

Decision 89 05 011 MAY 10 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Modesto )  
requesting a grade crossing and )  
extension of West Union Avenue )  
across the railroad tracks of the )  
Union Pacific Railroad in Modesto, )  
California. )

Application 86-09-019  
(Filed September 15, 1986)

O P I N I O N

The City of Modesto (City) requests authority to construct West Union Avenue at grade across the tracks of Tidewater Southern Railway Company's (TSR) main line in Modesto, Stanislaus County.

The project will connect existing segments of West Union Avenue on the east and west sides of the railroad tracks, thereby improving vehicular access and traffic circulation in a growing residential area. Appendix A is a sketch of the proposed crossing location.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Sections 21000, et seq. After preparation and review of an Initial Study, City issued a Negative Declaration and approved the project. On November 21, 1988, a Notice of Determination was filed with the Stanislaus County Clerk which found that "The project will not have a significant effect on the environment."

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's Initial Study and Negative Declaration.

The application meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to construction of a public highway across a railroad. Due to the few train movements and projected light vehicular traffic, a grade separation at this location is not practical.

The site of the proposed project has been inspected by the Commission's Safety Division's Traffic Engineering staff. The staff examined the need for and safety of the proposed rail crossing, and recommends issuance of an ex parte order authorizing the proposed crossing subject to the installation of automatic gate-type signals as protection.

By protest filed September 24, 1986, TSR objected to granting of authority to construct the crossing, alleging that City had not made adequate showings that a grade separation is impractical or that a crossing is necessary.

By letter dated July 16, 1987, City requested that the matter be set for hearing. Accordingly, the matter was reassigned to the Administrative Law Judge Division on August 4, 1987.

By letter dated January 5, 1988, TSR informed the Commission that it had reconsidered its position in this matter and had decided to acquiesce in the construction of a new crossing at West Union Avenue. TSR stated that in the near future an agreement would be negotiated with City.

Subsequent correspondence between the parties resulted in the Commission receiving on January 31, 1989, a copy of an agreement entered into between City and TSR on November 1, 1988.

There are no unresolved protests to the application. A public hearing is not necessary.

Findings of Fact

1. City requests authority under Public Utilities (PU) Code Sections 1201-1205 to construct West Union Avenue at grade across the tracks of TSR's main line in Modesto, Stanislaus County.
2. The proposed grade crossing is required to improve vehicular access and traffic circulation in a growing residential area.
3. Public convenience and necessity require construction of the proposed railroad-highway crossing.
4. Public safety requires that protection at the crossing be two Standard No. 9 automatic gate-type signals (General Order (GO) 75-C).
5. City is the lead agency for this project under CEQA as amended.
6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Initial Study and Negative Declaration.
7. The project will have no significant impact on the environment.

Conclusion of Law

The application should be granted as set forth in the following order.

ORDER

IT IS ORDERED that:

1. The City of Modesto (City) is authorized to construct West Union Avenue at grade across the tracks of Tidewater Southern Railway Company's (TSR) main line in Modesto, Stanislaus County, at the location and substantially as shown by plans attached to the application, to be identified as Crossing 75-25.2.

2. Construction of the crossing shall be equal or superior to Standard No. 1 of GO 72-B.

3. Clearances shall be in accordance with GO 26-D. Walkways shall conform to GO 118.

4. Protection at the crossing shall be two Standard No. 9 automatic gate-type signals (GO 75-C).

5. Construction expense of the crossing and installation cost of the automatic protection shall be borne by City.

6. Maintenance of the crossing shall conform to GO 72-B. Maintenance cost of the automatic protection shall be borne by City under PU Code Section 1202.2.

7. Construction plans of the crossing, approved by TSR, together with a copy of the agreement entered into between the parties, shall be filed with the Commission prior to commencing construction.

8. Within 30 days after completion of the work under this order, City shall notify the Commission in writing that the authorized work has been completed.

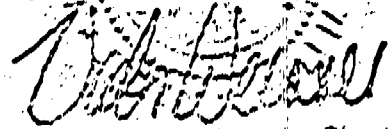
9. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

10. The application is granted as set forth above.  
This order becomes effective 30 days from today.

Dated MAY 10 1989, at San Francisco,  
California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Victor Weiner, Executive Director

## APPENDIX A

## PROPOSED CROSSING

