

ORIGINALDecision No. 88642 MAR 21 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF NEWARK for)
 an Order authorizing construction of a)
 crossing at separated grades between) Application No. 57637
 Newark Boulevard and the tracks of the) (Filed October 19, 1977)
 Southern Pacific Transportation Company,)
 sometimes referred to as the "Newark)
 Blvd. Overhead". (DAB, M.P. 38.1))

O P I N I O N

The City of Newark requests authority to construct a grade separation structure, to be known as the "Newark Boulevard Overhead", over the Southern Pacific Transportation Company's tracks in the City of Newark, Alameda County.

The Priority List of Grade Separation Projects for the fiscal year 1977-78, as set forth in Decision 87496 dated June 21, 1977, shows this project as Priority No. 59. In order that this project may qualify for fiscal year 1977-78 grade separation funds, applicant requires an order of the Commission authorizing construction of the project which is effective prior to April 1, 1978. Therefore, the usual 30-day waiting period should be waived.

Applicant is the lead agency for this project pursuant to the National Environmental Policy Act of 1969 and on December 12, 1977 approved its Negative Declaration. Pursuant to the National Environmental Policy Act of 1969, applicant has submitted its Negative Declaration to the Federal Highway Administration for approval, which approval was obtained on January 3, 1978.

Notice of the application was published in the Commission's Daily Calendar on October 20, 1977. No protests have been received. A public hearing is not necessary.

F I N D I N G S

After consideration, the Commission finds:

1. Applicant should be authorized to construct Newark Boulevard at separated grades over the tracks of the Southern Pacific Transportation Company in the City of Newark, Alameda County, at the location and substantially as shown by plans attached to the application. The new overhead, which will be known as "Newark Boulevard Overhead", is to be identified as Crossing DAB-38.1-A.

2. Clearances should be in accordance with General Order 26-D, except that during the period of construction, a clearance of not less than 21' 8" above top of rail is authorized. The railroad is authorized to operate with such reduced clearance providing that instructions are issued by the railroad and filed with the Commission forbidding employees to ride on the tops of cars.

3. Applicant should notify the Commission and the railroad at least 15 but not more than 30 days in advance of the date when the temporary impaired clearance will be created.

4. Walkways should conform to General Order 118. Walkways adjacent to any trackage subject to rail operations should be maintained free of obstructions and should promptly be restored to their original condition in the event of damage during construction.

5. Construction and maintenance costs should be borne in accordance with an agreement to be entered into between the parties relative thereto. A copy of said agreement, together with plans of the crossing approved by the Southern Pacific Transportation Company, should be filed with the Commission prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Applicant is the lead agency for this project pursuant to the National Environmental Policy Act of 1969 and on December 12, 1977 approved its Negative Declaration which has been filed with the Commission. The Commission has considered the Negative Declaration

in rendering its decision on this project, and finds that:

- a. The environmental impact of the proposed action is insignificant.
- b. The planned construction is the most feasible and economical that will avoid any possible environmental impact.
- c. There are no know irreversible environmental changes involved in this project.

7. In order to qualify for fiscal year 1977-78 grade separation funds, applicant requires an order of the Commission authorizing construction of the project which is effective prior to April 1, 1978; therefore, the usual 30-day waiting period should be waived.

C O N C L U S I O N S

On the basis of the foregoing findings, we conclude that the application should be granted as set forth in the following order:

O R D E R

IT IS ORDERED that:

1. The City of Newark is authorized to construct Newark Boulevard at separated grades over the Southern Pacific Transportation Company's tracks in the City of Newark, Alameda County, as set forth in the findings of this decision.

2. Within thirty days after completion, pursuant to this order, applicant shall so advise the Commission in writing.

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

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 21st
day of MARCH, 1978.

Robert B. ...
President

William ...

Yegor L. Sturgeon

Clayton D. ...

Clair T. ...
Commissioners