

Decision No. 88916 MAY 31 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 the City of Oroville to Construct a)
 City Street across the Right of Way)
 of the Western Pacific Railroad)
 Company at Fifth Avenue in the South)
 Oroville area.)

Application No. 57985
 (Filed April 10, 1978)

O P I N I O N

As part of the project to construct public improvements in Industrial Unit #2, the City of Oroville requests authority to construct Fifth Avenue at grade across the tracks of The Western Pacific Railroad Company in the City of Oroville, Butte County.

The City of Oroville is the lead agency for the project to construct public improvements in Industrial Unit #2 pursuant to the California Environmental Quality Act of 1970, as amended. After review of an Environmental Impact Report, the City of Oroville approved the project for construction of public improvements in Industrial Unit #2 and on March 10, 1978, filed a Notice of Determination with the Butte County Clerk which found that "The project will not have a significant effect on the environment."

Notice of the application was published in the Commission's Daily Calendar on April 12, 1978. 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 Fifth Avenue at grade across the tracks of The Western Pacific Railroad Company in the City of Oroville, Butte County, at the location and substantially as shown by plans attached to the application, to be identified as Crossing 4-203.5-C.

2. Construction of the crossing should be equal or superior to Standard No. 1 of General Order 72-B.

3. Clearances should conform to General Order 26-D. Walkways should conform to General Order 118.

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

5. Construction costs of the crossing and installation costs of the automatic protection should be borne by the applicant.

6. Maintenance of the crossing should be in accordance with General Order 72-3. Maintenance costs of the automatic protection should be borne by the applicant pursuant to the provisions of Section 1202.2 of the Public Utilities Code.

7. Construction plans of the crossing, approved by The Western Pacific Railroad Company, together with a copy of the agreement entered into between the parties involved, should be filed with the Commission prior to commencing construction.

8. The City of Oroville is the lead agency for the project to construct public improvements in Industrial Unit #2 pursuant to the California Environmental Quality Act of 1970, as amended, and on December 12, 1977, approved its final Environmental Impact Report which has been filed with the Commission. The Commission has considered the City of Oroville's final Environmental Impact Report and Notice of Determination in rendering its decision on this project and finds:

- 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 known irreversible environmental changes involved in this project.

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:

ORDER

IT IS ORDERED that:

1. The City of Oroville is authorized to construct Fifth Avenue at grade across the tracks of The Western Pacific Railroad Company in the City of Oroville, Butte 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 two 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 shall be thirty days after the date hereof.

Dated at San Francisco, California, this 31st day of MAY, 1978.

Paul J. Bateman
President
William Sproule Jr.
Vernon L. Sturgeon
Richard D. Howell

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.