

APR 7 1981

Decision No. 92897

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of San Jose, a municipal corporation of the State of California, for permission to construct an at-grade crossing over The Western Pacific Railroad Company's railroad tracks at Humboldt Street in City of San Jose, County of Santa Clara, State of California.

Application No. 59878  
(Filed August 14, 1980)

O P I N I O N

As part of the project to vacate an unimproved portion of South Fifth Street between Keyes Street and Humboldt Street, the City of San Jose requests authority to construct Humboldt Street at grade across The Western Pacific Railroad Company's tracks in the City of San Jose, Santa Clara County.

The City of San Jose is the lead agency for this project pursuant to the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code, Section 21000 et seq. After preparation and review of an Initial Study, the City of San Jose issued a Negative Declaration and approved the project. On September 25, 1979, a Notice of Determination was filed with the Santa Clara 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 independently evaluated and assessed the lead agency's Initial Study and Negative Declaration. The site of the proposed project has been inspected by the Commission staff.

The portion of South Fifth Street which is being vacated by the City of San Jose has never been developed as a thoroughfare and is no longer deemed necessary or useful for traffic circulation. The proposed extension of Humboldt Street across The Western Pacific Railroad Company's tracks will provide access to parcels of industrial

land which would otherwise become landlocked with the vacation of this portion of South Fifth Street.

Notice of the application was published in the Commission's Daily Calendar on August 18, 1980. No protests have been received. A public hearing is not necessary.

Findings of Fact

1. Applicant requests authority pursuant to Sections 1201-1205 of the Public Utilities Code to construct Humboldt Street at grade across The Western Pacific Railroad Company's tracks in the City of San Jose, Santa Clara County.

2. The proposed extension of Humboldt Street across The Western Pacific Railroad Company's tracks is required to provide access to parcels of industrial land which would otherwise become landlocked with the vacation of a portion of South Fifth Street by the City of San Jose.

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

4. In consideration of the low volume of train traffic, the requirements for public safety at the crossing may be met by the installation of two Standard No. 1-R crossing signs (General Order 75-C) and flagging of the crossing.

5. Applicant is the lead agency for this project pursuant to the California Environmental Quality Act of 1970, as amended.

6. The Commission is a responsible agency for this project and has independently evaluated and assessed the lead agency's Initial Study and Negative Declaration.

7. This project will have no significant impact on the environment.

Conclusion of Law

1. 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 San Jose is authorized to construct Humboldt Street at grade across The Western Pacific Railroad Company's tracks in the City of San Jose, Santa Clara County, at the location and substantially as shown by the plan attached to the application, to be identified as Crossing 4G-19.99-C.

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

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

4. Protection at the crossing shall be two Standard No. 1-R crossing signs (General Order 75-C). The signs shall be lettered both sides on reflectorized white background. No on-rail vehicle shall operate over the crossing unless it is first brought to a stop and traffic on the roadway protected by a member of the train crew, or other competent employee of the railroad, acting as a flagman. The flagman shall place a minimum of two fuseses on each side of the track prior to entry of the on-rail vehicle into the crossing.

5. Written instructions shall be issued by the railroad to trainmen, operating over the crossing, to comply with the flagging instructions. A copy of the instructions shall be filed with the Commission within thirty days after installation of the crossing. Suitable signs shall be installed on both sides of Humboldt Street, calling the attention of trainmen to the flagging instructions.

6. Construction expense of the crossing and installation cost of the crossing signs shall be borne by the applicant.

7. Maintenance expense of the crossing shall conform to General Order 72-B. Maintenance cost of the signs shall be borne by the applicant.

8. 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 APR 7 1981, at San Francisco, California.

John E. Snyron  
President  
Richard D. Hoagella  
Thomas M. Jones  
Victor Calver  
Priscilla C. Green  
Commissioners