

S&E/LGB

Decision 95-07-045 July 19, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Oakland, )  
a municipal corporation, acting by )  
Commissioners for permission to con- )  
struct warning devices at two separate )  
crossings at grade on Middle Harbor )  
Road in the City of Oakland. )

Application 94-02-048  
(Filed February 28, 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 City of Oakland (City), requests authority to improve and make public existing crossings of Middle Harbor Road at grade over spur tracks of Southern Pacific Transportation Company (SP) in Oakland, Alameda County.

The I-880/Cypress Freeway replacement project will restore a regional transportation network damaged in the 1989 Loma Prieta Earthquake. During reconstruction of the Interstate (I) 880/Cypress Freeway, Seventh Street will be taken out of service. Middle Harbor Road will serve as a detour route for trucks and autos accessing the Port area during this time. The City has purchased a permanent easement over this road, used for many years as a private haul route. Traffic will increase dramatically when used as the freeway detour. The crossing improvements will significantly enhance the safety of this important access route.

City 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 Initial Study, City issued a Mitigated

Negative Declaration and approved the project. On May 4, 1993, a Notice of Determination was filed with the Office of Planning and Research which found that "The project will not have a significant effect on the environment," and "Mitigation measures were made a condition of the approval of the project."

Major negative impacts include temporary increased noise and temporary traffic disruption; mitigation measures include intersection improvements and noise reduction measures.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's Mitigated Negative Declaration.

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 A.

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 8, 1994.
2. City requests authority under Public Utilities Code Sections 1201-1205 to establish Middle Harbor Road across SP's tracks in Oakland, Alameda County.
3. Extending Middle Harbor Road is an essential element of the Seventh Street detour and is required to restore a regional transportation network damaged in the 1989 Loma Prieta Earthquake. City 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 establishment of the Middle Harbor Road crossings as quickly as possible. City is urgently awaiting the authority sought by this application to begin construction, and has requested that authority be granted effective today.

5. City 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 Mitigated Negative Declaration.

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 City of Oakland (City), is authorized to establish Middle Harbor Road as a public roadway at grade across spur tracks of Southern Pacific Transportation Company (SP) in Oakland, Alameda County, at the location and substantially as shown by plans attached to the Application, to be identified as Crossings A-4.57-C and A-4.58-C.

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

3. Clearances shall be in accordance with General Order (GO) 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. Protection at Crossing A-4.57-C shall be one Standard No. 8-A flashing light signal with cantilever, one Standard No. 8

flashing light signal and one Standard No. 8 flashing light signal modified with additional lights; a train-activated illuminated NO RIGHT TURN (R3-1a) signal shall be installed on Seventh Street. Protection at Crossing A-4.58-C shall be two Standard No. 8-A flashing light signals with cantilevers, train-activated illuminated NO LEFT TURN signals (R3-2a) shall protect the driveways on each side of the crossing.

6. Traffic signals installed at the intersection of Seventh Street and Middle Harbor Road shall be pre-empted by rail traffic.

7. 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 SP 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.

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

9. This authorization shall expire if not exercised within two 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.

10. The application is granted as set forth above.

This order is effective today.

Dated JULY 19 1995, at San Francisco, California.

DANIEL Wm. FESSLER

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

Commissioners

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

*Wesley Franklin*  
Acting Executive Director