

Decision 09-04-018 April 16, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Riverside for authority to construct a grade-separated underpass for the realigned Magnolia Avenue crossing, Union Pacific Railroad Los Angeles Subdivision Mile Post 55.2, proposed CPUC Number 003-55.20-B, and USDOT Number 811011C.

Application 08-12-024
(Filed December 19, 2008)

DECISION GRANTING AUTHORITY TO CITY OF RIVERSIDE TO CONSTRUCT A GRADE-SEPARATED UNDERPASS FOR THE REALIGNED MAGNOLIA AVENUE CROSSING BENEATH TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE

Summary

This decision grants the City of Riverside (City) permission to construct a grade-separated crossing (crossing) of Magnolia Avenue beneath tracks of the Union Pacific Railroad Company (UPRR) Los Angeles Subdivision railroad tracks, replacing the existing at-grade crossing identified as CPUC Crossing Number 003-55.20 and DOT Number 811011C, in the City of Riverside, Riverside County.

Discussion

The City proposes to construct a new underpass grade separation of Magnolia Avenue. The crossing is located on a two-main-track segment of the UPRR Los Angeles Subdivision. Magnolia Avenue will be lowered

and realigned westerly of its existing right-of-way. Beatty Drive will be widened while Merrill Avenue will be modified for right-in/right-out access on either side of the lowered Magnolia Avenue. The minimum vertical clearance between the realigned Magnolia Avenue and the overhead railroad bridge structure will be 16 feet 6 inches. The minimum horizontal clearances between the rail centerlines and the walls of the bridge structure will be 10 feet 0 inches.

The project also includes the construction of a temporary shoofly track north of the existing UPRR mainline tracks. During construction, trains will be rerouted onto the single shoofly track to bypass the construction zone. Magnolia Avenue will change from four thru-lanes to two thru-lanes during construction of the railroad bridge structure. The proposed warning devices for the temporary at-grade crossing consist of one Standard No. 9 (flashing light signal assembly with automatic gate arm warning device, as defined in General Order 75-D) placed on each approach. After completion of the roadway underpass, the shoofly crossing and all automatic warning devices will be removed from service.

In addition, Magnolia Avenue is one of six consecutive at-grade crossings that are equipped with wayside horns. These devices are authorized for use under Federal Railroad Administrations (FRA) guidelines included in Appendix E of the FRA rule on the *Use of Locomotive Horns at Highway-Rail Grade Crossings* (49 CFR Parts 222 and 229). The City requests authority to reconfigure these wayside horns such that the horn systems remain active during all phases of construction.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, the lead agency is the City of Riverside for this project and the Commission is a responsible agency. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.²

The City adopted a Notice of Exemption dated June 26, 2006, in compliance with the Public Resources Code. Per Section 21080.13 of the Public Resources Code, any railroad grade-separation project which eliminates an existing grade crossing is exempt from CEQA.

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

² CEQA Guidelines, Sections 15050(b) and 15096.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of Rules of Practice and Procedure, which relates to the construction of a public road across a railroad and Rule 3.8 relating to alteration or relocations of an existing railroad crossing.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section reviewed and analyzed the application, and recommends that the Commission grant the permission requested by the City.

Categorization and Need for Hearings

In Resolution ALJ 176-3228 dated January 29, 2009, and published in the Commission Daily Calendar on January 30, 2009, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3228.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on January 30, 2009. There are no unresolved matters or protests. A public hearing is not necessary.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a grade-separated crossing of Magnolia Avenue beneath tracks of the UPRR Los Angeles Subdivision, replacing the existing at-grade crossing identified as CPUC Crossing Number 003-55.20, in Riverside County.

3. During construction, the City needs to construct a temporary at-grade crossing on Magnolia Avenue, north of the existing crossing, which will be removed once construction of the grade separation is completed.

4. The City requests authority to reconfigure wayside horns such that the horn systems remain active during all phases of construction.

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

6. The City adopted a Notice of Exemption dated June 26, 2006, in compliance with the Public Resources Code. Per Section 21080.13 of the Public Resources Code, any railroad grade-separation project which eliminates an existing grade crossing is exempt.

7. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's Notice of Exemption.

Conclusions of Law

1. The Notice of Exemption, adopted by the City, has the documentation required by CEQA for the project and is adequate for CPUC decision-making purposes.

2. The application is uncontested and a public hearing is not necessary.
3. The application should be granted as set forth in the following order.

ORDER

IT IS ORDERED that:

1. The City of Riverside (City) is authorized to construct a grade-separated crossing (crossing) of Magnolia Avenue beneath tracks of the Union Pacific Railroad Company (UPRR) Los Angeles Subdivision, replacing the existing at-grade crossing identified as CPUC Crossing Number 003-55.20, in City of Riverside, Riverside County. The new grade-separated crossing shall be identified as CPUC Crossing Number 003-55.20-B.
2. The City is also authorized to construct a temporary at-grade crossing, north of the existing crossing, on Magnolia Avenue. The temporary at-grade crossing shall be eliminated either three years from the date of this Order or the date the grade-separated crossing is open to vehicular traffic, whichever date occurs first.
3. Warning devices at the temporary at-grade crossing shall include one Commission Standard No. 9 (flashing light signal assembly with automatic gate arm, as defined in General Order 75-D) on each approach.
4. The City is also authorized to reconfigure the wayside horns such that the horn systems remain active during all phases of construction.
5. The City and UPRR shall comply with all applicable rules, including Commission General Orders and the California Manual on Uniform Traffic Control Devices.

6. Within 30 days after the temporary at-grade crossing is opened to vehicular traffic, UPRR shall notify the Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section (RCES) in writing, by submitting a completed Standard Commission Form G (*Report of Changes at Highway Grade Crossings and Separations*), that the temporary at-grade crossing is open and that the existing at-grade crossing is closed. Within 30 days after the grade-separated crossing is opened to vehicular traffic, UPRR shall notify RCES in writing, by submitting a completed Standard Commission Form G that the grade-separated crossing is open and the temporary at-grade crossing is eliminated.

7. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

8. A request for extension of the three-year authorization must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

9. This application is granted as set forth above.

10. Application 08-12-024 is closed.

This order becomes effective 30 days from today.

Dated April 16, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN

RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners