

S/ASC/bcy

Decision 90 08 042 AUG 8 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
the City of Tracy for Authority, under )  
General Order No. 75-C, to construct )  
Schulte Road at grade over and across )  
the Southern Pacific Transportation )  
Company tracks (Track "D") in the )  
City of Tracy, County of San Joaquin, )  
State of California. )

Application 90-02-009  
(Filed February, 2, 1990)  
(Amended March 5, 1990)

O P I N I O N

As part of the project to develop the Tracy Residential Areas Specific Plan, the City of Tracy (City) requests authority to construct Schulte Road at grade across Southern Pacific Transportation Company's (SPT) drill track in Tracy, San Joaquin County.

The project involves residential development in the southwest portion of Tracy. The proposed crossing will complete the missing portion of Schulte Road between Corral Hollow Road and Tracy Boulevard and provide an east-west arterial for traffic circulation in the area. Through the crossing area Schulte Road will be constructed to a roadway width of 32 feet in each direction separated by a 16 foot wide raised median island.

Adverse impacts of the project include reduction in wildlife habitats, generation of increased traffic, and increase in ambient noise levels. Mitigation measures include providing drainage channels and parkways as wildlife habitats, improvement of roadways, and landscaping and setbacks for noise insulation.

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 Environmental Impact Report (EIR), City approved the project. On February 13, 1990, a Notice of Determination was

filed with the San Joaquin County Clerk which found that "The project will 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 EIR.

Application 90-02-009 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 anticipated light vehicular traffic, a grade separation at this location is not practical. A sketch of the crossing is set forth as Appendix A.

The site of the proposed project has been inspected by the Commission's Safety Division 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.

On March 5, 1990, City filed an amendment to the application requesting an exemption from General Order (GO) 72-B to permit the installation of a rubber grade crossing surface, which crossing surface is not included within the standards of the Commission's GO 72-B. Since there appears to be ample justification for the installation of a rubber grade crossing surface in this instance, an exemption from GO 72-B to permit the installation will be granted.

Notice of the application and amendment were published in the Commission's Daily Calendar on February 8, 1990 and March 12, 1990, respectively. No protests have been received. A public hearing is not necessary.

#### Findings of Fact

1. City requests authority under Public Utilities (PU) Code Sections 1201-1205 to construct Schulte Road at grade across SPT's drill track in Tracy, San Joaquin County.

2. The proposed crossing is required to provide access to an area where residential properties are planned to be constructed.

3. Public convenience and necessity require construction of the proposed railroad-highway crossing.

4. Public safety requires that protection at the crossing be four Standard No. 9 automatic gate-type signals (GO 75-C).

5. Pending installation of the automatic gate-type signals, the requirements of public safety at the crossing may be met by the installation of two Standard No. 1-R crossing signs (GO 75-C) and flagging of the crossing for a period not to exceed two years from the effective date of this order. While the flagging order is in effect, public safety requires that Schulte Road be limited to two lanes of traffic.

6. The public and the rail systems will benefit from installation of a rubber grade crossing surface at the Schulte Road Crossing.

7. City is the lead agency for this project under CEQA, as amended.

8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR.

9. The project will have a significant effect on the environment; however, the adopted mitigation measures will reduce the severity of the adverse impacts to acceptable levels.

Conclusions of Law

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

2. An exemption from GO 72-B should be granted to permit installation of a rubber grade crossing surface at the Schulte Road Crossing.

O R D E R

IT IS ORDERED that:

1. The City of Tracy (City) is authorized to construct Schulte Road at grade across Southern Pacific Transportation Company's (SPT) drill track in Tracy, San Joaquin County, at the location and substantially as shown by plans attached to the application, to be identified as Crossing D-69.8-C.

2. City is granted an exemption from GO 72-B to permit installation of a rubber grade crossing surface at the Schulte Road Crossing.

3. Construction of the crossing shall be in accordance with the provisions of GO 72-B except that a rubber crossing surface shall be installed at the Schulte Road Crossing.

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

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

6. Until such time as the automatic protection is fully operative, or for a period of two years from the effective date of this order, whichever comes first, protection at the crossing may be two Standard No. 1-R crossing signs (GO 75-C). No on-rail vehicle shall operate over the crossing unless it is first brought to a stop and traffic on the street protected by a member of the crew, or other competent employee of the railroad, acting as flagman. The flagman shall place a minimum of two fusees on each side of the track prior to entry of the on-rail vehicle into the crossing. During the period of flagging, Schulte Road shall be limited to two lanes of traffic.

7. Written instructions shall be issued by SPT to trainmen, operating over the crossing, to comply with the flagging instructions. A copy of the instructions shall be filed with the Commission's Safety Division within 30 days after the installation

of the crossing. Suitable signs shall be installed on both sides of Schulte Road calling to the attention of trainmen the flagging instructions.

8. Construction expense of the crossing and installation cost of the automatic protection shall be born by City.

9. 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.

10. Construction plans of the crossing, approved by SPT, together with a copy of the agreement entered into between the parties, shall be filed with the Commission's Safety Division prior to commencing construction.

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

12. 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.

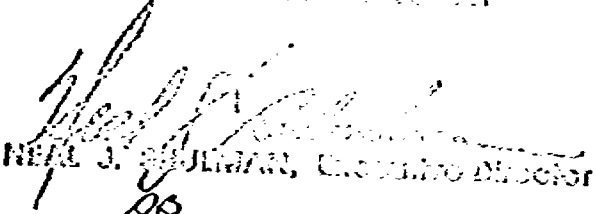
13. The application is granted as set forth above.

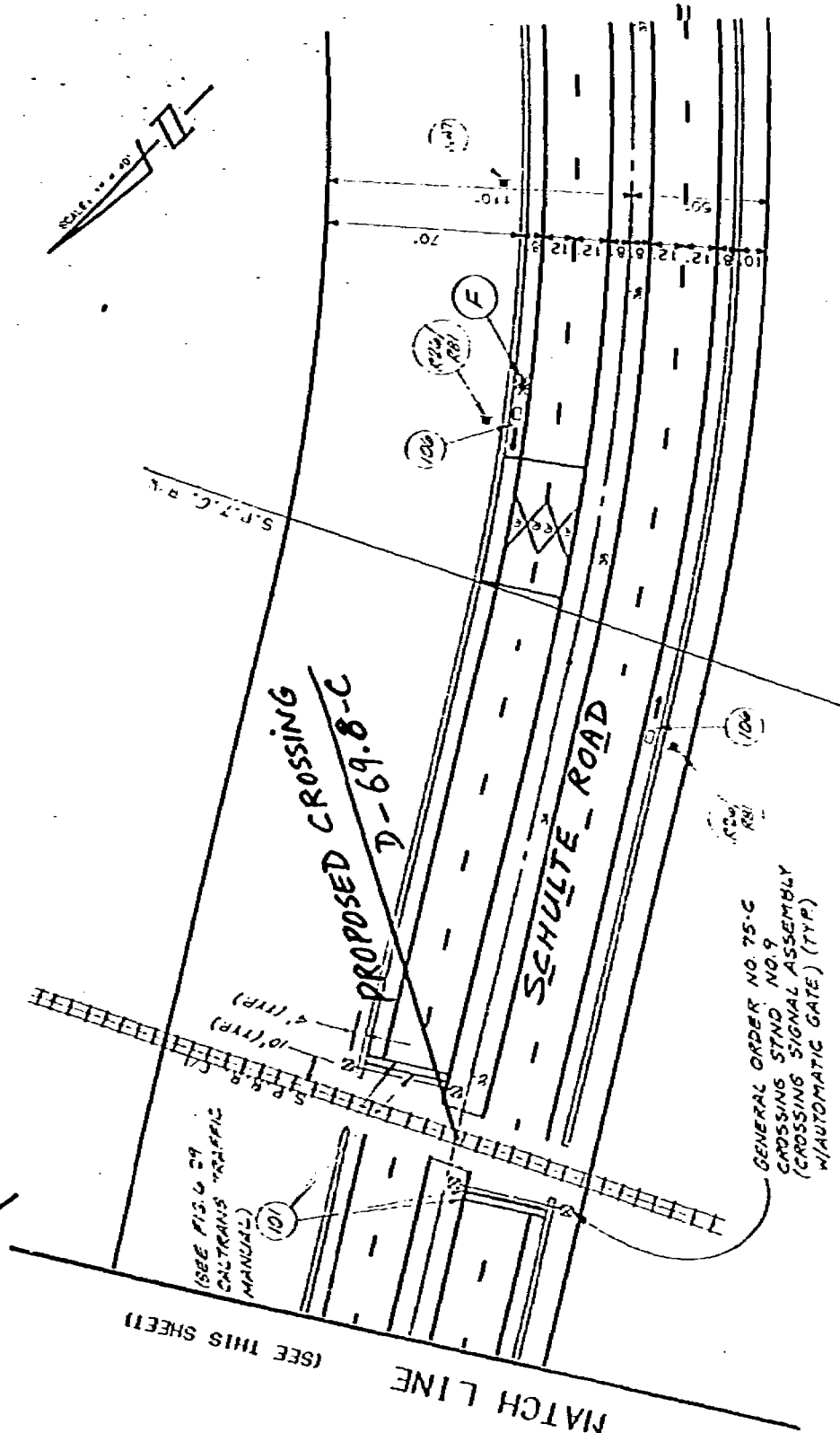
This order becomes effective 30 days from today.

Dated AUG 8 1990, at San Francisco, California.

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

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS

  
NEAL J. SULLIVAN, Executive Director



(SEE SHEET 52)

(SEE THIS SHEET)