

BP

Decision No. 83417

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF LIVERMORE
for an order authorizing construction
of crossings at separated grades
between North P Street and North
Livermore Avenue and the tracks of
the Southern Pacific Transportation
Company and the Western Pacific Rail-
road Company; for the elimination of
two railroad grade crossings; and for
the relocation or modification of
three railroad grade crossings.

Application No. 53846
(Filed Feb. 16, 1973)

ORDER DENYING
MODIFICATION AND/OR REHEARING

Mr. Robert S. Allen and the American Taxpayers Union (petitioner) filed on March 25, 1974, a petition for modification of Decision No. 82374 and on April 15, 1974, a petition for rehearing of Decision No. 82652.

Throughout this proceeding petitioner has alleged on the record that the grade separation project is not necessary at this time and that, if a project is approved, it should consider the potential route of Bay Area Rapid Transit District (BART) through the City of Livermore (Livermore) area.

Even assuming, as petitioner alleges, that BART has made a decision to follow generally the rail line of Western Pacific Railroad Company (Western Pacific) through Livermore, the grade separation project authorized by us would have to be delayed pending a final decision by BART as to the manner by which it will proceed through Livermore. As the petitions suggest, the route that BART will follow through Livermore has only recently been selected by the "BART Board of Control for Livermore". Whether or not that selection is permanent, however, is unknown.

The relationship of the "BART Board of Control for Livermore" to the Bart Board of Directors is not made clear by petitioner. The fact that, pursuant to the recent election, the BART Board of Directors is to become an elected body casts further doubt on whether or not the Board of Controls' decision is final. Furthermore, even assuming the selection of a route for BART has some degree of finality, studies must now begin to determine whether BART will follow that route by use of an elevated, shallow-cut, sub-surface, or some other type, trainway.

The record is replete with statements by Livermore that this project should proceed. Further delay to consider the BART routing could jeopardize the funding which has been received for the project and only further increase the costs of construction or cause termination of the needed project. It is acknowledged that BART construction in this area, if it occurs, is perhaps ten years away. All of the funding parties, including the California Department of Transportation, are now in agreement with the proposed project and are prepared to pay their respective shares. Furthermore, we note that no representative of BART appeared at the hearing on this matter to express its views on the grade separation project. Further delays are unwarranted, particularly in view of the speculative and uncertain nature of the BART route.

THEREFORE IT IS ORDERED that rehearing and/or modification of Decision No. 82374 and Decision No. 82652 is hereby denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 11th day of SEPTEMBER, 1974.

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

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

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President
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