

ORIGINALDecision No. 84219

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 the City of Milpitas for permission
 to widen a crossing at grade of the
 tracks of the Western Pacific Rail-
 road Company in the City of Milpitas,
 County of Santa Clara, State of
 California, in accordance with
 Sections 1201 to 1202.1 of the Public
 Utilities Code.

Application No. 55370
 (Filed December 9, 1974)

INTERIM OPINION

The City of Milpitas (applicant) seeks an order of the Commission authorizing the widening of Capitol Avenue across the tracks of The Western Pacific Railroad Company (railroad) in the City of Milpitas, County of Santa Clara.

The City of Milpitas is the lead agency for this project pursuant to the California Environmental Quality Act of 1970, as amended, and on July 26, 1973, the city filed a Negative Declaration with the Santa Clara County Clerk. On September 25, 1973, the city filed a Notice of Determination with the County Clerk stating that the City of Milpitas' City Council had concluded "that this project will have no significant effect on the environment".

Applicant has received an allocation of State Urban Extension Funds for the widening and improvement of Capitol Avenue with the requirement that a construction contract be awarded prior to June 30, 1975. Time is, therefore, of the essence if the City of Milpitas is to pursue this project within the requirement of the allocation.

The railroad has raised no objection to widening and improvement of the crossing, but applicant and the railroad have not been able to reach an agreement on cost apportionment for the improvements. Since the City of Milpitas could be subject to a severe

economic penalty if it is unable to award a construction contract for this project on a timely basis, the application should be granted with the matters in disagreement set for public hearing.

Notice of the application was published in the Commission's Daily Calendar on December 11, 1974.

F I N D I N G S

After consideration, the Commission finds:

1. Applicant should be authorized to widen and improve Capitol Avenue across The Western Pacific Railroad Company tracks in the City of Milpitas, County of Santa Clara, at the location and substantially as shown by plans attached to the application.

2. Crossing protection should be four Standard No. 9 signals (General Order No. 75-C).

3. Dimensions, configurations, clearances and walkways should be substantially in accordance with the plans set forth in the application and should comply with applicable Rules and General Orders of the Commission.

4. The Commission has considered applicant's Negative Declaration and finds with reasonable certainty that this project will not have a significant impact on the environment.

5. Maintenance cost of the crossing should conform to General Order No. 72-B.

6. The issues concerning apportionment of costs for improving the crossing and for installation and maintenance of the automatic crossing protection should be set for public hearing.

C O N C L U S I O N S

On the basis of the foregoing findings, we conclude that the application should be granted as set forth in the following order:

O R D E R

IT IS ORDERED that:

1. The City of Milpitas (applicant) is authorized to widen and improve Capitol Avenue, Crossing No. 4G-12.6, across the tracks of The Western Pacific Railroad Company in the City of Milpitas, County of Santa Clara, at the location and substantially as shown by plans attached to the application.

2. Protection at the crossing shall be four Standard No. 9 signals (General Order No. 75-C).

3. Construction of the crossing shall be equal or superior to Standard No. 2 (General Order No. 72-B).

4. Clearances shall conform to General Order No. 26-D. Walkways shall conform to General Order No. 118.

5. Maintenance of the crossing shall be in accordance with General Order No. 72-B.

6. The issues of cost apportionment for improvement of the crossing and for installation and maintenance of the automatic crossing protection shall be decided by further order of the Commission after public hearing at a time and place to be designated so that all interested parties may appear and be heard. All interested parties shall be notified of the time and place set for hearing by the Secretary of the Commission.

7. Within thirty days after completion pursuant to this order applicant shall so advise the Commission in writing.

This authorization shall expire within one year unless time be extended or if conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity or safety so require.

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The effective date of this order shall be the date
hereof.

Dated at San Francisco, California, this 25th day
of MARCH, 1975.

Vernon L. Sturgeon
President
William J. ...
[Signature]
Leonard Ross
Commissioners