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Mailed: June 8, 1999

Decision 99-06-013 June 3, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
the CITY OF HAYWARD for an Order )  
authorizing the construction of at-grade )  
and overhead crossings of the tracks )  
of the Union Pacific Railroad Company. )  
\_\_\_\_\_ )

**ORIGINAL**

Application 99-01-004  
(Filed January 7, 1999)

**OPINION**

The City of Hayward (City) requests authority to construct one at-grade emergency vehicle access (EVA) crossing and one grade separated overhead crossing over the tracks of the Union Pacific Railroad (UPRR) company. The proposed crossings will provide necessary access to a new residential development in the City known as the Oliver Development. The EVA crossing will henceforth be referred to as EVA PUC Crossing Number 001L-23.90. The overhead crossing will henceforth be referred to as Street A West, PUC Crossing Number 001L-23.70-A.

Both crossings will be part of a new residential housing development located west of Hesperian Boulevard and the UPRR tracks, south of Industrial Boulevard and north of the Old Alameda Creek. The projects consist of 132 acres of 578 single family homes and 25 acres of sports park. A map of the project vicinity is set forth as Appendix A.

The overhead crossing will be the main means of entering and exiting the Oliver Development. The overhead crossing is to be located south of the existing UPRR crossing 001L-23.00 at Baumberg Avenue. The overhead crossing will be a 32 foot wide, 235 foot long, two lane, two direction roadway with a 10 foot wide sidewalk on the southern part, separated from the roadway by a concrete barrier topped with a tubular hand railing. Based on standard trip generation assumptions, the overpass will carry approximately 5,500 vehicles per day.

The proposed EVA crossing is an existing at-grade, private farm crossing approximately 15 feet in width located north of the existing UPRR crossing 001L-24.60 at Union City Boulevard. The developers plan to temporarily utilize this crossing during construction of the

housing development. Approximately 400 trucks will transport 1.3 million cubic yards of soil. During this construction phase, the crossing will be equipped with concrete panels in accordance with General Order 72-B and a Union Pacific flagman will be present at all times of construction operations. To prevent access by the general public, the crossing will be sufficiently barricaded on both sides of the railroad tracks (e.g. K-rails) after construction operations are completed each day.

The use of the temporary construction crossing is expected to last approximately 18 months, at the end of which the crossing will be converted to an emergency vehicle access crossing. The EVA crossing will have hinged and locked six foot high metal frame gates across the eastern and western sides of the crossing to prevent its use by the general public. Keys to the locked EVA crossing gates will be held by the Hayward Fire Department and/or Hayward Police Department personnel for use by emergency vehicles.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Sections 21000, et. seq. After preparation and review of an Environmental Impact Report (EIR), the City approved the project. On February 20, 1998, the City filed a CEQA Notice of Determination with the County of Alameda and the State Office of Planning and Research, which states that: the project will have a significant effect on the environment, though mitigation measures were made a condition of approval of the project; and results also showed significant unavoidable environmental impacts that could not be completely mitigated and a statement of overriding considerations was adopted.

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

The Commission's Rail Safety and Carriers Division (RSAC) Traffic Engineering staff has inspected the site of the proposed project. The staff examined the need for and safety of the proposed crossings and recommends that the sought authority be granted.

Application 99-01-004 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38 which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3008 dated January 20, 1999, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not

necessary. No protests have been received. The Commission's RSAC recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3008.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU code Section 311 (g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

**Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on January 11, 1999. No protests have been filed.

2. The City requests authority, under Public Utilities Code Section 1201-1205, to construct one EVA crossing identified as EVA PUC Crossing Number 001L-23.70 and one overhead separated grade crossing over the tracks of the UPRR identified as Street A West PUC Crossing Number 001L-23.70-A.

3. Public convenience and necessity require the construction of the EVA and Street A West across the tracks of the UPRR in the City of Hayward in Alameda County.

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

5. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR and Notice of Determination.

6. The project will have a significant effect on the environment. Mitigation measures were made a condition of approval and a statement of overriding considerations was adopted for significant unavoidable environmental impacts that could not be completely mitigated.

**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.

**ORDER**

**IT IS ORDERED** that:

1. The City of Hayward (City) is authorized to construct two crossings: (a) an emergency vehicle access at grade crossing west of Hesperian Boulevard and north of Union City Boulevard Avenue over the tracks of the Union Pacific Railroad (UPRR), to be identified as PUC Crossing

Number 001L-23.90; and (b) an overhead crossing at separated grades west of Hesperian Boulevard and South of Baumberg Avenue, to be identified as 001L-23.70-A.

2. Clearances shall be in accordance General Order (GO) 26-D.

3. 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.

4. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement shall be filed by the City with the Commission's Rail Safety and Carriers Division (RSAC) prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

5. Final construction plans, approved by UPRR, shall be filed by the City with RSAC prior to commencing construction.

6. The City will inform the RSAC Traffic Engineering Section in writing within 30 days of the date of the completion of this project.

7. This authorization shall expire if not exercised within three (3) 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. This application is granted as set forth above.

9. Application 99-01-004 is closed.

This order is effective today.

Dated June 3, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

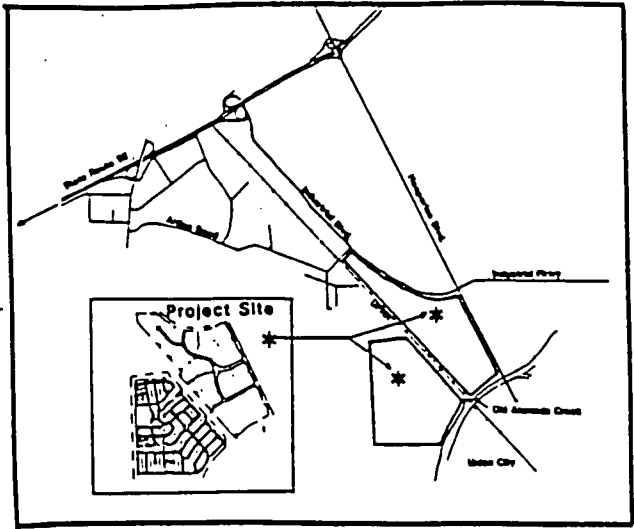
LORETTA M. LYNCH

TAL C. FINNEY

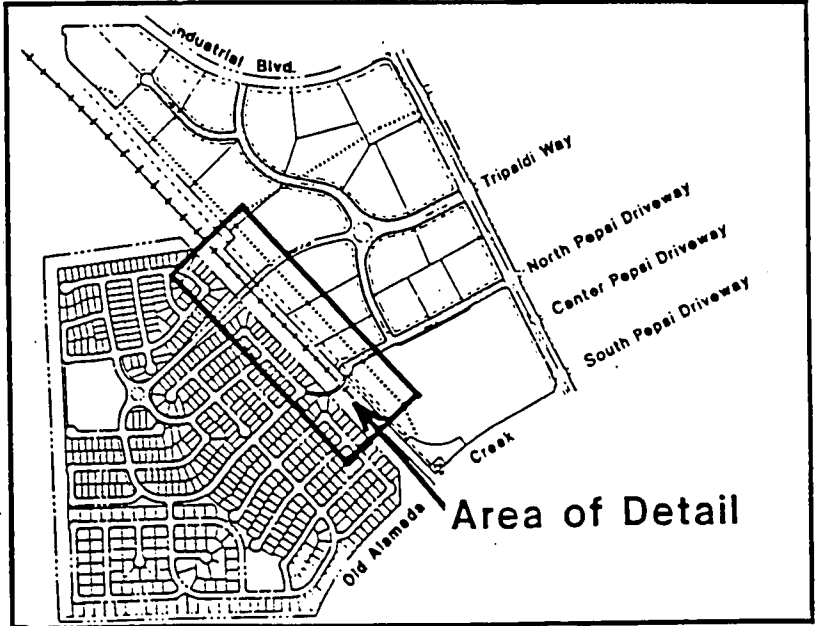
A.99-01-004 RSAC/BEG

**APPENDIX A**

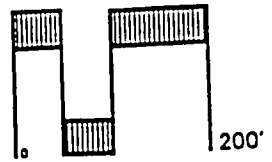
**Map of Project Vicinity**



Vicinity Map N.T.S.



Area of Detail



Scale: 1" = 200'

**Vicinity Map**  
N.T.S.

