

Decision No. 91040 NOV 20 1979**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
the City of Fremont, Alameda County,
California, for Modification of
D88175.

Application No. 59081
(Filed August 22, 1979)

Theodore R. Bresler, Attorney at Law, for
applicant. ✓
Harold S. Lentz, Attorney at Law, for Southern
Pacific Transportation Company; and
Eugene J. Toler, Attorney at Law, for The
Western Pacific Railroad Company, protestants.
Robert W. Stich, for the Commission staff.

O P I N I O N

By Decision No. 88175 dated November 29, 1977, in Application No. 56666, the City of Fremont (Fremont) was authorized to construct an at grade crossing of Blacow Road across the tracks of the Southern Pacific Transportation Company (S.P.) and the Western Pacific Railroad Company (W.P.). The decision provides that the authorization shall expire if not exercised by December 19, 1979. Fremont here seeks an extension of time to December 19, 1982.

Public hearing was held before Administrative Law Judge O'Leary at San Francisco on October 2 and 3, 1979; the matter was submitted on the latter date.

The primary reason that construction of the Blacow Road was deferred was because of the passage of Proposition 13 in June of 1978. The evidence adduced in Application No. 56666 indicated that the Blacow Road crossing would be constructed prior to the proposed widening of Washington Boulevard and construction of the Durham Road and Grimmer Boulevard grade separation projects. The evidence in this proceeding discloses that because of the deferment of the Blacow Crossing the widening of Washington Boulevard and the Durham Road and Grimmer Boulevard grade separation projects will precede the construction of the Blacow Road crossing.

There are also other possible circumstances in the future which might change and could have an effect on the Blacow Road crossing, such as the possible consolidation of the tracks of W.P. and S.P. which are now separate, possible extension of the BART tracks to this area, and the further possibility of the necessity of widening the Blacow Road crossing to four lanes.

Because of the changed circumstances and future uncertainties surrounding the Blacow Road crossing, we do not believe an extension of time is warranted. It would be a much better solution for Fremont to come forward with specific proposals based upon the circumstances existing at the time it proposes to commence construction.

Findings of Fact

1. The City of Fremont has indefinitely postponed the planned construction of a grade crossing at Blacow Road across the tracks of S.P. and W.P.

2. The circumstances surrounding the Blacow Road crossing are different now than proposed in Application No. 56666, and there may well be other changed circumstances prior to commencement of construction. ✓

The Commission concludes that the extension of time to construct the crossing requested by Fremont should be denied, and that a new application based on current facts should be filed when Fremont is prepared to initiate the crossing project.

O R D E R

IT IS ORDERED that no extension of time beyond the present expiration date of December 19, 1979, shall be granted to the City of Fremont for exercise of the authority granted by Decision No. 88175 in Application No. 56666.

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

Dated NOV 20 1979, at San Francisco, California.

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

John E. Byron

President

Clair J. D. ...

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Commissioners