

Decision 97-05-038 May 6, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Emeryville )  
 to construct one "at grade" crossing of )  
 the Southern Pacific Transportation Co )  
 9th Street Drill Track on Stanford )  
 Avenue at Landregan Street in said )  
 City of Emeryville, State of California.)

**ORIGINAL**

Application 96-03-001  
 (Filed March 1, 1996)

O P I N I O N

As part of the Chiron Development project, the City of Emeryville (City), requests authority to construct Landregan Street at grade across the spur tracks of Union Pacific Railroad Company (UP), formerly Southern Pacific Transportation Company in Emeryville, Alameda County.

City's development plan consolidates and expands Chiron's facilities over the next 30 years. The project to extend Landregan Street across the tracks will provide access through the expanding industrial development. Landregan Street will be extended south to create a new three-legged intersection with the new Stanford Avenue Extension and the new Horton Street Bypass. The tracks cross this new intersection. UP has sold a nearby spur track which will be removed when the Landregan Street crossing is installed. This will in effect close the Hollis and Stanford Street crossing (A-7.20-C) and the 53rd Street crossing (A-7.47-C).

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 Environmental Impact Report (EIR), City approved the project. On August 16, 1995, 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 increasing traffic, loss of parking, and generation of hazardous materials. Mitigation measures include traffic control plans, transportation system management programs and the Chiron Hazardous Materials Management Plan.

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

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 Rail Safety and Carriers 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 5, 1996. No protests have been filed.
2. City requests authority under Public Utilities Code Sections 1201-1205 to extend Landregan Street at grade across UP's tracks in Emeryville, Alameda County.
3. City also plans to close the Hollis and Stanford Street crossing (A-7.20-C) and the 53rd Street crossing (A-7.47-C) when the Landregan Street crossing is opened to vehicular traffic.
4. Extending Landregan Street is an essential element of the Chiron Development Project and is required to provide access to the new expanding industrial development.

5. Public convenience, necessity, and safety require construction of the Landregan Street crossing and closure of the Hollis Street and 53rd Street crossings.

6. City is the lead agency for this project under CEQA, as amended.

7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.

2. 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 Emeryville (City), is authorized extend Landregan Street at grade across the 9th Street drill tracks of Union Pacific Railroad Company (UP), formerly Southern Pacific Transportation Company in Emeryville, Alameda County, at the location and substantially as shown by plans attached to the Application, to be identified as Crossing A-7.12-C.

2. Upon completion of the Landregan Street crossing and its opening to vehicular traffic, the existing Hollis and Stanford Street crossing (A-7.20-C) and the 53rd Street crossing (A-7.47-C) shall be closed and physically removed. UP shall file a form "G" report with the Commission's Rail Safety and Carriers Division within 30 days of completion.

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

4. Clearances shall be in accordance with GO 26-D.

5. Walkways shall conform to GO 118.

6. Protection at Crossing A-7.12-C shall be two Standard No. 9 automatic gate-type signals (GO 75-C) and one Standard No. 9 automatic gate-type signal with an additional set of lights.

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 crossing approved by UP shall be filed with the Commission's Rail Safety and Carriers 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 Rail Safety and Carriers 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.

11. Application 96-03-001 is closed.

This order becomes effective 30 days from today.

Dated May 6, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners

APPENDIX A

