64	B-406.1	Avenue J	Los Angeles County	SPT
65	DA-43.5	Brokaw Road	San Jose	SPT
66	B-210.3	Chestnut Avenue	Fresno County	SPT
67	BG-488.3	Florence Avenue	Los Angeles County	SPT
68	2-190.7	Los Alisos Blvd.	Orange County	AT&SF
69	3-39.0	Grove Avenue	Ontario	UP
70	E-508.5 & 3-26.38	Grand Avenue	Los Angeles County	SPT-UP
71	B-54.2	Cavallo Road	Antioch	SPT
72	2E-14.5	Rancho Santa Fe	San Marcos	AT&SF
73	B-469.4	Hollywood Way	Los Angeles County	SPT

101

PRIORITY LIST OF GRADE SEPARATION PROJECTS OR ALTERATIONS
YEAR 1974
PURSUANT TO SECTION 189 OF THE STREETS AND HIGHWAYS CODE

C. 9607

Priority: Number	Crossing No.	Street	Public Agency	Railroad
74	3-8.5	Montebello Boulevard	Montebello	UP
75	2-170.3	State College Boulevard	Anaheim	AT&SF
76	E-432.0	Madera Road	Simi Valley	SPT
77	DA-46.4 & 46.2	3rd & 4th Streets	San Jose	SPT
78	2-199.8	Victoria Boulevard	Orange County	AT&SF
79	BBJ-509.31	Birch Street	Brea	SPT
80	D-5.9-A	Adeline Street	Oakland	SPT
81	A-19.3-A	Point Pinole Park	Contra Costa County	SPT

O R D E R

IT IS ORDERED that the Secretary shall furnish a full, true, and correct copy of this decision and order to the Department of Transportation.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 18th
day of DECEMBER, 1973.

William J. Brown President

[Signature]
[Signature]
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

Respondents: Vincent P. Di Figlia, Attorney at Law, for City of San Diego; Eugene E. Bourbonnais, for City of Torrance; Alfred P. Johnson, for City of Montebello; Ted W. Shettler, for El Monte, Pomona, Simi Valley; Robert J. Mimiaga, for Cities of San Gabriel and Alhambra; Willdan Associates, by Gary P. Dysart, for City of Norwalk; Hugh L. Berry, for City of Fullerton; Clay Dillman, for City of San Marcos; Bruce D. Mattern, for Orange County Road Department; John C. Beke, for County of Los Angeles; Harold S. Lentz, Attorney at Law, for Southern Pacific Transportation Company; Vincent F. Biondo, Jr., Attorney at Law, for City of Carlsbad; John Wallo, for San Luis Obispo County Engineering Department; Tom Shreve, for City of Santa Clara; Douglas J. Carmody, for City of Modesto; Ralph W. Benson, Attorney at Law, and William L. Zaun, for the County of Orange; Robert M. Barton, for Cities of San Bernardino, Pittsburg, and Milpitas; Richard W. Bridges, Attorney at Law, for The Western Pacific Railroad Company; William Parness, for City of Livermore; and Glenn W. Hitz, for City of San Jose.

Interested Parties: Leslie E. Corkill, for Department of Public Utilities and Transportation, City of Los Angeles; and O. J. Solander and Melvin Dykman, Attorneys at Law, for State of California Department of Transportation.

Commission Staff: John P. Ukleja.