

ORIGINAL

Decision No. 85659

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Stockton,	)	
a political subdivision of the State	)	
of California, having corporate powers,	)	
for an order to construct a crossing	)	Application No. 54813
at grade of The Western Pacific Railroad	)	(Filed April 17, 1974)
Company over the proposed easterly	)	
extension of March Lane.	)	

ORDER OF DISMISSAL

Applicant seeks authorization for installation of a railroad crossing at grade, across the track of The Western Pacific Railroad Company at March Lane in the city of Stockton. Western Pacific opposes the application.

A hearing was held in Stockton before Examiner Meaney on October 1 and 2, 1974. At that time, the City of Stockton (city), which under our Rule 17.1 is the Lead Agency for preparing an Environmental Impact Report, informed the examiner that the final EIR was not ready. The examiner ordered that it be made a late-filed exhibit and further ordered that briefs would be delayed until the EIR was filed, so there could be comment on it.

Since the hearing, correspondence has indicated that the city has had interminable difficulty in finalizing the EIR because of extended negotiations with the federal government over what the EIR must contain in order to make the city eligible for federal funds (for matters other than the proposed crossing). The city offered to submit an unapproved draft EIR but was informed by the examiner in a letter dated May 12, 1975 that a final EIR is required.

Finally, after a further exchange of correspondence, a letter from the Executive Director dated January 16, 1976 informed the city that in view of the time lapse since the hearing the EIR

should be submitted on or before February 27, 1976, or the application would be dismissed without prejudice to re-filing another application at a later date.

The EIR was not received by February 27, and still has not been received.

We find that evidence taken in October of 1974 is now too stale to form the basis for a decision, and that this application should be dismissed without prejudice to filing another application on the same subject, when the city is ready to proceed with an entire showing.

IT IS ORDERED that this application is dismissed without prejudice to filing a new application on the same subject, at such time as the City of Stockton is ready to proceed with a complete showing, including a final EIR.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup>  
day of APRIL, 1976.

William S. Jones President  
Vernon L. Sturgeon  
Robert Bateman Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.