

bp

Decision No. 85016

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation for the purpose of establishing a list for the fiscal year 1975-76 of existing and proposed crossings at grade of city streets, county roads or state highways 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 2402 of the Streets and Highways Code.

Case No. 9842  
(Filed December 17, 1974)

ORDER DENYING REHEARING AND RECONSIDERATION

In Decision No. 84530, issued June 10, 1975, the Commission established the 1975-1976 railroad-highway grade separation priority list as required by Section <sup>2402</sup>2452 of the Streets and Highways Code.

On June 19, 1975, Southern Pacific Transportation Company (Southern Pacific) filed a petition for rehearing of Decision No. 84530. The arguments in Southern Pacific's petition are limited to assertions of error with regard to Finding No. 7, Ordering Paragraph No. 3, and that portion of the order which includes the State Highway 111 project in the City of Indio, and the Point Pinole Park project in the City of Richmond on the 1975-1976 priority list.

Southern Pacific argues that we erred in denying its motion to exclude the State Highway 111 and Point Pinole Park projects on the ground that its motion raises questions of fact properly determinable in an application proceeding for authority to construct the project. To the extent that Finding No. 7 does imply that the question of whether a project involves a "proposed separation", which is not eligible for the priority list, should be explored in an application proceeding, we agree with Southern Pacific's argument. In this respect, Finding No. 7 should be

modified. However, we are not persuaded that our placement of the State Highway 111 and Point Pinole Park projects on the list was in error.

IT IS THEREFORE ORDERED that:

1. Finding No. 7 of Decision No. 84530 is hereby modified to read as follows:

"7. The motions to exclude the State Highway 111, Point Pinole Park and Dayton Road projects from the 1975-76 priority list and the motions to change the classification of the Durham Road project will be denied. With the exception of those arguments which relate to the eligibility of these projects for the priority list, these motions raise questions of fact that cannot be fully explored in this proceeding because of the time element, but should be developed at such time as nominating agencies file with this Commission applications for authority to construct their respective projects."

2. In all other respects, rehearing and reconsideration of Decision No. 84530 is hereby denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day  
of OCTOBER, 1975.

President  
William Seymour J.  
Leonard Van  
Ness Subin

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