

S&B/LGB

Decision 95-07-038 July 19, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the State of California,)
Department of Transportation, for an)
order authorizing the Department to:)
Construct portions of the Fifth and)
Sixth Street Viaducts and alter the)
Fifth Street grade crossing on)
Interstate 880/Cypress Freeway)
located in the City of Oakland, County)
of Alameda, State of California.)

Application 94-03-015
(Filed March 1, 1994)

ORIGINAL

O P I N I O N

As part of the project to construct portions of the Interstate (I) 880/Cypress Freeway on new alignment, the State of California, Department of Transportation (Caltrans), requests authority to construct portions of the Fifth and Sixth Street Viaducts and alter the Fifth Street grade crossing over the tracks of the Oakland Terminal Railway's (OTR) switching lead in Oakland, Alameda County, as set forth in Appendix A.

The I-880/Cypress Freeway replacement project will restore a regional transportation network damaged in the 1989 Loma Prieta Earthquake. Several crossing applications will be filed corresponding to the highway construction contracts for the freeway replacement project. This application involves replacement of the existing Nimitz Freeway overhead (16-0.04-A) with new structures and the alteration/relocation of the Fifth and Union Streets grade crossing (16-0.01) to accommodate new freeway ramps at Fifth Street. The new structures will cross over the tracks approximately where the ownership changes to Union Pacific Railroad (UP).

Caltrans is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 21000, et seq. After

preparation and review of an Environmental Impact Statement/Report (EIS/R), Caltrans approved the project. On October 25, 1991, a Notice of Determination was filed with the Office of Planning and Research which found that "The project will have a significant effect on the environment," and "Mitigation measures were made a condition of the approval of the project." A statement of overriding considerations was adopted for the project.

Major negative impacts include housing and business displacement, loss of parking, increased noise, temporary wetlands disruption, temporary traffic disruption and potential hazardous material exposure. Mitigation measures include business and housing relocation, parking garage construction, sound barriers, wetlands habitat restoration and expansion, temporary traffic detours and possible hazardous waste cleanup.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's EIS/R.

The application meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to constructing a public highway across a railroad. A sketch of the crossing area is included as Appendix B.

OTR filed a protest to Application 94-03-015 on April 8, 1994 alleging that parties were not yet in agreement about construction methods for the project. OTR subsequently withdrew its protest on September 29, 1994.

The Commission's Safety and Enforcement Division Traffic Engineering staff inspected the site of the proposed project. After reviewing the need for and safety of the proposed construction, the staff recommends that the sought authority be granted.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on March 9, 1994. A protest filed by

OTR on April 8, 1994, was withdrawn on September 29, 1994. A public hearing is not necessary.

2. Caltrans requests authority under Public Utilities Code Sections 1201-1205 to construct portions of Fifth and Sixth Street Viaducts, and alter the Fifth Street grade crossing over OTR's switching lead tracks in Oakland, Alameda County.

3. Construction of the Viaducts and alteration of the crossing is required to restore a regional transportation network damaged in the 1989 Loma Prieta Earthquake. Caltrans is urgently awaiting the authority sought by this application to begin construction, and has requested that the authority be granted effective today,

4. Public convenience, necessity, and safety require replacement of the I-880/Cypress Freeway as quickly as possible.

5. Caltrans is the lead agency for this project under CEQA, as amended.

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's BIS/R.

Conclusion of Law

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

O R D E R

IT IS ORDERED that:

1. The State of California, Department of Transportation (Caltrans), is authorized to construct portions of the Fifth and Sixth Street Viaducts, and alter the Fifth Street grade crossing over the Oakland Terminal Railway's (OTR) switching lead tracks in Oakland, Alameda County, as set forth in Appendix A.

2. Construction of the crossings shall be equal or superior to Standard No. 1 of General Order (GO) 72-B.

3. Clearances shall be in accordance with General Order 26-D.

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

5. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement, together with plans of the crossings approved by Union Pacific Railroad and OTR, shall be filed with the Commission's Safety and Enforcement Division prior to commencement of construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

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

7. To facilitate Applicant's construction schedule, this authorization shall expire if not exercised within five 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.

8. The application is granted as set forth above.
This order is effective today.

Dated JULY 19 1995, at San Francisco, California.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY

Wesley Franklin

Acting Executive Director

DANIEL Wm. FESSLER
President

P. GREGORY CONLON
JESSIE J. KNIGHT, JR.

HENRY M. DUQUE
Commissioners

APPENDIX A

As part of the project to repair the I-880/Cypress freeway damaged in the 1989 Loma Prieta earthquake, the State of California, Department of Transportation, proposes to reconstruct demolished portions on new alignment. This application involves the reconstruction of an existing overhead and the alteration of a grade crossing. The existing Nimitz Freeway overhead will be replaced with two new structures, the Fifth and Sixth Street Viaducts, about 75 feet south (application mistakenly indicated north) of the current location. The new location will be approximately where track ownership changes from the Oakland Terminal Railway (OTR) to the Union Pacific Railroad. The existing Fifth and Union Streets grade crossing will be altered and relocated approximately 150 north (again, mistakenly identified in the application) of the current location to accommodate the new freeway on and off ramps. In connection therewith, the following railroad-highway crossing projects are proposed at separated grades over the tracks of OTR switching lead in Oakland, Alameda County, as shown on plans attached to the application:

1. Replace the Fifth and Sixth Street Viaducts over OTR's tracks, to be identified as crossing 16-0.04-A.
2. Due to the new on and off ramp alignment, relocate and modify the existing grade crossing (16-0.01) located at Fifth and Union Streets over OTR's tracks. Traffic signals to be installed at the intersection shall be pre-empted by rail traffic. A train-activated, illuminated NO LBFT TURN signal (R3-2a) shall be installed in median of Union Street.

APPENDIX B

