

Decision No. 84394

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of SOUTHERN PACIFIC TRANSPORTATION)
 COMPANY for an order authorizing)
 the construction at grade of an)
 industrial drill track in, upon)
 and across Railroad Avenue in the)
 County of Alameda, State of)
 California.)

ORIGINAL

Application No. 55012
 (Filed July 3, 1974;
 amended October 4, 1974)

ORDER GRANTING REHEARING
AND CONTINUING THE STAY
OF DECISION NO. 84168

By the filing of Application No. 55012, Southern Pacific Transportation Company (Southern Pacific) sought an order of the Commission authorizing the construction, at grade, of an industrial drill track across Railroad Avenue in Alameda County.

After hearings held on September 27, October 31, November 1, 7, 8, and December 9, 1974, Decision No. 84168 was issued granting the authority as requested by Southern Pacific. In Decision No. 84168, we found that the extension of the rail spur over Railroad Avenue is an integral part of the San Leandro Business Park for which an Environmental Impact Report (EIR) was prepared by the City of San Leandro (City) in 1972, that the City was the lead agency for the project, and that the extension of the rail spur involved in this proceeding was considered in the City's 1972 EIR. We also found in Decision No. 84168 that the environmental impact of the proposed action is insignificant.

The County of Alameda (County) and the San Lorenzo Traffic Action Committee (STAC) filed petitions for rehearing of Decision No. 84168 on March 4, 1975, which suspended the order in Decision No. 84168 in accordance with Section 1733 of the Public Utilities Code. These petitions primarily allege error in the Commission's

reliance upon the City's 1972 EIR, the determination that the City is the lead agency for the project, and our finding that the environmental impact of the project is insignificant.

Replies to the petitions for rehearing were filed by Southern Pacific, Crow-Spieker Nos. 9 and 10 (Crow-Spieker) and the Trammel Crow Company (Trammel Crow). ^{1/}

Thereafter, on April 8, 1975 Southern Pacific filed a "Motion ... That the Commission Issue a Negative Declaration" along with an Environmental Data Statement (EDS) for the crossing in issue herein.

Our reconsideration of this matter in response to the petitions for rehearing, and the additional filings, persuades us that there is merit to the arguments raised by petitioners herein regarding the adequacy of the City's 1972 EIR with respect to the at grade crossing in issue herein, and that our reliance on this EIR for environmental review of the crossing project was not entirely warranted. In addition, although we found in Decision No. 84168 that the City is the lead agency for the project, we are also persuaded that our determination in this regard was unwarranted with respect to the crossing in question.

We therefore conclude that rehearing should be granted for the purpose of more adequately examining the environmental impact of this crossing and that Decision No. 84168 should be modified to find that the Commission is properly the lead agency with respect to this crossing.

As previously noted, Southern Pacific has filed an EDS along with a motion that the Commission issue a Negative Declaration regarding the at grade crossing in issue. Upon

^{1/} A letter dated March 7, 1975, from Trammell Crow to the President of the Commission is being treated as a reply to the petitions for rehearing.

the payment by Southern Pacific of the deposit required by Rule 17.1(o) of the Commission's Rules of Practice and Procedure, the EDS so filed shall provide the basis for the staff's review in accordance with Rule 17.1(f). Southern Pacific's motion that a Negative Declaration be issued shall be considered on rehearing.

Pending rehearing the suspension of the order in Decision No. 84168 shall be continued, in order to fully comply with the provisions of the California Environmental Quality Act of 1970, as amended (CEQA). Good cause appearing therefore,

IT IS ORDERED that:

1. Rehearing of Decision No. 84168 is hereby granted for the purpose of more fully examining the environmental impact of the at grade crossing in issue herein. Such rehearing shall be held before such Commissioner or Examiner and at such time and place as will be hereinafter designated.

2. Finding No. 2 of Decision No. 84168 is hereby modified to read as follows:

"2. The Commission is the lead agency with respect to the at grade crossing in issue in this proceeding."

3. The Environmental Data Statement filed by the Southern Pacific Transportation Company on April 8, 1975, upon the payment of the deposit required by Rule 17.1(o) of the Commission's Rules of Practice and Procedure, shall provide the basis for the staff's review in accordance with Rule 17.1(f). The motion filed by Southern Pacific on April 8, 1975 seeking the issuance of a Negative Declaration shall be considered on rehearing.

4. The suspension of the order in Decision No. 84168 shall be continued pending rehearing, and until further order of the Commission.

The Secretary is directed to cause notice of the rehearing granted herein to be mailed at least ten days before such rehearing.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 29th day
of APRIL, 1975.

Vernon L. Sturgeon
President

William Lyman J.

~~William Lyman J.~~

Leonard Ross

James Patrick
Commissioners