

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Los Angeles to Pasadena Metro Blue Line Construction Authority (dba Metro Gold Line Foothill Extension Construction Authority) for an order authorizing the construction of two light rail transit tracks at one at-grade pedestrian crossing at the **Irwindale Light Rail Transit Station West Entrance**, in the City of Irwindale in the County of Los Angeles, California.

Application 07-06-027
(Filed June 26, 2007;
Petition for Modification filed
February 4, 2013)

ORDER MODIFYING DECISION 08-01-013

Summary

By a Petition for Modification filed February 4, 2013, the Los Angeles to Pasadena Metro Blue Line Construction Authority (now known as Metro Gold Line Foothill Extension Construction Authority) requests modification of Decision 08-01-013. Decision 08-01-013 granted the Metro Gold Line Foothill Extension Construction Authority authorization to construct an at-grade pedestrian crossing (CPUC Crossing No. 84P-22.44-D) at the west entrance of the proposed Irwindale Light Rail Transit Station, in the City of Irwindale, County of Los Angeles.

Discussion

Metro Gold Line Foothill Extension Construction Authority (Foothill Construction Authority) filed its original Application 07-06-027 on June 26, 2007. The Commission issued Decision (D.) 08-01-013 on January 10, 2008. Time extensions were granted by Resolutions TED-239 on January 21, 2010, and TED-249 on January 23, 2012. TED-249 is set to expire on February 20, 2015.

The Foothill Construction Authority has made refinements to the previously authorized at-grade pedestrian crossing (crossing) design based in large part by further coordination with its design-build contractor and the Southern California Regional Rail Authority (Metrolink). At this location, the crossing will provide access to the Irwindale Light Rail Station (Irwindale Station) across two new light rail transit (LRT) tracks and one existing Metrolink freight track.

Foothill Construction Authority proposes to modify its crossing design by adding four Commission Standard 9 (flashing light signal assembly with automatic gate arm) warning devices instead of the previously authorized four Commission Standard 8 (flashing light signal) warning devices. Four emergency exit swing gates were also incorporated into the design. These design changes are proposed in order to comply with Metrolink's new grade crossing design standards.

In addition, further refinement of the overall project design necessitates relocation of the crossing approximately 16 feet east in conjunction with the station. The distance of the crossing relocation is minimal and does not affect the mile post designation and the previously assigned Commission Crossing Identification Number (CPUC Crossing No. 84P-22.44-D) remains unchanged.

The following modifications are described in greater detail in Foothill Construction Authority's Petition for Modification and depicted in revised Exhibits B and C, attached to the filing:

1. Install four Commission Standard 9 warning devices in combination with emergency exit swing gates, one on each approach to the LRT tracks, and each approach to the freight track.

2. Relocate the Irwindale Station pedestrian crossing approximately 16 feet east from the previously approved location.
3. Relocate the Americans with Disabilities Act (ADA)-compliant standard detectable warning tactile strips to the lower portion of the station platform ramp leading to the crossing.
4. Relocate the ADA-compliant standard detectable warning tactile strips on the pathway approach on the south side of the crossing.
5. The Commission Crossing Identification Number (CPUC Crossing No. 84P-22.44-D) for the LRT tracks remains unchanged.
6. The Commission Crossing Identification Number (CPUC Crossing No. 101PA-118.47-D) and U.S. Department of Transportation Crossing Identification Number (966377V) for the Metrolink track remain unchanged.

The project is a design-build contract with limited notice to proceed issued on November 2011 and full notice to proceed on April 2012. The Foothill Construction Authority is scheduled to commence construction in 2013.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA), as amended, in 1982) as stated in 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. The Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must modify D.08-01-013, which authorized the project pursuant to Section 1202 of the Public Utilities Code); therefore, 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 that carries out the project,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the Foothill Construction Authority is the lead agency for this project and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. 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.³ As a responsible agency, the Commission is responsible for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.⁴

D.08-01-013 reviewed and considered the combined Final Environmental Impact Statement/Report (FEIS/R) or Segment A of Phase II of the project to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. Section 4321 et seq.) adopted by the Foothill Construction Authority and found them adequate for our decision-making purposes.

The Petition for Modification indicates since the original Commission authorization D.08-01-013 issued on January 10, 2008, the Foothill Construction

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

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

³ CEQA Guidelines, Sections 15050(b) and 15096.

⁴ CEQA Guideline Section 15096(g).

Authority evaluated, prepared and issued two addenda and two supplements to the FEIR dated 2007: Addendum #1 was dated August 26, 2009, Addendum #2 was dated June 18, 2010, The Supplemental #1 was dated January 18, 2011, and Supplemental #2 was dated January 25, 2012. The FEIS/R did not identify any impacts relative to the design refinements to the crossing or station relocation. The Foothill Construction Authority has determined that the proposed modifications are minor in nature, located within the existing rail right-of-way, and fall within the environmental clearance asserted in the FEIS/R for the project.

As noted in D.08-01-013, the Commission reviewed and considered the FEIS/R, and has now reviewed and considered the addenda and supplements to those documents and finds them adequate for our decision-making purposes.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements.

The Commission's Rail Crossings Engineering Section reviewed and analyzed the plans submitted with the Petition to Modify and recommends that the Commission grant the Foothill Construction Authority's requests.

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

Emory Hagan is the assigned Examiner in this proceeding.

Findings of Fact

1. The Petition for Modification of D.08-01-013 was published in the Commission's Daily Calendar on February 12, 2013.
2. The Foothill Construction Authority's Petition for Modification requests to modify the design, approved by D.08-01-013, of the Irwindale Station pedestrian crossing, identified as CPUC Crossing No. 84P-22.44-D for the LRT tracks and CPUC Crossing No. 101PA-118.47-D and U.S. Department of Transportation No. 966377V for the freight track.
3. The Foothill Construction Authority proposes to modify its crossing design by changing the type of warning devices and adding emergency exit swing gates to comply with Metrolink's grade crossing design standards.
4. The new crossing design complies with the crossing warning device requirements set forth in Commission General Order 75-D.
5. The crossing pathway design and crossing surface will conform to ADA requirements.
6. The Foothill Construction Authority is the lead agency for this project under CEQA and NEPA and adopted an FEIS/R in approving the project.
7. Since the initial authority was granted by D.08-01-013, the Foothill Construction Authority developed two addenda and two supplements to the FEIS/R.
8. The Foothill Construction Authority determined that the FEIS/R is adequate to address the proposed modifications identified in this decision.
9. The Commission is a responsible agency for the project under CEQA and in D.08-01-013 reviewed and approved the lead agency's FEIS/R.

Conclusion of Law

1. The FEIS/R and FEIS/R addenda and supplements prepared by the Construction Authority as the documentation required by CEQA and NEPA for the project is adequate for our decision-making purposes.

2. The FEIS/R and FEIS/R addenda and supplements were completed in compliance with CEQA.

3. The Petition for Modification is uncontested and a public hearing is not necessary.

4. The Petition for Modification of D.08-01-013 should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that Decision 08-01-013 is modified as follows:

1. The Metro Gold Line Foothill Extension Construction Authority is authorized to construct an at-grade pedestrian crossing at the Irwindale Station as described in the Petition for Modification and summarized as follows:

a) Metro Gold Line Foothill Extension Construction Authority shall install four Commission Standard 9 (flashing light signal assembly with automatic gate arm) warning devices combined with emergency exit swing gates on each approach to the light rail transit and freight tracks.

b) Metro Gold Line Foothill Extension Construction Authority shall relocate the Irwindale Station pedestrian crossing approximately 16 feet east from the previously approved location.

c) Metro Gold Line Foothill Extension Construction Authority shall relocate the Americans with Disabilities Act-compliant standard detectable

- warning tactile strips on pathway approaches of the crossing (excluding the area between the freight track and the southern light rail transit track).
- d) Metro Gold Line Foothill Extension Construction Authority shall relocate the Americans with Disabilities Act-compliant standard detectable warning tactile strips at the beginning of the station platform ramps.
 - e) The Irwindale Station pedestrian crossing mile post identification for the light rail transit tracks remains the same, identified as CPUC Crossing No. 84P-22.44-D.
 - f) The Irwindale Station pedestrian crossing mile post identification for the freight track remains the same, identified as CPUC Crossing No. 101PA-118.47-D and U.S. Department of Transportation Number 966377V.
2. The Metro Gold Line Foothill Extension Construction Authority shall comply with all applicable rules, including California Public Utilities Commission General Orders, the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities and the California Manual on Uniform Traffic Control Devices, published by the California Department of Transportation.
 3. Within 30 days after completion of the work under this order, the Metro Gold Line Foothill Extension Construction Authority shall notify the California Public Utilities Commission's Rail Crossings Engineering Section, by submitting a completed California Public Utilities Commission Standard Form G titled *Report of Changes at Highway Grade Crossings and Separations*. Form G requirements and forms can be obtained at the Commission web site Form G page at <http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg>. This report

may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

4. In all other respects, California Public Utilities Commission Decision 08-01-013 shall remain in full force and effect.
5. The Petition for Modification is granted as set forth above.
6. Application 07-06-027 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.