

MAILED: 12/17/99

Decision 99-12-036 December 16, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF HAYWARD for an)
 Order authorizing construction of a temporary)
 Crossing (D21.66) of the Union Pacific Railroad)
 Company tracks in conjunction with the construction)
 Of the Harder Road Grade Separation Project in the)
 City of Hayward, County of Alameda)
 _____)

Application 99-09-048
(Filed September 27,1999)

OPINION

The City of Hayward (City) requests authority to construct a temporary at grade crossing over the tracks of the Union Pacific Railroad (UPRR) company. The proposed crossing will provide continuous access to Harder Road during the construction of the Harder Road Grade Separation Project. The Harder Road Grade Separation was originally authorized by PUC Decision 95-03-033 and was extended by Resolution TED 112. At the time the original decision was authorized, the City had planned to close the road completely during construction. Due to the increased traffic over the last few years, existing city roads will not be able to accommodate the detoured traffic from Harder Road. The temporary crossing will henceforth be referred to as Lund Avenue, PUC Crossing Number 001D-21.66.

The proposed temporary crossing will be constructed as an extension from Lund Avenue to Harder Road. The crossing will be 25 feet wide and equipped with two PUC standard number 9 automatic gate type signals. The temporary crossing will cross two tracks: the mainline tracks and the shoofly tracks that will detour the trains during the grade separation construction. A map of the project vicinity is set forth as Appendix A.

The City estimates that the temporary crossing will be in use for a maximum of two years. Upon completion of the Harder Road Grade Separation Project, the Lund Avenue will be closed at the tracks and the warning devices and the shoofly tracks will be physically removed.

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. As stated per Decision 95-03-033, the project is categorically exempt from CEQA under PR Code Section 21080.13 which states that grade separation projects that eliminate at-grade crossings are categorically exempt.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's categorical exemption 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 99-09-048 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 176-3024 dated October 7, 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 176-3024.

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 September 30, 1999. No protests have been filed.

2. The City requests authority, under Public Utilities Code Section 1201-1205, to construct one temporary at grade crossing identified as Lund Avenue, PUC Crossing Number 001D-21.66.

3. Public convenience and necessity require the construction of the Lund Avenue 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 categorical exemption determination.

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 a temporary at grade crossing south of Jackson Street/State Route 92, east of Highway 880 and west of Mission Boulevard/State Route 84 over the tracks of the Union Pacific Railroad (UPRR), to be identified as Temporary Crossing Lund Avenue, PUC Crossing Number 001D-21.66.
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. Upon completion of the Harder Road Underpass and its opening to vehicular traffic as authorized in Decision 95-03-033, the proposed temporary crossing at Lund Avenue and the shoofly track will be physically removed.
8. This authorization shall expire if not exercised within two (2) 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.

9. This application is granted as set forth above.

10. Application 99-09-048 is closed.

This order becomes effective thirty (30) days from today.

Dated December 16, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

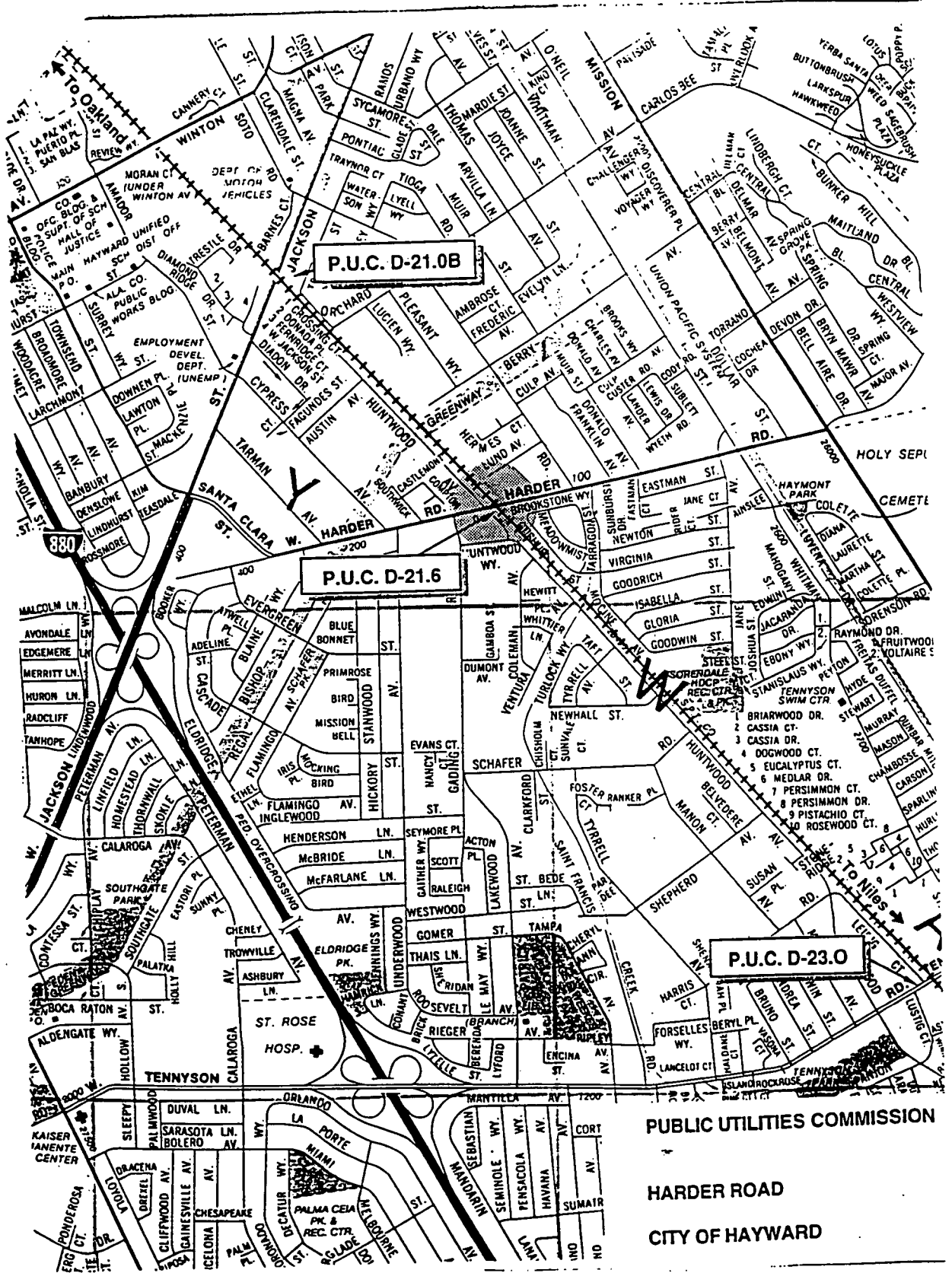
JOEL Z. HYATT

CARL W. WOOD

Commissioners

APPENDIX A

Map of Project Vicinity



PUBLIC UTILITIES COMMISSION
HARDER ROAD
CITY OF HAYWARD

